

SENATE, No. 3583

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 22, 2021

Sponsored by:
Senator BRIAN P. STACK
District 33 (Hudson)

SYNOPSIS

Concerns eviction and homelessness prevention; provides financial assistance to residential landlords and tenants in response to COVID-19 pandemic; and making appropriations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT addressing eviction and homelessness prevention and
2 providing assistance to residential landlords and tenants in
3 response to COVID-19, and supplementing Title 52 of the
4 Revised Statutes.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. The Legislature finds and declares that:

10 a. The mortal threat posed by the COVID-19 pandemic
11 compelled the Governor and Legislature to take drastic but
12 necessary action. Executive Order No. 103 of 2020 effectively shut
13 down the New Jersey economy on March 9, 2020, in order to hinder
14 the rapid spread of the virus and to limit as much as possible the
15 number of infections, severe illnesses, and deaths. At the same
16 time, the Governor and Legislature enacted P.L.2020, c.1 (C.2A:18-
17 59.3) and implemented a moratorium on evictions, so as to ensure
18 that households would be able to shelter in place and eliminate the
19 threat posed by displacement, overcrowding, and the resultant
20 spread of the virus.

21 b. The foregoing measures caused severe but unavoidable
22 economic difficulties, which have deeply affected the overall well-
23 being of millions of New Jersey residents. Tenants, who in general
24 have substantially lower-incomes and far less wealth than
25 homeowners, have been disproportionately affected: a large and
26 growing number of them immediately became and remain
27 unemployed or underemployed. This is especially so for lower-
28 income people of color, who are predominantly tenants and who
29 continue to be victimized by systemic and structural racism, which
30 has left them severely disadvantaged and extremely vulnerable to
31 health emergencies and economic downturns.

32 c. Millions of jobs in our State and elsewhere have been
33 permanently lost, and only around half of the total number of jobs
34 abruptly interrupted by the virus-driven shutdown have returned.
35 The general consensus is that it will take many months or even
36 years for the devastatingly high unemployment to recede, and for
37 the economy to recover to anywhere near its pre-pandemic level.

38 d. As a result, not only will hundreds of thousands of tenants in
39 our State be unable to pay all or even part of the rental arrearages
40 caused by the pandemic when the moratorium ends, but these
41 tenants will also find it extremely difficult, or even impossible, to
42 make their current, ongoing monthly rental payments once they
43 resume.

44 e. An overwhelming number of struggling tenant households,
45 disproportionately black and brown, will therefore be at risk of
46 eviction for non-payment of all or part of their regular rent shortly
47 after the moratorium is lifted. Combining the number of struggling
48 tenants with the number of people at risk of displacement if the
49 arrearage issue is not addressed, it becomes clear that the resulting

1 number of evictions, and the resulting overcrowding will create
2 conditions likely to fuel the resurgence and spread of COVID-19,
3 and threaten the health, safety, and lives of their families,
4 communities, and the society at large.

5 f. In Executive Order No. 106 of 2020, the Governor expressly
6 stated that protection and preservation of personal and public health
7 was the primary reason driving the imposition of the economic
8 shutdown and eviction moratorium, a health-centered concern
9 echoed and reinforced by the national eviction moratorium
10 subsequently mandated by the federal Centers for Disease Control
11 and Prevention. The need to strictly limit eviction, now and for the
12 foreseeable future, is undeniable.

13 g. It is, therefore, necessary for the Legislature to assist
14 landlords who have suffered deep economic losses, and, at the same
15 time, make efforts to assist the many tenants who need help as a
16 result of this crisis, in order to ensure some measure of security and
17 stability for their families and communities; provide landlords with
18 the restored rental income stream required to safely and efficiently
19 operate their buildings; and prevent a resurgence of COVID-19 that
20 will threaten the health and safety of tenants, landlords, and the
21 public at large.

22

23 2. As used in P.L. , c. (C.) (pending before the
24 Legislature as this bill):

25 “Assistance” means one or more cash payments, tax credits, or
26 any other form of compensation for unpaid rent, provided by the
27 program established pursuant to section 4 of P.L. c. (C.)
28 (pending before the Legislature as this bill).

29 “Commissioner” means the Commissioner of Community
30 Affairs.

31 “Covered period” means the period during which a public health
32 emergency exists as declared by the Governor in Executive Order
33 No. 103 of 2020, as extended, and one year following the
34 conclusion of this period.

35 “Deep subsidy” means a rental housing subsidy in an amount
36 sufficient to allow a limit in the tenant’s share of the monthly rent
37 to a percentage of the tenant’s income, and that can be adjusted to
38 maintain that percentage should the tenant’s income change.

39 “Department” means the Department of Community Affairs.

40 “Eviction moratorium” or “moratorium” means the moratorium
41 on involuntary eviction or displacement established by Executive
42 Orders Nos. 103 and 106 of 2020, and any other related directives.

43 “Household income” means the combined income of all
44 household members for the 12 months prior to the filing of an
45 application for assistance or protection.

46 “Low income household” means a household with a total current
47 annual household income equal to 50 percent or less of the area
48 median income for a household of the same size and composition.

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1 “Moderate income household” means a household with a total
2 current gross annual household income in excess of 50 percent but
3 less than 80 percent of the area median income for a household of
4 the same size and composition.

5 “Non-emergency eviction” means any eviction action against a
6 residential tenant which would have been permitted under State law,
7 prior to the enactment of P.L. , c. (C.) (pending before the
8 Legislature as this bill), but does not include eviction actions
9 against a residential tenant who has physically endangered other
10 tenants or the landlord. Self-quarantining due to a COVID-19
11 infection or exposure is not an endangering act.

12 “Shallow subsidy” means a rental housing subsidy provided in an
13 amount based on the percentage of the fair market rent of the unit,
14 depending on size and location.

15 “Very low income household” means a household with a total
16 current annual household income less than or equal to 30 percent of
17 the area median income for a household of the same size and
18 composition.

