

SENATE, No. 3691

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 26, 2021

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

Senator RONALD L. RICE

District 28 (Essex)

Senator M. TERESA RUIZ

District 29 (Essex)

Co-Sponsored by:

Senators Diegnan, Gopal, Lagana, Pou, Cryan and Turner

SYNOPSIS

Provides financial relief to certain landlords and tenants in response to COVID-19 pandemic; and making appropriations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2021)

S3691 STACK, RICE

2

1 AN ACT providing financial relief to certain landlords and tenants in
2 response to the COVID-19 pandemic, supplementing Title 52 of
3 the Revised Statutes, and amending P.L.2020, c.1.

4

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

7

8 1. (New section) The Legislature finds and declares that:

9 a. The mortal threat posed by the COVID-19 pandemic
10 compelled the Governor and Legislature to take drastic but
11 necessary action. Executive Order No. 103 of 2020 effectively shut
12 down the New Jersey economy on March 9, 2020, in order to hinder
13 the rapid spread of the virus and to limit as much as possible the
14 number of infections, severe illnesses, and deaths. During the same
15 time period, the Governor and Legislature enacted P.L.2020, c.1
16 (C.2A:18-59.3) and the Governor issued Executive Order No. 106
17 of 2020, and implemented a moratorium on evictions, so as to
18 ensure that during the covered period, households would be able to
19 shelter in place and eliminate the threat posed by displacement,
20 overcrowding, and the resultant spread of the virus.

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

31 c. Millions of jobs in our State and elsewhere have been
32 permanently lost, and a significant number of jobs abruptly
33 interrupted by the virus-driven shutdown have yet to return.

34 d. As a result, thousands of tenants in our State are unable to
35 pay all or even part of the rental arrearages caused by the pandemic
36 when the moratorium ends, and these tenants will also find it
37 extremely difficult to make their future, ongoing regular monthly
38 rental payments once they resume.

39 e. An overwhelming number of struggling tenant households,
40 that are disproportionately Black and brown, will therefore be at
41 risk of eviction for non-payment of all or part of their rent due and
42 owing shortly after the moratorium is lifted. Combining the number
43 of struggling tenants with the number of people at risk of
44 displacement if the arrearage and future rent payment issues are not
45 addressed, evictions and the resulting overcrowding, could create

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.

1 conditions that will lead to a resurgence and new spread of COVID-
2 19.

3 f. At the same time, landlords have shouldered the financial
4 burden of housing over a million tenants, as well as the costs of
5 maintaining the buildings, paying their mortgages, taxes, and other
6 financial obligations with little to no help from the State or federal
7 government.

8 g. While housing is a necessity, it is unfair to require private
9 sector landlords to provide such housing without compensation or
10 assistance, while at the same time, requiring them to continue to
11 maintain those properties and pay their financial obligations,
12 including State and local taxes.

13 h. In Executive Order No. 106 of 2020, the Governor expressly
14 stated that protection and preservation of personal and public health
15 was the primary reason driving the imposition of the economic
16 shutdown and eviction moratorium, a health-centered concern
17 echoed and reinforced by the national eviction moratorium
18 subsequently mandated by the federal Centers for Disease Control
19 and Prevention. With the surge in vaccinations and a corresponding
20 drop in COVID-19 pandemic-related hospitalizations, the public
21 health justification to maintain the eviction moratorium will also
22 end, and the Legislature deems it necessary to help struggling
23 tenants avoid displacement and to compensate landlords for
24 providing this necessary shelter to many tenants without
25 compensation during the pandemic.

26 i. In providing these protections, the State must ensure that
27 rent arrearages accrued during the covered period are not used as a
28 mechanism for eviction. Rather, such debt shall be treated as civil
29 debt, subject to recovery by the landlord in a civil suit for a money
30 judgment, which will balance the obligations of the tenant under a
31 lease contract with the need to provide housing stability. In
32 addition, the monetary jurisdiction of the courts that normally deal
33 with civil debt must be increased.

34 j. It is also incumbent upon the State to make the distinction
35 between those tenants who were legitimately impacted by the
36 pandemic and those who were and are either exploiting the eviction
37 moratorium or have the means to pay their rent but refuse to do so.

