

ASSEMBLY, No. 5700

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

SYNOPSIS

Addresses certain missed residential lease payments in response to COVID-19 pandemic; appropriates \$300 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/17/2021)

1 AN ACT addressing certain missed residential lease payments in
2 response to the COVID-19 pandemic, and making an
3 appropriation.
4

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

8 1. As used in this act:

9 “25 percent assistance payment” means assistance, provided
10 pursuant to section 4 of this act, in the form of a payment of 25
11 percent of rent due, but not yet paid, for all of the landlord’s low-
12 and moderate-income tenants in the building or development for
13 which the assistance has been requested during the period that is
14 both within the assistance period and prior to submission of the
15 program application.

16 “80 percent assistance payment” means assistance, provided
17 pursuant to section 4 of this act, in the form of a payment of 80
18 percent of rent due, but not yet paid, for all of the landlord’s low-
19 and moderate-income tenants in the building or development for
20 which the assistance has been requested during the period that is
21 both within the assistance period and prior to submission of the
22 program application.

23 “Assistance” means compensation for unpaid rent provided
24 pursuant to section 4 of this act, through the program.

25 “Assistance period” means the period beginning April 1, 2020
26 and ending two months following the end of the public health
27 emergency declared pursuant to Executive Order No. 103 of 2020.

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

30 “Department” means the Department of Community Affairs.

31 “Low- and moderate-income tenant” means a residential tenant
32 household, for whom gross household income equals not more than
33 80 percent of the median gross annual household income for
34 households of the same size within the relevant housing region.

35 “Program” means the Landlord COVID-19 Compensation
36 Program established by section 2 of this act.

37 “Program application” means an application for assistance
38 through the program.
39

40 2. a. There is established in the Department of Community
41 Affairs the “Landlord COVID-19 Compensation Program.” The
42 purpose of the program is to provide assistance to a landlord to
43 compensate for a portion of the unpaid rent, due during the
44 assistance period, that the landlord’s low- and moderate-income
45 tenants have owed the landlord, but have not yet paid. The program
46 shall not provide assistance to the landlord if the landlord has
47 obtained compensation, or has an outstanding application for
48 compensation, through a different landlord relief program that, as

1 determined by the commissioner, preempts the landlord from
2 eligibility for assistance payments, including, but not limited to,
3 funding from the Small Landlord Emergency Grant Program
4 established by the New Jersey Housing and Mortgage Finance
5 Agency. Pursuant to section 4 of this act, assistance provided
6 through the program shall compensate a landlord for either 80
7 percent or 25 percent of rent due for all of the landlord's low- and
8 moderate-income tenants in the building or development for which
9 the assistance has been requested during the period that is both
10 within the assistance period and prior to submission of the program
11 application.

12 b. The commissioner shall limit eligibility for assistance
13 payments to a landlord that:

14 (1) as of the date of submission of a program application, is in
15 substantial compliance with the requirements of: the "State Uniform
16 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.);
17 the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-
18 1 et seq.); and the State housing code, adopted by the Department of
19 Community Affairs pursuant to P.L. 1966, c. 168 (C.2A:42-
20 74 et seq.);

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

23 (3) has no pending criminal charges.

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

33

34 3. a. A program application shall list:

35 (1) the total amount of rent due to the landlord from any low-
36 and moderate-income tenants as established by the leases duly
37 entered between landlord and low- or moderate-income tenants;

38 (2) the amount of rents paid by the low- and moderate-income
39 tenants or any third parties on behalf of the low- and moderate-
40 income tenants;

41 (3) the amount of any unpaid and owed rent;

42 (4) the cost to the landlord of maintaining the low- and
43 moderate-income rental housing;

44 (5) the amount of security deposit funding that the landlord's
45 low- and moderate-income tenants have applied against rent
46 pursuant to Executive Order No. 128 of 2020; and

1 (6) any other information required by the department for
2 determining the landlord's financial need and that of the landlord's
3 low- and moderate-income tenants.

4 b. An application shall be accompanied by a form completed
5 by the tenant of each of the landlord's rental units for which the
6 landlord is seeking assistance endorsing the application, which shall
7 include any additional information required by the department.

8 c. If the tenant of a rental unit is unwilling to complete the
9 form required in subsection b. of this section notwithstanding
10 diligent effort by the landlord, the landlord may attach to the
11 application a certification in such form as shall be determined by
12 the department setting forth:

13 (1) the landlord's efforts to obtain tenant endorsement;

14 (2) the household income of the tenant, to the best of the
15 landlord's knowledge;

16 (3) the number of occupants in the rental unit; and

17 (4) any additional information required by the department.
18

19 4. a. An assistance payment provided through the program
20 shall compensate a landlord for either 80 percent, or 25 percent, of
21 rent due, but not yet paid, for all of the landlord's low- and
22 moderate-income tenants in the building or development for which
23 the assistance has been requested during the period that is both
24 within the assistance period and prior to submission of the program
25 application.