19

20 3. a. Notwithstanding any other law to the contrary, evictions
21 shall be prohibited for nonpayment or habitual late payment by a
22 residential tenant of any and all rent arrearages which accrued
23 during the covered period and that remain due and owing on the
24 date that the covered period ends. Payments made by a tenant after
25 the covered period shall be credited first to the current month’s
26 rental obligation, and any balance shall be credited to any arrearage
27 owed by the tenant.

28 b. A landlord shall remain entitled to pursue a money judgment
29 against a residential tenant for any and all lawfully due and owing
30 unpaid rent, for which compensation is not otherwise provided by
31 any public or private source, by filing an action in Superior Court.
32 A tenant in such an action shall retain the right to assert any and all
33 counterclaims, set-offs, legal defenses, affirmative defenses, and
34 equitable defenses that would otherwise be available to the tenant.
35 No court shall accept any other nonpayment or late payment
36 eviction filings during the covered period related to residential
37 evictions.

38 c. Notwithstanding any other provision of law to the contrary,
39 non-emergency evictions shall be prohibited during the covered
40 period. All judgments for possession and warrants for removal
41 entered in non-emergency eviction actions during the covered
42 period, including those entered pursuant to stipulation or consent
43 order, shall be null, void, and unenforceable, and the corresponding
44 actions shall be expunged from the court records. No court shall
45 accept any other non-emergency eviction filings during the covered
46 period.

47 d. A landlord shall not impose any late fees for rent payments
48 not made, or only partially made, during the covered period.

1 e. A landlord shall not increase the rent on a residential rental
2 unit during the covered period.

3
4 4. a. There is established in the Department of Community
5 Affairs the “Tenant COVID Emergency Rental Arrearage
6 Program,” to provide assistance to residential tenants for unpaid
7 rents which have accrued during the covered period, and which are
8 due and owing by residential tenants to their landlords, but have not
9 been paid. The program shall not provide assistance to the tenant
10 for unpaid rent for which the landlord has obtained compensation,
11 or has an outstanding application for compensation, through a
12 different program that, as determined by the commissioner,
13 preempts the landlord from eligibility for assistance payments,
14 including, but not limited to, funding from the Small Landlord
15 Emergency Grant Program established by the New Jersey Housing
16 and Mortgage Finance Agency.

17 b. Assistance shall be provided on behalf of an eligible tenant
18 only if:

19 (1) as of the date of submission of a program application, the
20 landlord is in substantial compliance with the requirements of: the
21 “State Uniform Construction Code Act,” P.L.1975, c.217
22 (C.52:27D-119 et seq.); the “Hotel and Multiple Dwelling Law,”
23 P.L.1967, c.76 (C.55:13A-1 et seq.); and the State Housing Code,
24 adopted by the Department of Community Affairs pursuant to P.L.
25 1966, c. 168 (C.2A:42-74 et seq.);

26 (2) as of March 9, 2020, the landlord is in substantial
27 compliance with property tax and other tax payment
28 responsibilities; and

29 (3) the landlord has no pending criminal charges.

30 c. The program shall begin accepting applications from tenants
31 as soon as possible following enactment of P.L. , c. (C.)
32 (pending before the Legislature as this bill). A landlord may apply
33 for assistance on behalf of a tenant as long as the tenant is in
34 agreement with the landlord doing so, and as long as the tenant for
35 whom the application is filed meets all of the mandatory eligibility,
36 verification, and attestation requirement of the program. If a tenant
37 applies for assistance prior to the conclusion of the covered period,
38 and the tenant misses one or more rent payments after submission
39 of the program application, then the tenant may apply to the
40 department for one or more additional assistance payments on a
41 quarterly basis through the conclusion of the covered period. The
42 department may adjust this application schedule as deemed
43 appropriate by the commissioner.

44 d. The department shall prioritize program applications based
45 upon the financial need of the tenant, and may prioritize program
46 application approval based on the financial need of the landlord, as
47 determined by the commissioner. A portion of assistance funding
48 shall be reserved for the tenants of landlords who own and rent out
49 no more than two housing units.

1 e. The department shall prepare all application forms,
2 application guidelines, and informational materials necessary for
3 tenants to complete an application, and shall post materials on its
4 internet website.

5 f. Within 15 days of the enactment of P.L. , c. (C.)
6 (pending before the Legislature as this bill), a landlord shall provide
7 each of its tenant households with written notice of the
8 establishment of the program. This notice shall provide information
9 to the tenant on how to learn more about the program and obtain
10 assistance with the application process.

11 g. The department shall develop and fund a comprehensive
12 public information plan to ensure that eligible tenants are aware of
13 the assistance provided by the program, and shall assist tenants with
14 the filing and completion of the application process to the degree
15 required for the tenant to do so. This plan shall include but not be
16 limited to public service announcements, notices about the program
17 in governmental notices and utility providers billings, notices to
18 landlords as to how to assist their tenants in applying for the
19 program, and outreach to underserved populations.

20

21 5. a. A program application shall state: the total amount of rent
22 due from the landlord's residential tenants established in the
23 corresponding leases; the amount paid by the tenants or third
24 parties; if any, the amount unpaid; the amount of security deposit
25 funding that the landlord's tenants have applied against rent
26 pursuant to Executive Order No. 128 of 2020; and any other
27 information required by the department for determining financial
28 need.

29 b. An application shall include a certification by the tenant as
30 to: (1) the number of occupants of the unit, (2) the tenant
31 household's income, (3) a brief statement by the tenant explaining
32 how the pandemic affected the tenant's ability to pay rent, and (4)
33 any other information required by the funding sources from which
34 the program payments are intended to be made. The commissioner
35 shall make the forms and related verification requirements as simple
36 as possible, shall require the minimum information permissible by
37 those funding sources, and shall permit self-certification and
38 verification to the greatest extent possible.

39 c. A tenant seeking assistance for rental arrearages pursuant to
40 this program shall, except for good cause shown, cooperate and
41 comply with the reasonable, good faith information and related
42 requests made by the department and the landlord in order to
43 facilitate the application process, provided that the landlord also
44 cooperates and complies with the department and tenant throughout
45 the application process. Notwithstanding the prohibition against
46 non-payment eviction actions for COVID-19-related rental
47 arrearages set forth in section 3 of P.L. , c. (C.) (pending
48 before the Legislature as this bill), a landlord that is compliant with
49 the landlord's obligations pursuant to this subsection may

1 commence eviction proceedings for non-payment of the rent in
2 question against a tenant who unreasonably fails or refuses to
3 comply without good cause.