38 k. It is, therefore, necessary for the Legislature to assist
39 landlords who have suffered deep economic losses through no fault
40 of their tenants or themselves, and, simultaneously, make efforts to
41 assist tenants who need help as a result of this crisis, in order to
42 ensure some measure of security and stability for their families and
43 communities; provide landlords with the restored rental income
44 stream required to safely and efficiently operate their buildings; and
45 prevent a resurgence of the COVID-19 pandemic that will threaten
46 the health and safety of tenants, landlords, and the public at large.

S3691 STACK, RICE

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

3 “Assistance” means cash payments for unpaid rent provided to
4 the landlord by any federal, State, county, or local rental assistance
5 program.

6 “Commissioner” means the Commissioner of Community
7 Affairs.

8 “Covered period” means the period beginning on March 1, 2020,
9 and ending on July 31, 2021.

10 “COVID-19 pandemic” means the outbreak of COVID-19
11 throughout the world, recognized as a pandemic by the World
12 Health Organization on March 11, 2020.

13 “Credit reporting agency” means any consumer reporting agency
14 as that term is defined by the federal “Fair Credit Reporting Act,”
15 15 U.S.C. s.1681 et seq., which shall include any agencies which
16 specialize in tenant screening or rental history reporting.

17 “Deep subsidy” means a rental housing subsidy which limits the
18 tenant’s share of the monthly rent to a percentage of the tenant’s
19 income, and which can be adjusted to maintain that percentage
20 should the tenant’s income change.

21 “Department” means the Department of Community Affairs.

22 “Household income” means the combined income of all
23 household members annualized at the time of filing of an
24 application for assistance or protection.

25 “Low-income household” means a household with a total current
26 annual household income equal to 50 percent or less of the area
27 median income for a household of the same size and composition.

28 “Middle-income household” means a household with a total
29 current gross annual household income of 80 percent or more than,
30 but less than 120 percent of, the area median income for a
31 household of the same size and composition.

32 “Moderate-income household” means a household with a total
33 current gross annual household income in excess of 50 percent but
34 less than 80 percent of the area median income for a household of
35 the same size and composition.

36 “Shallow subsidy” means a rental housing subsidy provided in an
37 amount based on the percentage of the fair market rent of the unit,
38 depending on the household size and location, which shall be
39 capped at a fixed amount.

40 “Very low-income household” means a household with a total
41 current annual household income less than or equal to 30 percent of
42 the area median income for a household of the same size and
43 composition.

44

45 3. (New section) a. Notwithstanding any other law to the
46 contrary, no residential tenant of a low-income household,
47 moderate-income household, or middle-income household shall be
48 evicted based upon nonpayment or habitual late payment of rent

1 that accrued during the covered period. Payments made by a tenant
2 after the covered period ends shall be credited first to the current
3 month's rental obligation, and any balance shall be credited to any
4 arrearage owed by the tenant.

5 b. Any amount of rent due and owing by a residential tenant
6 described in subsection a. of this section to a landlord during the
7 covered period shall be considered civil debt and may be pursued as
8 a money judgment in the appropriate division of the Superior Court.
9 Such civil debt based on rental arrears shall be considered evidence
10 of housing instability or risk of homelessness for the purpose of
11 qualifying a household for rental assistance under any federal,
12 State, county, or local program.

13 c. Any amount of rent due and owing either prior to the start of
14 the covered period or after the covered period ends may be pursued
15 in the manner allowed by law for any other landlord-tenant action
16 for rent due outside of the covered period.

17 (1) Notwithstanding the provisions of this section to the
18 contrary, low-income household tenants shall have continued
19 protections from evictions for residential rent arrearages incurred
20 from the end of the covered period through August 31, 2021 if the
21 household pays 50 percent of their rent due for the month of August
22 2021, and the remaining 50 percent of rent due for that month shall
23 be considered civil debt.

24 (2) Notwithstanding the provisions of this section to the
25 contrary, moderate-income household tenants shall have continued
26 protections from evictions for residential rent arrearages incurred
27 from the end of the covered period through August 31, 2021 if the
28 household pays 75 percent of their rent due for the month of August
29 2021, and the remaining 25 percent of rent due for that month shall
30 be considered civil debt.

