

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4617

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 15, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4617 (1R), with committee amendments.

As amended by the committee, this bill would establish the “Landlord Emergency Compensation Program” as a program in the Department of Community Affairs (“DCA”). The bill would allow eligible landlords to apply for assistance, in the form of financial compensation, during an “assistance period” in the time of the Coronavirus pandemic. The bill defines the assistance period as the period beginning April 1, 2020 and ending two months following the end of the public health emergency declared in Executive Order No. 103.

The bill authorizes a landlord to apply for assistance payments to compensate for the portions of unpaid rent, due during the assistance period, that a landlord’s residential tenants have owed, but have not paid. The program would only provide assistance payments to a landlord to the extent that this compensation is necessary to allow the landlord to cover the housing costs of the landlord’s residential rental units, within the same building or development, when combined with the rental payments that the landlord has received. The bill defines “housing costs” as mortgage principal and interest payments, property taxes, homeowner and private mortgage insurance, condominium or common interest community fees, reasonable maintenance costs, and anticipated maintenance cost increases, applicable to landlords with tenants who have applied security deposit funds against rent in accordance with Executive Order No. 128 of 2020.

The program would not provide assistance to a landlord for: (1) housing costs that, prior to March 9, 2020, the landlord had anticipated covering through funding sources other than rent payments; or (2) housing costs for which the landlord has obtained compensation, or has an outstanding application for compensation, through a different program that DCA has determined to preempt the landlord from eligibility.

The bill requires DCA to limit eligibility for assistance payments to landlords who (1) have no pending criminal charges, (2) are in

substantial compliance with building and housing code responsibilities upon application submission, and (3) are in substantial compliance with tax payment responsibilities as of March 9, 2020.

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

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

The bill would require an application to be accompanied by a form completed by the tenants of the landlord's rental units endorsing the application, and including the number of occupants of the unit, and any additional information required by DCA. If the tenant is unwilling to complete the form despite a diligent effort by the landlord, the landlord may attach to the application a certification setting forth: (1) the landlord's efforts to obtain tenant endorsement; (2) the number of occupants in the rental unit, and (3) any additional information required by DCA.

The bill requires that the assistance payment, once accepted by a landlord, would be a full settlement of rent due for all of the landlord's residential tenants in the building or development during the period both within the assistance period and prior to submission of the program application. By accepting an assistance payment, the landlord would also waive any late fees charged to residential tenants as a result of rent nonpayment in that time. A landlord receiving assistance or awaiting DCA's response to a program application would be prohibited from initiating an eviction proceeding, or completing a previously-initiated eviction proceeding, for any unpaid rent balances owed for rent due during that time. Upon the provision of an assistance payment, the bill would require the commissioner to also notify the landlord's tenants of the protections provided to them as a consequence of the landlord's assistance payment. A landlord would be prohibited from accepting a delinquent rent payment from a tenant if it has been covered by an assistance payment. A landlord initiating an eviction action for balances due during the assistance period would be required to provide documentation on a form to be prepared and adopted by the Administrative Director of the Courts that they are not prohibited from initiating the action by any provision of the bill.

As soon as practicable following enactment, the bill directs DCA to prepare and make available, on its Internet website, information for landlords on: (1) when assistance applications will be available, (2) the necessary steps for application submission, (3) how to obtain help in application completion, and (4) other matters related to assistance applications that DCA deems necessary. This information would be made available in English, Spanish, and any other languages determined necessary. Once assistance applications are made available, DCA would provide for the establishment and maintenance of a toll-free telephone hotline available, at a minimum, weekdays between 8:30 a.m. and 5:30 p.m. through which a landlord may ask questions and obtain help in application completion.

Under the bill, if a landlord has submitted a program application, but has not yet obtained an assistance payment, or a denial of assistance, the landlord would be authorized to assert an affirmative defense to a foreclosure action initiated against any residential rental property owned by the landlord. This protection, however, would exclusively apply to a landlord whose principal residence is in the State and who, together with immediate family members, partners, or other related entities, owns no more than 50 rental units in the State.

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

Finally, the bill would appropriate \$300 million from the funds provided to the State by the federal government under the “Coronavirus Aid, Relief, and Economic Security (“CARES”) Act” for assistance under the program established by the bill, of which no more than \$1,500,000 would be used by the DCA to defray the administrative costs of the program. However, in the event that the \$300 million is not available through the CARES Act, then the remainder would be appropriated from other federal funding available for coronavirus relief as it becomes available. If federal funding is not available to satisfy the full amount of this appropriation, then the bill would authorize DCA to request that a portion of the remainder be appropriated from State funding sources.

COMMITTEE AMENDMENTS:

The committee amendments:

- Adjust the “assistance” definition to clarify that an assistance payment would compensate the landlord for the housing costs of all of the landlord’s residential tenants in the building or development for which the assistance is requested during the period both within the assistance period and prior to submission of the program application.

- Adjust eligibility for assistance payments to landlords who are in substantial compliance with responsibilities under the building code, housing code, and “Hotel and Multiple Dwelling Law,” at the time of submission of the program application, instead of limiting eligibility to those who meet these responsibilities as of March 9, 2020;
- Require that the assistance payment, once accepted by a landlord, would be a full settlement of rent due for all of the landlord’s residential tenants in the development or building during the period both within the assistance period and prior to submission of the program application; and
- Allow the Commissioner of Community Affairs notify the State Treasurer and the Joint Budget Oversight Committee of the Legislature of a deficiency in funding and may request that the Legislature appropriate a portion of the remainder from the General Fund, or other available State funding sources.

FISCAL IMPACT:

The Office of Legislative Services concludes that the bill may (1) potentially increase State expenditures attributable to increased administrative costs for the Department of Community Affairs (DCA) and may (2) potentially increase local revenues due to certain local units serving as a local housing authority, and thereby a landlord eligible for assistance from the Landlord Emergency Compensation Program established under the bill.

The bill requires the DCA to make information available on its Internet website to assist landlords with the application process, “engage in substantial effort to enhance awareness among the State’s landlords of the ability to apply for assistance,” and establish a telephone hotline to help landlords with application completion. The OLS concludes that these requirements would increase administrative costs for the DCA.

According to information on the federal Department of Housing and Urban Development website, approximately 82 municipalities in the State serve as the local housing authority. Under the bill, local housing authorities collecting rental payments would be eligible to receive assistance from the program.