4
5 6. a. Assistance in the form of cash, tax credits, or other
6 means, shall be provided to the landlord in an amount equal to 70
7 percent of the amount of the arrearages as determined by the
8 department, without limitation on the landlord's right to pursue a
9 money judgment for the lawfully due balance as provided for in
10 section 3 of P.L. , c. (C.) (pending before the Legislature as
11 this bill).

12 b. Upon the provision of assistance as described in subsection
13 a. of this section, the commissioner shall notify the tenant of the
14 protections provided to them as a consequence of the landlord's
15 receipt of assistance.

16 c. A landlord shall not accept a delinquent rent payment from a
17 residential tenant if the rent payment has been covered by an
18 assistance payment.

19 d. In accordance with the provisions of section 3 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill), a landlord
21 receiving assistance or awaiting the department's response to a
22 program application, shall not initiate an eviction proceeding, or
23 complete a previously-initiated eviction proceeding, for any unpaid
24 rent balances, or late or other fees, owed by a residential tenant for
25 rent due during the covered period. This subsection shall protect
26 such tenants from an eviction action for nonpayment or habitually
27 late payment of rent during this period.

28 e. A landlord initiating an eviction action shall provide
29 documentation on a form to be prepared and adopted by the
30 Administrative Director of the Courts that the landlord is not
31 prohibited from initiating the action by the eviction limitations
32 provided by section 3 of P.L. , c. (C.) (pending before the
33 Legislature as this bill), or any provision of P.L. , c. (C.)
34 (pending before the Legislature as this bill).

35
36 7. a. A taxpayer who is a landlord for one or more residential
37 units occupied by a tenant with a household income of less than 80
38 percent of the median gross household income for households of the
39 same size within the housing region in which the housing is located,
40 and who does not receive cash assistance covering the percentage of
41 arrearages authorized by this program, shall be provided with
42 assistance by the department in the form of an allowed credit
43 against the tax otherwise due for the taxable year under the "New
44 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount
45 equal to the amount of assistance that the landlord is eligible to
46 receive under the program for a tenant meeting the income
47 qualifications provided in this subsection during the covered period
48 minus the amount of assistance and other preempting compensation
49 provided to the landlord, or for which the landlord has an

1 outstanding application, for the same property. A landlord shall not
2 be awarded a tax credit pursuant to this section unless the tenant has
3 already applied for assistance, the landlord has with due diligence
4 and in good faith assisted the tenant with regard to filing and
5 completing the application, and the tenant has either been denied
6 the assistance, or has obtained assistance in an amount insufficient
7 to compensate the landlord for a significant portion of the rent
8 unpaid by the tenant meeting the income qualifications provided in
9 this subsection during the covered period. A landlord allowed an
10 income tax credit pursuant to this subsection shall:

11 (1) In accordance with the provisions of section 3 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill), refrain
13 from evicting or otherwise dispossessing a tenant of a property on
14 behalf of which the credit was requested for nonpayment or
15 habitually late payment of rent due during the covered period;

16 (2) permanently forgive the tenant or tenants from paying the
17 same percentage of unpaid rent owed by the tenant or tenants during
18 the covered period as the percentage of unpaid rent owed to the
19 landlord's during the covered period, for the same property, that is
20 not accommodated by assistance payments, and income tax credits
21 issued pursuant to this subsection, combined. The landlord shall
22 retain the ability to obtain the unpaid rent not covered by the
23 income tax credit or by assistance payments, and owed by the tenant
24 or tenants during the covered period, through a monetary judgment
25 action.

26 b. Upon obtaining an award of a tax credit pursuant to
27 subsection a. of this section, the landlord shall notify the landlord's
28 tenants of the protections provided to the tenants as a consequence
29 of the landlord's receipt of the tax credit.

30 c. The order of priority of the application of the credit allowed
31 pursuant to this section and any other credits allowed pursuant to
32 the "New Jersey Gross Income Tax Act" N.J.S.54A:1-1 et seq. for a
33 taxable year shall be as prescribed by the Director of the Division of
34 Taxation in the Department of the Treasury. The amount of the
35 credit applied under this section against the tax imposed for a
36 taxable year, together with any other credits allowed by law, shall
37 not reduce the tax liability to an amount less than zero. The amount
38 of unused credit allowable under this section may be carried
39 forward, if necessary, to the three taxable years following the
40 taxable year for which the tax credit is allowed.

41 d. A business entity that is classified as a partnership for
42 federal income tax purposes shall not be allowed the credit directly,
43 but the amount of credit of a taxpayer in respect of a distributive
44 share of partnership income shall be determined by allocating to the
45 taxpayer that proportion of the credit acquired by the partnership
46 that is equal to the taxpayer's share, whether or not distributed, of
47 the total distributive income or gain of the partnership for its
48 taxable year ending within or with the taxpayer's taxable year. A
49 taxpayer that is a New Jersey S corporation shall not be allowed the

1 credit directly, but the amount of credit of a taxpayer in respect of a
2 pro rata share of S corporation income shall be determined by
3 allocating to the taxpayer that proportion of the credit acquired by
4 the New Jersey S corporation that is equal to the taxpayer's share,
5 whether or not distributed, of the total pro-rata share of the S
6 corporation's income of the New Jersey S corporation for its
7 privilege period ending within or with the taxpayer's taxable year.

8 e. The Director of the Division of Taxation in the Department
9 of the Treasury, in consultation with the commissioner, is
10 authorized to adopt rules and regulations in accordance with the
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.) and prescribe forms as necessary to implement this section.
13 These forms may include, but shall not be limited to, forms
14 necessary to certify that a tenant meets the income limitations
15 established pursuant to subsection a. of this section.