31 d. All pending landlord-tenant actions alleging nonpayment or
32 habitual late payment of residential rent that accrued during the
33 covered period shall be stayed and shall be dismissed upon
34 certification by the tenant, under penalty of perjury, that the tenant
35 is a low-income household, moderate-income household, or middle-
36 income household and that the reason for filing was nonpayment or
37 habitual late payment of rent during the covered period.

38 e. For any case that is stayed pursuant to P.L. , c. (C.)
39 (pending before the Legislature as this bill), the Superior Court
40 shall return or credit to the landlord all fees paid by the landlord to
41 file such cases.

42 f. After the expiration of the covered period, a landlord shall be
43 entitled to pursue a money judgment against a residential tenant for
44 any and all lawfully due and owing unpaid rent that was converted
45 into civil debt pursuant to P.L. , c. (C.) (pending before the
46 Legislature as this bill), for which compensation is not otherwise
47 provided by any public or private source, by filing an action in the
48 appropriate division of the Superior Court. Nothing in P.L. ,

1 c. (C.) (pending before the Legislature as this bill) shall
2 impact any action for a money judgment or vacate any money
3 judgment entered during the covered period, unless the debt is
4 satisfied.

5 g. The Administrative Director of the Courts shall modify the
6 jurisdictional limits of the Small Claims Section of the Special Civil
7 Part to \$9,000 for actions to recover unpaid residential rent that
8 accrued during the covered period.

9 h. The Administrative Director of the Courts shall modify the
10 jurisdictional limits of the regular Special Civil Part to \$45,000 for
11 actions to recover unpaid residential rent that accrued during the
12 covered period.

13 i. A tenant in such an action shall retain the right to assert any
14 and all counterclaims, setoffs, legal defenses, affirmative defenses,
15 and equitable defenses that would otherwise be available to them.

16 j. A landlord shall not impose any late fees for residential rent
17 payments not made during the covered period.

18 k. (1) Consistent with the provisions of 15 U.S.C. s.1681s-
19 2(a)(1)(F), a landlord shall not at any time furnish information
20 about the nonpayment or late payment of residential rent which
21 accrued during the covered period, or summary dispossession or other
22 court filings or proceedings related to non-payment or late payment
23 of residential rent which accrued during the covered period, directly
24 to another residential landlord, or to a debt collection or credit
25 reporting agency. This paragraph shall not:

26 (a) apply to a tenant's rent payments that remain due as the
27 result of a payment missed prior to the March 1, 2020, including
28 payments held in escrow before that date; or

29 (b) limit the ability of a landlord to share information with the
30 landlord's attorney or property management company, or to notice
31 the tenant in compliance with the Anti-Eviction Act, P.L.1974, c.49
32 (C.2A:18-61.1 et seq.).

33 (2) As a result of any record or information reflecting a tenant's
34 non-payment or late payment of residential rent, or a related court
35 filing, during the covered period, a landlord shall not:

36 (a) refuse to rent to a prospective tenant of residential rental
37 housing; or

38 (b) place, or disseminate a residential tenant's information for
39 the purpose of placing, a tenant on a list for the use of other
40 landlords for any purpose.

41 (3) In addition to a tenant's right to pursue an action seeking
42 injunctive or declaratory relief for a violation of this subsection, the
43 Attorney General, in response to a complaint from a tenant, or on
44 the Attorney General's independent initiative, may bring an action
45 alleging a landlord has violated the provisions of this subsection.
46 Regarding a first violation, the court shall provide the landlord with
47 an opportunity to correct the violation prior to imposing a penalty.
48 Following the provision of this opportunity to correct any first

1 violation, upon a finding that non-compliance with this subsection
2 has occurred, a court of competent jurisdiction may:

3 (a) order the non-compliant landlord to retract the report of debt
4 or court filing data provided to the collection or credit reporting
5 agency, bureau, or data collection facility;

6 (b) impose a fine on the non-compliant landlord, not to exceed
7 \$500 for a first violation, \$1,000 for a second violation, and \$2,500
8 for each subsequent violation;

9 (c) order the non-compliant landlord to pay a reasonable counsel
10 fee in connection with a tenant whose debt has been reported to a
11 debt collection or credit reporting agency, bureau, or data collection
12 facility;

13 (d) provide a copy of the order immediately upon the request of
14 the tenant and at no cost to the tenant;

15 (e) order the non-compliant landlord to take such steps as are
16 necessary, within 30 days of the order, to rehabilitate the credit
17 record of the tenant, with an exact copy provided to the tenant at no
18 cost, of the efforts made in that regard; and

19 (f) if the tenant is able to show actual damages that have
20 resulted from a violation of this section, order the non-compliant
21 landlord to pay an award of damages to the tenant not to exceed 25
22 percent of the debt attempted to be collected or reported by the non-
23 complaint landlord to the collection or credit reporting agency,
24 bureau, or data collection facility, with a minimum award of \$350.

