

ASSEMBLY, No. 4617

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 14, 2020

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Assemblywoman ANNETTE CHAPARRO
District 33 (Hudson)

Co-Sponsored by:

Assemblymen Danielsen and Spearman

SYNOPSIS

Addresses certain landlord expenses in response to COVID-19 pandemic; appropriates \$300 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2020)

1 AN ACT addressing certain landlord expenses in response to the
2 COVID-19 pandemic, and making an appropriation.

3

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

6

7 1. The Legislature finds and declares that:

8 a. The COVID-19 pandemic and the measures taken to control it
9 have resulted in widespread unemployment and lost income to large
10 numbers of New Jersey tenants;

11 b. As of June of 2020, New Jersey's unemployment rate exceeds
12 16 percent;

13 c. Unemployment and loss of income have rendered many
14 tenants unable to pay rent in whole or in part, placing them at
15 potential risk of eviction following the conclusion of the eviction
16 moratorium adopted through Executive Order No. 106 of 2020;

17 d. Although Executive Order No. 106, and other tenant
18 protections established during the COVID-19 pandemic appear to
19 be preventing many evictions that might otherwise occur, the tenant
20 protections, combined with the underlying economic circumstances
21 of the pandemic, could result in a widespread loss of rental income,
22 placing landlords in a financially-vulnerable situation;

23 e. If not addressed, sustained loss of rental income could lead
24 many landlords to defer repairs, reduce maintenance, and
25 potentially abandon their properties, all of which could adversely-
26 effect landlords, families living in rental properties, as well as many
27 neighborhoods throughout the State; and

28 f. It is, therefore, necessary and in the public interest for the
29 Legislature to prevent evictions as well as property deterioration
30 and abandonment, arising from the temporary loss of tenant and
31 landlord income during the time of the coronavirus pandemic, by
32 enacting legislation to subsidize certain landlord expenses incurred
33 during the time of the COVID-19 pandemic.

34

35 2. As used in this act:

36 "Assistance" means compensation for unpaid rent, provided by
37 the program established pursuant to section 3 of this act.

38 "Assistance period" means the period beginning April 1, 2020
39 and ending on the first day of the seventh month next following the
40 public health emergency declared pursuant to Executive Order No.
41 103 of 2020.

42 "Commissioner" means the Commissioner of Community
43 Affairs.

44 "Department" means the Department of Community Affairs.

45 "Household income" means the gross income of a tenant
46 household for calendar year 2019, or for January 1, 2020 through
47 June 30, 2020 multiplied by two, whichever is lower.

1 “Housing costs” means mortgage principal and interest
2 payments, property taxes, homeowner and private mortgage
3 insurance, condominium or common interest community fees, and
4 reasonable maintenance costs, as applicable, paid by a landlord for
5 the landlord’s residential rental units.

6 “Program” means the Landlord Emergency Compensation
7 Program established by section 3 of this act.

8 “Program application” means an application for assistance
9 through the program.

10
11 3. a. There is established in the Department of Community
12 Affairs the “Landlord Emergency Compensation Program,” to
13 provide assistance to a landlord to compensate for the portions of
14 unpaid rent, due during the assistance period, that the landlord’s
15 residential tenants have owed the landlord, but have not paid, to the
16 extent that this compensation is necessary to allow the landlord to
17 cover the landlord’s housing costs. The program shall not provide
18 assistance to the landlord for:

19 (1) housing costs that, prior to March 9, 2020, the landlord had
20 anticipated covering through funding sources other than rent
21 payments; or

22 (2) housing costs for which the landlord has obtained
23 compensation, or has an outstanding application for compensation,
24 through a different program that, as determined by the
25 commissioner, preempts the landlord from eligibility for assistance
26 payments.

27 b. The program shall begin accepting applications as soon as
28 possible following enactment of this act. If a landlord applies for
29 assistance prior to the conclusion of the assistance period, and the
30 landlord’s tenants miss one or more rent payments after submission
31 of the program application, then the landlord may apply to the
32 department for one or more additional assistance payments on a
33 quarterly basis through the conclusion of the assistance period. The
34 department may adjust this application schedule as deemed
35 appropriate by the commissioner.