16
17 8. a. The Department of Community Affairs shall, as soon as
18 practicable following the enactment of P.L. , c. (C.)
19 (pending before the Legislature as this bill), prepare and make
20 available, on its Internet website, information for landlords on: (1)
21 when assistance applications shall be available, (2) the necessary
22 steps for application submission, (3) how to obtain help in
23 application completion, and (4) other matters related to assistance
24 applications deemed necessary by the commissioner. This
25 information shall be made available in English, Spanish, and any
26 other languages determined to be necessary by the commissioner.

27 b. The department shall engage in a substantial effort to
28 enhance awareness among the State's landlords of the ability to
29 apply for assistance. Once assistance applications are made
30 available, the department shall provide for the establishment and
31 maintenance of a toll-free telephone hotline available, at a
32 minimum, weekdays between 8:30 a.m. and 5:30 p.m. through
33 which a landlord may ask questions and obtain help in application
34 completion. The department shall maintain the telephone hotline
35 for the entire period that the department continues to accept
36 assistance applications.

37
38 9. If a landlord has submitted a program application to the
39 department, but has not yet obtained an assistance payment, or a
40 denial of an assistance payment, the landlord may assert an
41 affirmative defense to a foreclosure action initiated against any
42 residential rental property owned by the landlord. This section shall
43 exclusively apply to a landlord whose principal residence is in the
44 State and who, together with immediate family members, partners,
45 or other related entities, owns no more than 50 rental units in the
46 State.

47
48 10. a. The Commissioner of Community Affairs shall rename
49 the current "Homelessness Prevention Program" established

1 pursuant to the provisions of P.L.1984, c.180 (C.52:27D-280 et al.),
2 as the "Eviction and Homelessness Prevention Program."

3 b. The commissioner shall revise and amend the "Homeless
4 Prevention Program Regulations" established pursuant to chapter 41
5 of Title 5 of the New Jersey Administrative Code to meet or provide
6 for the following:

7 (1) the regulations shall be renamed the "Eviction and
8 Homelessness Prevention Program Regulations";

9 (2) a household shall be eligible to participate in the program if,
10 due to reasons beyond the household's control, the household is
11 unable to make residential rental payments which are due and
12 owing pursuant to a valid and enforceable oral or written lease,
13 stipulation of settlement, judgment, order or other type of legally
14 binding agreement;

15 (3) a household shall be eligible for assistance under this
16 program regardless of whether the household has been served with a
17 summons and complaint for eviction;

18 (4) a household shall be eligible for assistance if their
19 annualized current income is no more than 80 percent of the area
20 median income; however, the commissioner may establish funding
21 priorities to benefit very low income and low income households;

22 (5) a household shall be eligible for assistance under this
23 program although it may be unlikely for the household to have the
24 ability to pay shelter costs after the period of assistance has ended;

25 (6) eligible households shall be awarded grants for periods of up
26 to two years, depending upon the person's or household's particular
27 circumstances. The department shall provide assistance along a
28 continuum based upon the income level of the tenant household,
29 and shall include deep subsidies, shallow subsidies, and flat
30 amounts. Such grants may be renewed to prevent eviction or
31 homelessness. The commissioner shall prepare a detailed guidance
32 covering the amount and duration of such grants, in accordance
33 with the following guidelines and principles:

34 (a) for a very low income household, a deep subsidy shall be
35 provided in the amount necessary to limit the household's share of
36 ongoing rent to not more than 40 percent of the household's
37 income;

38 (b) for a low income household, a shallow subsidy shall be
39 provided in the amount necessary to limit the household's share of
40 ongoing rent to not more than 40 percent of the household's
41 income, provided, however, that the amount of any such subsidy
42 shall not exceed \$800 per month; and

43 (c) for a moderate-income household, assistance in the form of a
44 flat monthly grant of \$250 shall be provided to the household if the
45 household pays more than 50 percent of the household's income as
46 ongoing rent.

47 (7) during the course of the payment period, if the department is
48 notified by either the landlord or the program participant that a
49 person or household has begun to experience difficulty paying rent

1 as a result of reasons beyond the household's control, the
2 household's income and family situation shall be reevaluated in
3 light of the changed conditions, and the person or household shall
4 be placed in a different assistance tier, if necessary, to prevent
5 eviction; and

6 (8) during the course of the payment period, a participant
7 household shall certify the household's current income once every
8 two months, using a one-page form to be developed by the
9 department, including any necessary attachments. Beginning the
10 month following receipt of a certification, the department shall
11 increase or decrease the amount of subsidy provided to the
12 household in accordance with the subsidy category applicable to the
13 most recent reported income, provided that limited non-recurring
14 short term increases in income shall not require a subsidy
15 adjustment.

16

17 11. There is established within the Department of Community
18 Affairs the "NJ Early Intervention Eviction Prevention Program,"
19 which shall include the following components:

20 a. Within 30 days of the enactment of P.L. , c. (C.)
21 (pending before the Legislature as this bill), the department shall
22 establish an "Office of Eviction Prevention," which shall be
23 responsible for the: (1) identification of all federal, State, local, and
24 other sources of financial assistance which are intended or could be
25 used to prevent the eviction of residential tenants, including but not
26 limited to programs which provide both deep subsidies and shallow
27 subsidies; (2) becoming knowledgeable with regard to the
28 application process for each such program; and (3) identifying, and
29 proposing remedies for, the gaps in the overall assistance system,
30 especially in relation to eligibility requirements and the need for
31 addition to, or revision of, subsidy programs so as to provide
32 appropriate assistance of various sorts and in various amounts to
33 households at different income levels. This office shall be
34 responsible for the compilation, publication, and ongoing update of
35 this information, and shall also be responsible for identifying and
36 training at least one non-profit, community-based organization in
37 each county with regard to the availability of and means of
38 accessing such financial assistance by at-risk tenants.

