

[Second Reprint]

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)
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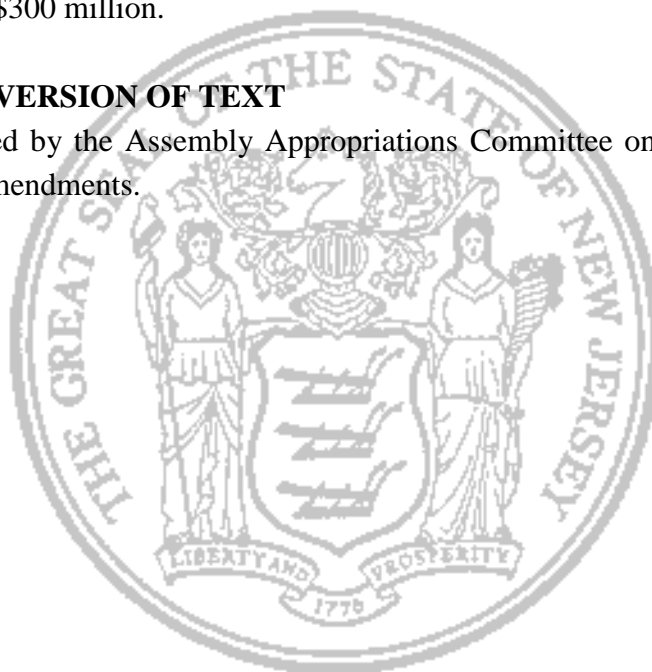
Assemblymen Danielsen, Spearman, Assemblywoman Reynolds-Jackson,
Assemblyman Clifton and Assemblywoman Pintor Marin

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 14, 2020, with amendments.



(Sponsorship Updated As Of: 12/16/2020)

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
9 it have resulted in widespread unemployment and lost income to
10 large numbers of New Jersey tenants;

11 b. As of June of 2020, New Jersey's unemployment rate
12 exceeds 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 ², that shall
38 compensate a landlord for the housing costs of the units of all of the
39 landlord's residential tenants in the building or development for
40 which the assistance has been requested during the period that is
41 both within the assistance period and prior to submission of the
42 program application².

43 "Assistance period" means the period beginning April 1, 2020
44 and ending ¹**【on the first day of the seventh month next following】**

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHO committee amendments adopted December 7, 2020.

²Assembly AAP committee amendments adopted December 14, 2020.

1 two months following the end of¹ the public health emergency
2 declared pursuant to Executive Order No. 103 of 2020.

3 “Commissioner” means the Commissioner of Community
4 Affairs.

5 “Department” means the Department of Community Affairs.

6 “Household income” means the gross income of a tenant
7 household for calendar year 2019, or for January 1, 2020 through
8 June 30, 2020 multiplied by two, whichever is lower.

9 “Housing costs” means mortgage principal and interest
10 payments, property taxes, homeowner and private mortgage
11 insurance, condominium or common interest community fees, and
12 reasonable maintenance costs, as applicable, paid by a landlord for
13 the landlord’s residential rental units ¹, and anticipated maintenance
14 cost increases, applicable to landlords with tenants who have
15 applied security deposit funds against rent pursuant to Executive
16 Order 128 of 2020¹.

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

19 “Program application” means an application for assistance
20 through the program.

21

22 3. a. There is established in the Department of Community
23 Affairs the “Landlord Emergency Compensation Program,” to
24 provide assistance to a landlord to compensate for the portions of
25 unpaid rent, due during the assistance period, that the landlord’s
26 residential tenants have owed the landlord, but have not paid, to the
27 extent that this compensation is necessary to allow the landlord to
28 cover the landlord’s housing costs. The program shall not provide
29 assistance to the landlord for:

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

33 (2) housing costs for which the landlord has obtained
34 compensation, or has an outstanding application for compensation,
35 through a different program that, as determined by the
36 commissioner, preempts the landlord from eligibility for assistance
37 payments ¹, including, but not limited to, funding from the Small
38 Landlord Emergency Grant Program established by the New Jersey
39 Housing and Mortgage Finance Agency.

40 b. The commissioner shall limit eligibility for assistance
41 payments to a landlord that:

42 (1) as of ²【March 9, 2020】 the date of submission of a program
43 application², is in substantial compliance with the requirements of:
44 the “State Uniform Construction Code Act,” P.L.1975, c.217
45 (C.52:27D-119 et seq.); the “Hotel and Multiple Dwelling Law,”
46 P.L.1967, c.76 (C.55:13A-1 et seq.); and the State housing code,

1 adopted by the Department of Community Affairs pursuant to P.L.
2 1966, c. 168 (C.2A:42-74 et seq.);

3 (2) as of March 9, 2020, is in substantial compliance with
4 property tax and other tax payment responsibilities; and

5 (3) has no pending criminal charges¹.

6 ¹**[b.] c.**¹ The program shall begin accepting applications as soon
7 as possible following enactment of this act. If a landlord applies for
8 assistance prior to the conclusion of the assistance period, and the
9 landlord's tenants miss one or more rent payments after submission
10 of the program application, then the landlord may apply to the
11 department for one or more additional assistance payments on a
12 quarterly basis through the conclusion of the assistance period. The
13 department may adjust this application schedule as deemed
14 appropriate by the commissioner.

15 ¹**[c.] d.**¹ The department may prioritize program application
16 approval based on ¹the¹ financial need ¹of the landlord,¹ as
17 determined appropriate by the commissioner. ¹A portion of
18 assistance funding shall be reserved for landlords who own and rent
19 out no more than two housing units.¹

20 ¹**[d.] e.**¹ The department shall prepare all application forms,
21 application guidelines, and informational materials necessary for
22 landlords to complete an application, and shall post materials on its
23 website at least 30 days prior to the date on which applications shall
24 be accepted.