36 c. The department may prioritize program application approval
37 based on financial need as determined appropriate by the
38 commissioner.

39 d. The department shall prepare all application forms,
40 application guidelines, and informational materials necessary for
41 landlords to complete an application, and shall post materials on its
42 website at least 30 days prior to the date on which applications shall
43 be accepted.

44
45 4. a. A program application shall state the total amount of rent
46 due from the landlord’s residential tenants established in the
47 corresponding leases, the amount paid by the tenants or third

1 parties, if any, the amount unpaid, the landlord's housing costs, and
2 any other information required by the department.

3 b. An application shall be accompanied by a form completed by
4 the tenant of the rental unit endorsing the application, which shall
5 include (1) the number of occupants of the unit, (2) a sworn
6 statement of the tenant household's income, and (3) any additional
7 information required by the department.

8 c. If the tenant of a rental unit is unwilling to complete the form
9 required in subsection b. of this section notwithstanding diligent
10 effort by the landlord, the landlord may attach to the application a
11 certification in such form as shall be determined by the department
12 setting forth (1) the landlord's efforts to obtain tenant endorsement;
13 (2) the household income of the tenant, to the best of the landlord's
14 knowledge; (3) the number of occupants in the rental unit, and (4)
15 any additional information required by the department.

16
17 5. a. An assistance payment, once accepted by a landlord, shall
18 be a full settlement of rent due for the landlord's residential tenants
19 during the period that is both within the assistance period and prior
20 to submission of the program application. By accepting an
21 assistance payment, the landlord shall also waive any late or other
22 fees charged to residential tenants as a result of the nonpayment of
23 rent during the period that is both within the assistance period and
24 prior to submission of the program application. The acceptance of
25 the assistance payment shall constitute a settlement of these costs
26 even though they may not be fully compensated through the
27 assistance payment.

28 b. A landlord shall not accept a delinquent rent payment from a
29 residential tenant if the rent payment has been covered by an
30 assistance payment.

31 c. A landlord receiving assistance or awaiting the department's
32 response to a program application, shall not initiate an eviction
33 proceeding, or complete a previously-initiated eviction proceeding,
34 for any unpaid rent balances, or late or other fees, owed by a
35 residential tenant for rent due during the period that is both within
36 the assistance period and prior to submission of the program
37 application.

38 d. A landlord initiating an eviction action shall provide
39 documentation on a form to be prepared and adopted by the
40 Administrative Director of the Courts that the landlord is not
41 prohibited from initiating the action by any provision of this act.

42
43 6. If a landlord has submitted a program application to the
44 department, but has not yet obtained an assistance payment, or a
45 denial of an assistance payment, the landlord may assert an
46 affirmative defense to a foreclosure action initiated against any
47 residential rental property owned by the landlord. This section shall
48 exclusively apply to a landlord whose principal residence is in the

1 State and who, together with immediate family members, partners,
2 or other related entities, owns no more than 50 rental units in the
3 State.

4

5 7. An intentional misrepresentation by a landlord of any
6 information to obtain an assistance payment shall constitute a crime
7 of the fourth degree.

8

9 8. There is appropriated from funds provided to the State by
10 the United States government under the “Coronavirus Aid, Relief,
11 and Economic Security Act,” Pub. Law 116-136, to the Department
12 of Community Affairs the sum of \$300,000,000 for assistance under
13 this program, of which no more than \$1,500,000 may be used by the
14 department to defray the administrative costs of the program. If
15 \$300,000,000 is not available through the “Coronavirus Aid, Relief,
16 and Economic Security Act,” Pub. Law 116-136, then the remainder
17 of this amount shall be appropriated from other federal funding
18 authorized for coronavirus relief as it becomes available.

19

20 9. This act shall take effect immediately.

21

22

23

STATEMENT

24

25 This bill would establish the “Landlord Emergency
26 Compensation Program” as a program in the Department of
27 Community Affairs (“DCA”). The bill would allow eligible
28 landlords to apply for assistance, in the form of financial
29 compensation, during an “assistance period” in the time of the
30 Coronavirus pandemic. The bill defines the assistance period as the
31 six month period beginning April 1, 2020 and on the first day of the
32 seventh month following the end of the public health emergency
33 declared in Executive Order No, 103.