39 b. Also within 30 days of the enactment of P.L. , c. (C.)
40 (pending before the Legislature as this bill), the department shall
41 establish the "NJ Eviction Prevention Mediation Program," which
42 shall operate in a manner similar to the "NJ Foreclosure Mediation
43 Program," except as otherwise established herein. In addition to
44 facilitating the provision of mediation in the form and for the
45 purposes outlined below, it shall be the responsibility of the
46 program to ensure that participating tenants are provided with legal
47 advice and assistance if they are not otherwise represented or
48 advised by counsel. The department shall contract with a non-profit
49 provider or providers in each county for the purpose of conducting

1 the mediation sessions, providing the necessary advice regarding
2 tenants' rights, and also providing the necessary legal assistance.
3 Each such provider shall be responsible for employing a sufficient
4 number of mediators, in-house attorneys, and experts in tenants'
5 rights to ensure that mediation sessions are conducted in a timely
6 fashion. The department shall be responsible for ensuring that all
7 mediators, attorneys, and tenants' rights experts are appropriately
8 trained, and that such training is ongoing to ensure that up-to-date
9 assistance is provided.

10 c. At least 21 days prior to the filing of an eviction complaint for
11 non-payment of rent which has accrued subsequent to the end of the
12 moratorium period, a landlord shall, using forms prepared by the
13 department, notify both the department and the affected tenant that
14 such an eviction filing may be necessary. If the matter is not
15 resolved in accordance with the procedures outlined in subsections
16 d. through j. of this section, and a summary dispossession complaint is
17 subsequently filed, a copy of this notice shall be attached to the
18 complaint. Failure to serve and attach the required notice shall
19 result in dismissal of the complaint.

20 d. Within seven days of receipt of this notice, the department
21 shall contact both parties and establish a date and time for the
22 convening of an assisted eviction prevention mediation session,
23 which shall take place no later than 16 days subsequent to receipt of
24 the notice, and prior to the filing of an action for eviction.

25 e. Eviction prevention mediation sessions shall be conducted
26 electronically, on an agreed upon day at and agreed upon time, via a
27 process that allows all parties, as well as the mediator and any other
28 participants, to see and hear each other, unless all parties and
29 participants agree that the session will be conducted in person. In
30 person eviction prevention mediation sessions shall not be
31 conducted in the courthouse or other government building. All such
32 sessions shall be conducted at schools, churches, non-profit office
33 facilities, or other appropriate locations within five miles of the
34 courthouse. All such sessions shall be scheduled at times agreed
35 upon and convenient to all parties, including evenings and
36 weekends.

37 f. A knowledgeable, trained representative of the Office of
38 Eviction Prevention shall be present at each scheduled mediation
39 session, in order to facilitate resolution of all payment-related
40 issues.

41 g. The purposes and goals of the mediation process shall be: (1)
42 to identify all existing and potential legal issues and tenants' rights
43 that may have an impact upon the jurisdiction of the court or
44 otherwise affect the possible outcomes of any summary dispossession
45 proceeding, (2) to identify all existing or potential issues that do or
46 may affect the participating tenants ability to make rental payments
47 in a timely fashion and in full, (3) to identify, prepare and
48 implement an affordable payment plan that will address all payment
49 issues so identified, in order to insure to the greatest extent possible

1 that rent will be timely paid, (4) identify all potential sources of
2 one-time, short and long-term funding, including the use of deep
3 subsidies and shallow subsidies, which will facilitate successful
4 creation and implementation of such a plan, (5) establish an
5 implementation plan which identifies and provides the hands-on
6 assistance tenants will need to pursue and apply to the particular
7 funding sources identified as necessary, and (6) produce a written
8 agreement embodying and memorializing all of the above.

9 h. It shall be the obligation of all parties to undertake the
10 mediation process in good faith and with the intent of reaching a
11 reasonable resolution of all issues involved. Failure by a landlord
12 to negotiate and participate in good faith shall be a defense to an
13 action for eviction; failure to do so by a tenant may lead to an
14 eviction filing and displacement.

15 i. If the mediation is successful, and the parties reach an
16 agreement with regard to a reasonable and affordable payment plan,
17 a Stipulation of Settlement will be prepared, which stipulation shall
18 be in the form established by the department. The Stipulation of
19 Settlement shall further provide that, in the event a tenant fails to
20 abide by the payment plan, the landlord may institute a summary
21 dispossess proceeding. If the matter cannot be resolved through
22 mediation, and the amounts claimed due are not paid, the landlord
23 may commence a summary dispossess proceeding against the
24 tenant.

25 j. In any such civil action for non-payment of rent, a tenant shall
26 be advised of the tenant's right to request a two-week adjournment,
27 which shall be granted as a matter of right. At least one week prior
28 to the trial of any matter involving non-payment of rent, the tenant
29 shall again be advised of all rights provided by P.L. _____,
30 c. (C. _____) (pending before the Legislature as this bill), as well as
31 all potential sources of funding that may be available to reduce the
32 tenant's obligation, and offered the opportunity to engage in a final
33 mediation session on or prior to the trial date. Any and all payment
34 arrangements subsequently agreed to shall be reviewed by the court,
35 and shall not be approved unless the court finds that the tenant
36 clearly understood the tenant's rights as well as the terms of the
37 agreement.

38
39 12. The following sums are appropriated from the funds
40 provided to the State by the United States government for the
41 purpose of providing relief to tenants affected in any way by the
42 COVID-19 pandemic: for the "Tenant COVID Emergency Rental
43 Arrearage Program" the sum of \$350,000,000; for the "Eviction and
44 Homelessness Prevention Program" the sum of \$350,000,000; for
45 the Office of Eviction Prevention the sum of \$5,000,000; and for
46 the "NJ Eviction Prevention Mediation Program" the sum of
47 \$20,000,000. The sum of \$20,000,000 is appropriated to the
48 department from the same funds, as described above, provided to
49 the State by the United States government for the purpose of

1 funding those actions needed to be taken by the department to
2 effectively implement and administer the rental arrearage and
3 homelessness prevention programs. Additional federal funding for
4 emergency rental assistance related to the COVID-19 pandemic
5 shall be appropriated to the foregoing programs as it becomes
6 available. Households otherwise ineligible for assistance using
7 federal funds shall be assisted with State funds.

8

9 13. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill would address eviction and homelessness prevention,
15 and would provide financial assistance to residential landlords and
16 tenants in response to COVID-19 pandemic.