25
26 4. a. A program application shall state the total amount of rent
27 due from the landlord's residential tenants established in the
28 corresponding leases, the amount paid by the tenants or third
29 parties, if any, the amount unpaid, the landlord's housing costs, ¹the
30 amount of security deposit funding that the landlord's tenants have
31 applied against rent pursuant to Executive Order 128 of 2020,¹ and
32 any other information required by the department ¹for determining
33 financial need¹.

34 b. An application shall be accompanied by a form completed by
35 the tenant of ¹**[the]** each of the landlord's¹ rental ¹**[unit]** units for
36 which the landlord is seeking assistance¹ endorsing the application,
37 which shall include (1) the number of occupants of the unit, (2) a
38 sworn statement of the tenant household's income, and (3) any
39 additional information required by the department.

40 c. If the tenant of a rental unit is unwilling to complete the form
41 required in subsection b. of this section notwithstanding diligent
42 effort by the landlord, the landlord may attach to the application a
43 certification in such form as shall be determined by the department
44 setting forth (1) the landlord's efforts to obtain tenant endorsement;
45 (2) the household income of the tenant, to the best of the landlord's
46 knowledge; (3) the number of occupants in the rental unit, and (4)
47 any additional information required by the department.

1 5. a. An assistance payment, once accepted by a landlord, shall
2 be a full settlement of rent due for ²all of² the landlord's residential
3 tenants ²[¹for which the landlord is receiving assistance¹] in the
4 building or development for which the assistance has been
5 requested² during the period that is both within the assistance
6 period and prior to submission of the program application. By
7 accepting an assistance payment, the landlord shall also waive any
8 late or other fees charged to residential tenants as a result of the
9 nonpayment of rent during the period that is both within the
10 assistance period and prior to submission of the program
11 application. The acceptance of the assistance payment shall
12 constitute a settlement of these costs even though they may not be
13 fully compensated through the assistance payment.

14 b. ¹Upon the provision of an assistance payment, the
15 commissioner shall notify the landlord's tenants of the protections
16 provided to them as a consequence of the landlord's receipt of
17 assistance.

18 c.¹ A landlord shall not accept a delinquent rent payment from a
19 residential tenant if the rent payment has been covered by an
20 assistance payment.

21 ¹[c.] d.¹ A landlord receiving assistance or awaiting the
22 department's response to a program application, shall not initiate an
23 eviction proceeding, or complete a previously-initiated eviction
24 proceeding, for any unpaid rent balances, or late or other fees, owed
25 by a residential tenant for rent due during the period that is both
26 within the assistance period and prior to submission of the program
27 application. ²This subsection shall protect such tenants from an
28 eviction action for nonpayment or habitually late payment of rent
29 during this period.²

30 ¹[d.] e.¹ A landlord initiating an eviction action shall provide
31 documentation on a form to be prepared and adopted by the
32 Administrative Director of the Courts that the landlord is not
33 prohibited from initiating the action by any provision of this act.
34

35 ¹6. a. The Department of Community Affairs shall, as soon as
36 practicable following the enactment of this act, prepare and make
37 available, on its Internet website, information for landlords on (1)
38 when assistance applications shall be available, (2) the necessary
39 steps for application submission, (3) how to obtain help in
40 application completion, and (4) other matters related to assistance
41 applications deemed necessary by the commissioner. This
42 information shall be made available in English, Spanish, and any
43 other languages determined necessary by the commissioner.

44 b. The department shall engage in a substantial effort to enhance
45 awareness among the State's landlords of the ability to apply for
46 assistance. Once assistance applications are made available, the
47 department shall provide for the establishment and maintenance of a

1 toll-free telephone hotline available, at a minimum, weekdays
2 between 8:30 a.m. and 5:30 p.m. through which a landlord may ask
3 questions and obtain help in application completion. The
4 department shall maintain the telephone hotline for the entire period
5 that the department continues to accept assistance applications.¹

6
7 ¹**[6.] 7.**¹ If a landlord has submitted a program application to
8 the department, but has not yet obtained an assistance payment, or a
9 denial of an assistance payment, the landlord may assert an
10 affirmative defense to a foreclosure action initiated against any
11 residential rental property owned by the landlord. This section shall
12 exclusively apply to a landlord whose principal residence is in the
13 State and who, together with immediate family members, partners,
14 or other related entities, owns no more than 50 rental units in the
15 State.

16
17 ¹**[7.] 8.**¹ An intentional misrepresentation by a landlord of any
18 information to obtain an assistance payment shall constitute a crime
19 of the fourth degree in addition to other applicable penalties¹.

20
21 ¹**[8.] 9.**¹ There is appropriated from funds provided to the
22 State by the United States government under the “Coronavirus Aid,
23 Relief, and Economic Security Act,” Pub. Law 116-136, to the
24 Department of Community Affairs the sum of \$300,000,000 for
25 assistance under this program, of which no more than \$1,500,000
26 may be used by the department to defray the administrative costs of
27 the program. If \$300,000,000 is not available through the
28 “Coronavirus Aid, Relief, and Economic Security Act,” Pub. Law
29 116-136, then the remainder of this amount shall be appropriated
30 from other federal funding authorized for coronavirus relief as it
31 becomes available. ²If federal funding is not available to satisfy the
32 full amount of this appropriation, then the Commissioner of
33 Community Affairs may notify the State Treasurer and the Joint
34 Budget Oversight Committee of the Legislature of the deficiency
35 and may request that the Legislature appropriate a portion of the
36 remainder from the General Fund, or other available State funding
37 sources, for the purposes of the program.²

38
39 ¹**[9.] 10.**¹ This act shall take effect immediately.