34

35 The bill authorizes a landlord to apply for assistance payments to
36 compensate for the portions of unpaid rent, due during the
37 assistance period, that a landlord’s residential tenants have owed,
38 but have not paid. The program would only provide assistance
39 payments to a landlord to the extent that this compensation is
40 necessary to allow the landlord to cover the housing costs of the
41 landlord’s residential rental units when combined with the rental
42 payments that the landlord has received. The program would not
43 provide assistance to a landlord for (1) housing costs that, prior to
44 March 9, 2020, the landlord had anticipated covering through
45 funding sources other than rent payments; or (2) housing costs for
46 which the landlord has obtained compensation, or has an
47 outstanding application for compensation, through a different
48 program that DCA has determined to preempt the landlord from
eligibility.

1 The program would begin accepting applications as soon as
2 possible following enactment of this bill. To address circumstances
3 in which a landlord applies for assistance prior to the conclusion of
4 the assistance period, and the landlord's tenants miss one or more
5 rent payments after submission of the program application, the bill
6 would not prohibit DCA from accepting additional program
7 applications from the same landlord. The bill authorizes DCA to
8 prioritize program application approval based on financial need as
9 determined appropriate.

10 The bill directs that program applications would be required to
11 state the total amount of rent due for the rental unit as established in
12 the lease, the amount paid by the tenant or third parties, if any, the
13 amount unpaid, the landlord's housing costs, and any other
14 information required by DCA.

15 The bill would require an application to be accompanied by a
16 form completed by the tenant of the rental unit endorsing the
17 application, and including (1) the number of occupants of the unit,
18 (2) a sworn statement of the tenant household's income, and (3) any
19 additional information required by DCA. If the tenant is unwilling
20 to complete the form despite a diligent effort by the landlord, the
21 landlord may attach to the application a certification setting forth
22 (1) the landlord's efforts to obtain tenant endorsement; (2) the
23 household income of the tenant, to the best of the landlord's
24 knowledge; (3) the number of occupants in the rental unit, and (4)
25 any additional information required by DCA.

26 The bill requires that assistance payment, once accepted by a
27 landlord, would be a full settlement of rent due for the landlord's
28 residential tenants during the period both within the assistance
29 period and prior to submission of the program application. By
30 accepting an assistance payment, the landlord would also waive any
31 late fees charged to residential tenants as a result of rent
32 nonpayment in that time. A landlord receiving assistance or
33 awaiting DCA's response to a program application would be
34 prohibited from initiating an eviction proceeding, or completing a
35 previously-initiated eviction proceeding, for any unpaid rent
36 balances owed for rent due during that time. A landlord would be
37 prohibited from accepting a delinquent rent payment from a tenant
38 if it has been covered by an assistance payment. A landlord
39 initiating an eviction action would be required to provide
40 documentation on a form to be prepared and adopted by the
41 Administrative Director of the Courts that they are not prohibited
42 from initiating the action by any provision of the bill.

43 Under the bill, if a landlord has submitted a program application,
44 but has not yet obtained an assistance payment, or a denial of
45 assistance, the landlord would be authorized to assert an affirmative
46 defense to a foreclosure action initiated against any residential
47 rental property owned by the landlord. This protection, however,
48 would exclusively apply to a landlord whose principal residence is

1 in the State and who, together with immediate family members,
2 partners, or other related entities, owns no more than 50 rental units
3 in the State.

4 An intentional misrepresentation by a landlord of any
5 information to obtain an assistance payment would constitute a
6 crime of the fourth degree under the bill. A crime of the fourth
7 degree is ordinarily punishable by a term of imprisonment of up to
8 18 months or a fine of up to \$10,000, or both.

9 Finally, the bill would appropriate \$300 million from the funds
10 provided to the State by the federal government under the
11 “Coronavirus Aid, Relief, and Economic Security (“CARES”) Act”
12 for assistance under the program established by the bill, of which no
13 more than \$1,500,000 would be used by the DCA to defray the
14 administrative costs of the program. However, in the event that the
15 \$300 million is not available through the CARES Act, then the
16 remainder would be appropriated from other federal funding
17 available for coronavirus relief as it becomes available.