17 The bill would prohibit eviction for nonpayment or habitual late
18 payment by a residential tenant of any rent arrearages accrued
19 during the covered period and that remain due and owing on the
20 date that the covered period ends. The bill defines the “covered
21 period” as the period during which a public health emergency exists
22 as declared by the Governor in Executive Order No. 103 of 2020, as
23 extended, and one year following its conclusion. Rent payments
24 made after the covered period would be credited first to the current
25 month’s rental obligation, and any balance shall be credited to any
26 arrearage.

27 The bill would permit a landlord to pursue a money judgment
28 against a residential tenant for any lawfully due unpaid rent by
29 filing an action in Superior Court.

30 Non-emergency evictions would also be prohibited during the
31 covered period. All judgments for possession and warrants for
32 removal entered in non-emergency eviction actions during the
33 covered period would be null, void, and unenforceable, and the
34 corresponding actions would be expunged from the court records.
35 No court would be authorized to accept any nonpayment, late
36 payment, or other non-emergency eviction filings during the
37 covered period.

38 The bill would prohibit a landlord from imposing any late fees
39 for rent payments not fully made during the covered period. A
40 landlord would be prohibited from increasing the rent on a
41 residential rental unit during the covered period.

42 The bill would establish in the Department of Community
43 Affairs the “Tenant COVID Emergency Rental Arrearage
44 Program,” to provide assistance to residential tenants for unpaid
45 rents which have accrued during the covered period, and which are
46 due and owing by residential tenants to their landlords, but have not
47 been paid. The program would not provide assistance to the tenant
48 for unpaid rent for which the landlord has obtained compensation,
49 or has an outstanding application for compensation, through a

1 different program that, as determined by the commissioner,
2 preempts the landlord from eligibility for assistance payments.

3 Assistance would be provided on behalf of an eligible tenant
4 only if: (1) as of the date of submission of a program application,
5 the landlord is in substantial compliance with the requirements of:
6 the “State Uniform Construction Code Act,” P.L.1975, c.217
7 (C.52:27D-119 et seq.); the “Hotel and Multiple Dwelling Law,”
8 P.L.1967, c.76 (C.55:13A-1 et seq.); and the State Housing Code;
9 (2) as of March 9, 2020, the landlord is in substantial compliance
10 with property tax and other tax payment responsibilities; and (3)
11 the landlord has no pending criminal charges.

12 The Tenant COVID Emergency Rental Arrearage Program
13 would begin accepting applications from tenants as soon as possible
14 following the enactment of the bill. A landlord would be able to
15 apply for assistance on behalf of a tenant as long as the tenant is in
16 agreement with the landlord doing so, and meets all of the
17 mandatory eligibility, verification and attestation requirement of the
18 program. If a tenant applies for assistance prior to the conclusion of
19 the covered period, and the tenant misses one or more rent
20 payments after submission of the program application, then the
21 tenant would be permitted to apply for one or more additional
22 assistance payments on a quarterly basis through the conclusion of
23 the covered period. The department would be able to adjust this
24 application schedule as deemed appropriate by the commissioner.

25 The department would prioritize program applications based
26 upon the financial need of the tenant, and prioritize program
27 application approval based on the financial need of the landlord. A
28 portion of assistance funding would be reserved for the tenants of
29 landlords who own and rent out no more than two housing units.
30 Within 15 days of the enactment of the bill, a landlord would be
31 required to provide each of its tenant households with written notice
32 of the establishment of the program.

33 The bill would direct the department to develop and fund a
34 comprehensive public information plan to ensure that eligible
35 tenants are aware of the assistance provided by the program, and
36 assist tenants with the filing and completion of the application
37 process.

38 A program application would state the total amount of rent due
39 from the landlord’s residential tenants established in the
40 corresponding leases, the amount paid by the tenants or third
41 parties, if any, the amount unpaid, the amount of security deposit
42 funding that the landlord’s tenants have applied against rent
43 pursuant to Executive Order No. 128 of 2020, and any other
44 information required by the department for determining financial
45 need.

46 An application would include a certification by the tenant as to
47 (1) the number of occupants of the unit, (2) the tenant household’s
48 income, (3) a brief statement or by the tenant explaining how the
49 pandemic affected their ability to pay rent, and (4) any other

1 information required by the funding sources from which the
2 program payments are intended to be made.

3 A tenant seeking assistance for rental arrearages through this
4 program would, except for good cause shown, be required to
5 cooperate and comply with the reasonable, good faith information
6 and related requests made by the department and the landlord in
7 order to facilitate the application process, provided that the landlord
8 also cooperates and complies with the department and tenant
9 throughout the application process. Notwithstanding the
10 prohibition against non-payment eviction actions for COVID-19-
11 related rental arrearages set forth in the bill, a landlord that is
12 compliant with the landlord's obligations would be authorized to
13 commence eviction proceedings for non-payment of the rent in
14 question against a tenant who unreasonably fails or refuses to
15 comply without good cause.

16 Assistance in the form of cash, tax credits, or other means, would
17 be provided to a landlord in an amount equal to 70 percent of the
18 amount of the arrearages as determined by the department, without
19 limitation on the landlord's right to pursue a money judgment for
20 the lawfully due balance. Upon the provision of assistance, the
21 commissioner would notify the tenant of the protections provided to
22 them as a consequence of the landlord's receipt of assistance. A
23 landlord would not be permitted to accept a delinquent rent payment
24 from a residential tenant if the rent payment has been covered by an
25 assistance payment. A landlord initiating an eviction action would
26 be required to provide documentation on a form to be prepared and
27 adopted by the Administrative Director of the Courts that the
28 landlord is not prohibited from initiating the action by the eviction
29 limitations provided by the bill.