26 (1) The acceptance of an 80 percent assistance payment shall
27 constitute a settlement of all rent due from all of the landlord's low-
28 and moderate-income tenants in the building or development for
29 which the assistance was requested during the period both within
30 the assistance period and prior to submission of the program
31 application.

32 (2) The acceptance of a 25 percent assistance payment shall
33 constitute a settlement of only 25 percent of rent due from all of the
34 landlord's low- and moderate-income tenants in the building or
35 development for which the assistance was requested during the
36 period both within the assistance period and prior to submission of
37 the program application.

38 b. By accepting an assistance payment, the landlord shall waive
39 any late or other fees charged to low- and moderate-income tenants
40 as a result of the nonpayment of rent during the period that is both
41 within the assistance period and prior to submission of the program
42 application. The acceptance of the assistance payment shall
43 constitute a settlement of these costs even though they may not be
44 fully compensated through the assistance payment.

45 c. Upon the provision of an assistance payment, the
46 commissioner shall notify the landlord's low- and moderate-income
47 tenants of the protections provided to them as a consequence of the
48 landlord's receipt of assistance.

1 d. A landlord shall not accept a rent payment that, pursuant to
2 this act, a tenant is not responsible for paying. If a landlord is
3 provided with a rent payment from a low and moderate income
4 tenant following submission of a program application, the landlord
5 shall promptly reimburse the tenant for that payment if the tenant is
6 ultimately not responsible for the payment as a result of an
7 assistance award provided to the landlord.

8 e. A landlord receiving assistance or awaiting the department's
9 response to a program application, shall not initiate an eviction
10 proceeding, or complete a previously-initiated eviction proceeding,
11 for a violation of subsection a., f., or j. of section 2 of P.L. 1974, c.
12 49 (C. 2A:18-61.1), or otherwise for any unpaid rent balances, owed
13 by a low- and moderate-income tenant for rent due during the
14 period that is both within the assistance period and prior to
15 submission of the program application.

16 f. A landlord shall not initiate a monetary judgment action
17 against a low- and moderate-income tenant for unpaid rent balances
18 owed during the assistance period unless:

19 (1) the landlord received only a 25 percent assistance payment,
20 and intends to recover the remaining rent owed, or a portion
21 thereof;

22 (2) The landlord applied for assistance on behalf of the low and
23 moderate income tenant, but was denied; or

24 (3) The landlord seeks only to obtain compensation for rent
25 payments due within the assistance period but after submission of a
26 program application, and not covered by a subsequent program
27 application.

28 g. If a landlord has not applied for assistance pursuant to this
29 act on behalf of a low- and moderate-income tenant, then the
30 landlord shall not initiate an eviction proceeding or a monetary
31 judgment action against that low- or moderate-income tenant for a
32 violation of subsection a., f., or j. of section 2 of P.L. 1974, c. 49
33 (C. 2A:18-61.1), or otherwise for any unpaid rent balances, owed
34 during the assistance period.

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

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

1 The bill would establish the “Landlord COVID-19 Compensation
2 Program” in the Department of Community Affairs (“DCA”) to
3 provide compensation assistance to landlords who have not received
4 full rent payments from their low- or moderate-income tenants
5 during the assistance period. The bill defines this “assistance
6 period” as the period beginning April 1, 2020 and ending two
7 months following the end of the public health emergency declared
8 pursuant to Executive Order No. 103 of 2020. Assistance provided
9 through the program would compensate a landlord for either 80
10 percent or 25 percent of rent due for all of the landlord’s low- and
11 moderate-income tenants in the building or development for which
12 the assistance is requested during the period that is both within the
13 assistance period and prior to submission of the program
14 application.

15 The bill limits landlord eligibility for assistance payments to
16 landlords who have no pending criminal charges, and are in
17 substantial compliance with the State housing code and certain
18 other codes, and with property tax and other tax payment
19 responsibilities.

20 If a landlord applies for assistance prior to the conclusion of the
21 assistance period, and the landlord’s low- and moderate-income
22 tenants miss one or more rent payments after submission of the
23 program application, then the bill would authorize DCA to allow
24 the landlord to apply again for one or more additional assistance
25 payments on a quarterly basis through the conclusion of the
26 assistance period. The bill authorizes DCA to adjust the application
27 schedule as deemed appropriate by the Commissioner of
28 Community Affairs.

29 The bill directs that a program application would be
30 accompanied by a form completed by the tenant of each of the
31 landlord’s rental units for which the landlord is seeking assistance
32 endorsing the application, and including any additional information
33 required by the DCA. If the tenant of a rental unit is unwilling to
34 complete this form notwithstanding diligent effort by the landlord,
35 then the bill authorizes the landlord to attach to the application a
36 certification in such form as shall be determined by DCA setting
37 forth: (1) the landlord’s efforts to obtain tenant endorsement; (2) the
38 household income of the tenant, to the best of the landlord’s
39 knowledge; (3) the number of occupants in the rental unit, and (4)
40 any additional information required by DCA.