25 (4) If a landlord furnishes rental payment data to another
26 landlord, collection or credit reporting agency related to the non-
27 payment of rent during the covered period, but before the enactment
28 of P.L. , c. (C.) (pending before the Legislature as this
29 bill), the landlord shall not be subject to the penalty provisions of
30 this section, except for an order to retract the report pursuant to
31 paragraph (3) of this subsection.

32

33 4. (New section) a. The commissioner shall rename the
34 current "Homelessness Prevention Program" established pursuant to
35 the provisions of P.L.1984, c.180 (C.52:27D-280 et al.), as the
36 "Eviction and Homelessness Prevention Program."

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

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

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

1 (3) a household shall be eligible for assistance under this
2 program regardless of whether the household has been served with a
3 summons and complaint for eviction, and an oral or written
4 communication from the landlord indicating that an eviction filing
5 is imminent or contemplated shall be sufficient to trigger eligibility
6 for the program;

7 (4) a household shall be eligible for assistance if their
8 annualized current income is no more than 120 percent of the area
9 median income; however, the commissioner may establish funding
10 priorities to benefit very low-income and low-income households;

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

14 (6) eligible households shall be awarded grants for periods of up
15 to two years, depending upon the person's or household's particular
16 circumstances. The department shall provide assistance along a
17 continuum based upon the income level of the tenant household,
18 and shall include deep subsidies, shallow subsidies, and flat
19 amounts. Such grants may be renewed to prevent eviction or
20 homelessness. The commissioner shall prepare detailed guidance
21 covering the amount and duration of such grants, in accordance
22 with the following guidelines and principles:

23 (a) for a very low-income household, a deep subsidy shall be
24 provided in the amount necessary to limit the household's share of
25 ongoing rent to not more than 40 percent of the household's
26 income;

27 (b) for a low-income household that is not also very low-
28 income, a shallow subsidy shall be provided in the amount
29 necessary to limit the household's share of ongoing rent to not more
30 than 40 percent of the household's income, provided, however, that
31 the amount of any such subsidy shall not exceed \$800 per month;
32 and

33 (c) for a moderate-income or middle-income household,
34 assistance in the form of a flat monthly grant of \$250 shall be
35 provided to the household if the household pays more than 50
36 percent of the household's income as ongoing rent.

37 (7) during the course of the payment period, if the department is
38 notified by either the landlord or the program participant that a
39 person or household has begun to experience difficulty paying rent
40 as a result of reasons beyond the household's control, the
41 household's income and family situation shall be reevaluated in
42 light of the changed conditions, and the person or household shall
43 be placed in a different assistance tier, if necessary, to prevent
44 eviction; and

45 (8) during the course of the payment period, a participant
46 household shall certify the household's current income once every
47 three months, using a one-page form to be developed by the
48 department, including any necessary attachments. Beginning the

1 month following receipt of a certification, the department shall
2 increase or decrease the amount of subsidy provided to the
3 household in accordance with the subsidy category applicable to the
4 most recent reported income, provided that limited non-recurring
5 short term increases in income shall not require a subsidy
6 adjustment.

7 c. Notwithstanding any other law or regulation to the contrary,
8 any revisions to the program regulations or operating procedures
9 required by this section shall take effect immediately.