30 The bill would permit a landlord for one or more residential units
31 occupied by a low- or moderate-income tenant, and who does not
32 receive cash assistance covering the percentage of arrearages
33 authorized by this program, to be provided with assistance in the
34 form of a credit against the tax otherwise due for the taxable year
35 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
36 seq., in an amount equal to the amount of assistance that the
37 landlord is eligible to receive under the program for a tenant
38 meeting the income qualifications provided in this subsection
39 during the covered period minus the amount of assistance and other
40 preempting compensation provided to the landlord, or for which the
41 landlord has an outstanding application, for the same property. A
42 landlord would not be awarded a tax credit through the bill unless
43 the tenant has already applied for assistance, the landlord has with
44 due diligence and in good faith assisted the tenant with regard to
45 filing and completing the application, and the tenant has either been
46 denied the assistance, or has obtained assistance in an amount
47 insufficient to compensate the landlord for a significant portion of
48 the rent unpaid by the tenant meeting the income qualifications.

1 A landlord allowed an income tax credit would be required to
2 permanently forgive the tenant from paying the same percentage of
3 unpaid rent owed by the tenant during the covered period as the
4 percentage of unpaid rent owed to the landlord's during the covered
5 period, for the same property, that is not accommodated by
6 assistance payments, and income tax credits issued pursuant to this
7 subsection, combined. The landlord would retain the ability to
8 obtain the unpaid rent not covered by the income tax credit or by
9 assistance payments, and owed by the tenant or tenants during the
10 covered period, through a monetary judgment action.

11 The Department of Community Affairs would be required to
12 prepare and make available, on its Internet website, information for
13 landlords on (1) when assistance applications would be available,
14 (2) the necessary steps for application submission, (3) how to obtain
15 help in application completion, and (4) other matters related to
16 assistance applications deemed necessary by the commissioner.
17 This information would be made available in English, Spanish, and
18 any other languages determined by the commissioner to be
19 necessary.

20 The department would be required to engage in a substantial
21 effort to enhance awareness among the State's landlords of the
22 ability to apply for assistance. Once assistance applications are
23 made available, the department would provide for the establishment
24 and maintenance of a toll-free telephone hotline available, at a
25 minimum, weekdays between 8:30 a.m. and 5:30 p.m. through
26 which a landlord may ask questions and obtain help in application
27 completion. The department would maintain the telephone hotline
28 for the entire period that the department continues to accept
29 assistance applications.

30 If a landlord submits a program application to the department,
31 but has not yet obtained an assistance payment, or a denial of an
32 assistance payment, the landlord would be authorized to assert an
33 affirmative defense to a foreclosure action initiated against any
34 residential rental property owned by the landlord. This provision
35 would exclusively apply to a landlord whose principal residence is
36 in the State and who, together with immediate family members,
37 partners, or other related entities, owns no more than 50 rental units
38 in the State.

39 The bill would also direct the Commissioner of Community
40 Affairs would rename the current "Homelessness Prevention
41 Program" as the "Eviction and Homelessness Prevention Program."
42 The bill directs the commissioner to revise and amend the
43 "Homeless Prevention Program Regulations" to meet or provide for
44 the following: (1) the regulations would be renamed the "Eviction
45 and Homelessness Prevention Program Regulations", (2) a
46 household would be eligible to participate in the program if, due to
47 reasons beyond the household's control, the household is unable to
48 make residential rental payments which are due and owing pursuant
49 to a valid and enforceable oral or written lease, stipulation of

1 settlement, judgment, order or other type of legally binding
2 agreement, (3) a household would be eligible for assistance under
3 this program regardless of whether the household has been served
4 with a summons and complaint for eviction, (4) a household would
5 be eligible for assistance if their annualized current income is no
6 more than 80 percent of the area median income; however, the
7 commissioner may establish funding priorities to benefit very low
8 income and low income households, (5) a household would be
9 eligible for assistance under this program although it may be
10 unlikely for the household to have the ability to pay shelter costs
11 after the period of assistance has ended, and (6) eligible households
12 would be awarded grants for periods of up to two years, depending
13 upon the person's or household's particular circumstances. The
14 department would provide assistance along a continuum based upon
15 the income level of the tenant household, and would include deep
16 subsidies, shallow subsidies, and flat amounts. The bill would
17 authorize these grants be renewed to prevent eviction or
18 homelessness. The commissioner would prepare guidance covering
19 the amount and duration of the grants, in accordance with the
20 following guidelines and principles: (a) for a very low income
21 household, a deep subsidy would be provided in the amount
22 necessary to limit the household's share of ongoing rent to not more
23 than 40 percent of the household's income, (b) for a low income
24 household, a shallow subsidy would be provided in the amount
25 necessary to limit the household's share of ongoing rent to not more
26 than 40 percent of the household's income, provided, however, that
27 the amount of any such subsidy would not exceed \$800 per month,
28 and (c) for a moderate-income household, assistance in the form of
29 a flat monthly grant of \$250 would be provided to the household if
30 the household pays more than 50 percent of the household's income
31 as ongoing rent.

32 The revisions to the "Homeless Prevention Program Regulations"
33 would also provide that, during the course of the payment period, if
34 the department is notified by either the landlord or the program
35 participant that a person or household has begun to experience
36 difficulty paying rent as a result of reasons beyond the household's
37 control, the household's income and family situation would be
38 reevaluated in light of the changed conditions, and the person or
39 household would be placed in a different assistance tier, if
40 necessary, to prevent eviction. Finally, these regulatory revisions
41 would also provide that, during the course of the payment period, a
42 participant household would certify the household's current income
43 once every two months, using a one-page form to be developed by
44 the department, including any necessary attachments. Beginning
45 the month following receipt of a certification, the department would
46 increase or decrease the amount of subsidy provided to the
47 household in accordance with the subsidy category applicable to the
48 most recent reported income, provided that limited non-recurring

1 short term increases in income would not require a subsidy
2 adjustment.

3 The bill would also establish within the Department of
4 Community Affairs the “NJ Early Intervention Eviction Prevention
5 Program.” Within 30 days of the enactment of the bill, the
6 department would be required to establish an “Office of Eviction
7 Prevention,” which would be responsible for the (1) identification
8 of all federal, state, local, and other sources of financial assistance
9 available for use to prevent the eviction of residential tenants,
10 including but not limited to programs which provide both deep and
11 shallow rental subsidies, (2) becoming knowledgeable with regard
12 to the application process for each such program, and (3)
13 identifying, and proposing remedies for, the gaps in the overall
14 assistance system. This office would be responsible for the
15 compilation, publication, and ongoing update of this information,
16 and for identifying and training at least one non-profit, community-
17 based organization in each county with regard to the availability of
18 and means of accessing such financial assistance by at-risk tenants.