41 An assistance payment provided through the program would
42 compensate a landlord for either 80 percent, or 25 percent, of rent
43 due, but not yet paid, for all of the landlord’s low- and moderate-
44 income tenants in the building or development for which the
45 assistance is requested during the period that is both within the
46 assistance period and prior to submission of the program
47 application. The acceptance of an 80 percent assistance payment
48 would constitute a settlement of all rent due from all of the

1 landlord's low- and moderate-income tenants in the building or
2 development for which the assistance was requested during this
3 period. However, the acceptance of a 25 percent assistance
4 payment would constitute a settlement of only 25 percent of rent
5 due from all of the landlord's low- and moderate-income tenants in
6 the building or development for which the assistance was requested
7 during this period.

8 By accepting an assistance payment, the landlord would be
9 agreeing to also waive any late or other fees charged to low- and
10 moderate-income tenants as a result of the nonpayment of rent
11 during the period that is both within the assistance period and prior
12 to submission of the program application. Upon the provision of an
13 assistance payment, DCA would notify the landlord's low- and
14 moderate-income tenants of the protections provided to them as a
15 consequence of the landlord's receipt of assistance. The bill would
16 prohibit a landlord from accepting a delinquent rent payment from a
17 low- and moderate-income tenant if the tenant is not responsible for
18 the rent payment as a result of the landlord's receipt of an
19 assistance payment.

20 Under the bill, a landlord receiving assistance or awaiting DCA's
21 response to a program application, would not be permitted to
22 initiate an eviction proceeding, or complete a previously-initiated
23 eviction proceeding, for non-payment or habitually late payment of
24 rent due during the period that is both within the assistance period
25 and prior to submission of the program application. The bill would
26 prohibit a landlord from initiating a monetary judgment action
27 against a low- and moderate-income tenant for unpaid rent balances
28 owed during the assistance period unless: (1) the landlord receives
29 only a 25 percent assistance payment, and intends to recover the
30 remaining rent owed, or a portion thereof, (2) the landlord has
31 applied for assistance on behalf of the low and moderate income
32 tenant, but has been denied, or (3) the landlord seeks only to obtain
33 compensation for rent payments due within the assistance period
34 but after submission of a program application, and not covered by a
35 subsequent program application. If a landlord does not apply for
36 assistance on behalf of a low- and moderate-income tenant, then the
37 landlord would be prohibited from initiating an eviction proceeding
38 or a monetary judgment action against that low- or moderate-
39 income tenant for unpaid rent balances owed during the assistance
40 period. The bill would require a landlord initiating an eviction
41 action to provide documentation on a form to be prepared and
42 adopted by the Administrative Director of the Courts that the
43 landlord is not prohibited from initiating the action by any provision
44 of the bill.

45 The bill directs DCA, as soon as practicable following the
46 enactment of the bill to prepare and make available, on its Internet
47 website, information for landlords on: (1) when assistance
48 applications shall be available, (2) the necessary steps for

1 application submission, (3) how to obtain help in application
2 completion, and (4) other matters related to assistance applications
3 deemed necessary by the commissioner. This information would be
4 made available in English, Spanish, and any other languages
5 determined necessary by the commissioner.

6 An intentional misrepresentation by a landlord of any
7 information to obtain an assistance payment would constitute a
8 crime of the fourth degree in addition to other applicable penalties.

9 The bill directs DCA to adopt rules and regulations to effectuate
10 the provisions of the bill. Notwithstanding the limitations
11 established in section 1 of P.L. 2011, c.215 (C.52:14B-3a) on the
12 use of regulatory guidance documents, the bill would authorize
13 DCA to prepare and disseminate regulatory guidance documents in
14 advance of the adoption of regulations as necessary for the
15 administration of this bill, for purposes including but not limited to
16 providing guidance on: (1) the procedures required for application
17 submission, and (2) determinations of whether or not a tenant meets
18 the income limitations necessary to qualify as a low- and moderate-
19 income tenant.

20 The bill would appropriate from funds provided to the State by
21 the United States government under the "Coronavirus Aid, Relief,
22 and Economic Security Act," Pub. L. 116-136, to DCA the sum of
23 \$300,000,000 for assistance under the program. If \$300,000,000 is
24 not available through the "Coronavirus Aid, Relief, and Economic
25 Security Act," then the remainder of this amount shall be
26 appropriated from other federal funding authorized for coronavirus
27 relief as it becomes available. If federal funding is not available to
28 satisfy the full amount of this appropriation, the bill would
29 authorize the Commissioner of Community Affairs to notify the
30 State Treasurer and the Joint Budget Oversight Committee of the
31 Legislature of the deficiency and request that the Legislature
32 appropriate a portion of the remainder from the General Fund, or
33 other available State funding sources.