19 Also within 30 days of the enactment of this legislation, the
20 department would be required to establish the “NJ Eviction
21 Prevention Mediation Program,” which would operate in a manner
22 similar to the “NJ Foreclosure Mediation Program.” In addition to
23 facilitating the provision of mediation in the form and for the
24 purposes outlined below, it would be the responsibility of the
25 program to ensure that participating tenants are provided with legal
26 advice and assistance if they are not otherwise represented or
27 advised by counsel. The department would contract with a non-
28 profit provider or providers in each county for the purpose of
29 conducting the mediation sessions, providing the necessary advice
30 regarding tenants’ rights, and also providing the necessary legal
31 assistance. Each such provider would be responsible for employing
32 a sufficient number of mediators, in-house attorneys and experts in
33 tenants’ rights to ensure that mediation sessions are conducted in a
34 timely fashion.

35 At least 21 days prior to the filing of an eviction complaint for
36 non-payment of rent which has accrued subsequent to the end of the
37 moratorium period, a landlord would, using forms prepared by the
38 department, notify both the department and the affected tenant that
39 such an eviction filing may be necessary. If the matter is not
40 resolved in accordance with the procedures outlined in the
41 following sections, and a summary dispossess complaint is
42 subsequently filed, a copy of this notice would be attached to the
43 complaint. Failure to serve and attach the required notice would
44 result in dismissal of the complaint.

45 Within seven days of receipt of this notice, the department would
46 contact both parties and establish a date and time for the convening
47 of an assisted eviction prevention mediation session, which would
48 take place no later than 16 days subsequent to receipt of the notice,
49 and prior to the filing of an action for eviction.

1 Eviction prevention mediation sessions would be conducted
2 electronically, on an agreed upon day at and agreed upon time, via a
3 process that allows all parties, as well as the mediator and any other
4 participants, to see and hear each other, unless all parties and
5 participants agree that the session will be conducted in person. In
6 person eviction prevention mediation sessions would not be
7 conducted in the courthouse or other government building. All such
8 sessions would be conducted at schools, churches, non-profit office
9 facilities, or other appropriate locations within five miles of the
10 courthouse. All such sessions would be scheduled at times agreed
11 upon and convenient to all parties, including evenings and
12 weekends.

13 A representative of the Office of Eviction Prevention would be
14 present at each scheduled mediation session, in order to facilitate
15 resolution of all payment-related issues.

16 The purposes and goals of the mediation process would be: (1) to
17 identify all existing and potential legal issues and tenants' rights
18 that may have an impact upon the jurisdiction of the court or
19 otherwise affect the possible outcomes of any summary dispossession
20 proceeding, (2) to identify all existing or potential issues that do or
21 may affect the participating tenants ability to make rental payments
22 in a timely fashion and in full, (3) to identify, prepare and
23 implement an affordable payment plan that will address all payment
24 issues so identified, in order to insure to the greatest extent possible
25 that rent will be timely paid, (4) identify all potential sources of
26 one-time, short and long-term funding, including the use of deep
27 and shallow subsidies, which will facilitate successful creation and
28 implementation of such a plan, (5) establish an implementation plan
29 which identifies and provides the hands-on assistance tenants will
30 need to pursue and apply to the particular funding sources identified
31 as necessary, and (6) produce a written agreement embodying and
32 memorializing all of the above.

33 It would be the obligation of all parties to undertake the
34 mediation process in good faith and with the intent of reaching a
35 reasonable resolution of all issues involved. Failure by a landlord
36 to negotiate and participate in good faith would be a defense to an
37 action for eviction; failure to do so by a tenant may lead to an
38 eviction filing and displacement.

39 If the mediation is successful, and the parties reach an agreement
40 with regard to a reasonable and affordable payment plan, a
41 Stipulation of Settlement would be prepared, which stipulation
42 would be in the form established by the department. The
43 Stipulation of Settlement would further provide that, in the event a
44 tenant fails to abide by the payment plan, the landlord may institute
45 a summary dispossession proceeding. If the matter cannot be resolved
46 through mediation, and the amounts claimed due are not paid, the
47 landlord may commence a summary dispossession proceeding against
48 the tenant.

1 In any such civil action for non-payment of rent, a tenant would
2 be advised of the tenant’s right to request a two-week adjournment,
3 which would be granted as a matter of right. At least one-week prior
4 to the trial of any matter involving non-payment of rent, the tenant
5 would again be advised of all rights provided by the bill, as well as
6 all potential sources of funding that may be available to reduce the
7 tenant’s obligation, and offered the opportunity to engage in a final
8 mediation session on or prior to the trial date. Payment
9 arrangements subsequently agreed to would be reviewed by the
10 court, and would not be approved unless the court finds that the
11 tenant clearly understood the tenant’s rights as well as the terms of
12 the agreement.

13 The bill would appropriate from the funds provided to the State
14 by the United States government for the purpose of providing relief
15 to tenants affected in any way by the COVID-19 pandemic: for the
16 “Tenant COVID-19 Emergency Rental Arrearage Program” the sum
17 of \$350,000,000; for the “Eviction and Homelessness Prevention
18 Program” the sum of \$350,000,000; for the Office of Eviction
19 Prevention the sum of \$5,000,000; for the “NJ Eviction Prevention
20 Mediation Program” the sum of \$20,000,000. The sum of
21 \$20,000,000 would be appropriated to the department from the
22 same funds, as described above, provided by the federal
23 government in order to fund those actions needed to be taken by the
24 department to effectively implement the rental arrearage and
25 homelessness prevention programs. Additional federal funding for
26 emergency rental assistance related to the COVID-19 pandemic
27 would be appropriated to the foregoing programs as it becomes
28 available. Households otherwise ineligible for assistance using
29 federal funds would be assisted with State funds.