10 d. At least 30 days prior to the expiration of the covered period,
11 the department shall implement a comprehensive public information
12 plan to create awareness among eligible tenants of the assistance
13 provided by the program. This plan shall include but not be limited
14 to public service announcements, information about the program in
15 governmental notices and utility providers billings, notices to
16 landlords as to how to assist their tenants in applying for the
17 program, outreach to underserved populations, postings on social
18 media, and any other means likely to ensure that tenants will be
19 aware of the programs existence. In addition, the department shall
20 prepare a form notice describing the program and distribute the
21 notice to all landlords for inclusion with any notice or complaint
22 sent to a tenant related to an eviction for nonpayment of rent. Prior
23 to the end of covered period, the landlord shall post a written notice
24 in a conspicuous location within the common area of a multiple
25 dwelling highlighting the potential availability of rental assistance
26 from the Eviction and Homelessness Prevention Program and other
27 governmental assistance programs included in the department's
28 form notice.

29 e. (1) A program application shall state the total amount of rent
30 due from the landlord's residential tenants established in the
31 corresponding leases, the amount paid by the tenants or third
32 parties, if any, the amount unpaid, the amount of security deposit
33 funding that the landlord's tenants have applied against rent
34 pursuant to Executive Order No. 128 of 2020, and any other
35 information required by the department for determining financial
36 need.

37 (2) An application shall include a certification by the tenant as
38 to:

39 (a) the number of occupants of the unit;

40 (b) the tenant household's income; and

41 (c) if a specific funding source is involved, a certification
42 providing the minimum amount of information needed to comply
43 with the requirements of that funding source.

44 The commissioner shall make the application forms and related
45 verification requirements as simple as possible, shall require the
46 minimum documentation permissible by said funding sources, and
47 shall rely on self-certification and verification to the greatest extent

1 possible. Any certifications made by a tenant under this program
2 shall remain confidential to the maximum extent possible.

3 (3) A residential tenant household applying for assistance shall
4 be deemed presumptively eligible if it meets the income
5 requirements and is in need of the immediate provision of
6 assistance to avoid an eviction filing, judgment for possession, or
7 actual displacement. Such assistance as is needed shall be
8 provided, and shall be extended in monthly increments as necessary
9 in order for the application process, including any administrative
10 appeals, to be completed and a final determination made with
11 regard to eligibility. A court of this State may take into
12 consideration any pending application for rental assistance with
13 regard to the timing of the entry of a judgment for possession.

14 f. The program established by this section shall work closely
15 with the Office of Eviction Prevention established by section 5 of
16 P.L. , c. (C.) (pending before the Legislature as this bill) in
17 order to (1) ensure that tenants receive the maximum assistance for
18 which they are qualified to avoid displacement and retain or obtain
19 decent, affordable, safe and suitable housing; and (2) ensure that all
20 available sources of potential assistance are explored and utilized in
21 order to effectively and efficiently extend the reach and efficacy of
22 the funding provided to this program by the State.

23

24 5. (New section) a. Within 30 days of the enactment of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), the
26 department shall establish an "Office of Eviction Prevention,"
27 which shall be responsible for:

28 (1) identifying all federal, State, local and other sources of
29 financial assistance which are intended or could be used to prevent
30 the eviction of residential tenants, including but not limited to
31 programs which provide both deep and shallow rental subsidies;

32 (2) becoming knowledgeable with regard to the application
33 process for each such program; and

34 (3) identifying, and proposing remedies for, the gaps in the
35 overall assistance system, especially in relation to eligibility
36 requirements and the need for addition to, or revision of, subsidy
37 programs so as to provide appropriate assistance of various sorts
38 and in various amounts to households at different income levels.

39 b. This office shall be responsible for the compilation,
40 publication, and ongoing update of this information, and shall also
41 be responsible for identifying and training at least one non-profit,
42 community-based organization in each county with regard to the
43 availability of and means of accessing such financial assistance by
44 at-risk tenants.

45

46 6. Section 1 of P.L.2020, c.1 (C.2A:18-59.3) is amended to
47 read as follows:

1 1. a. Notwithstanding any other law to the contrary, whenever
2 a Public Health Emergency, pursuant to the "Emergency Health
3 Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.) **],** or a State of
4 Emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or
5 both,**]** has been declared by the Governor in response to the
6 COVID-19 pandemic and is in effect, the Governor may issue an
7 executive order to declare that a lessee, tenant, homeowner or any
8 other person shall not be removed from a residential property as the
9 result of an eviction action based on the nonpayment or habitual
10 late payment of rent or foreclosure proceeding. This executive
11 order shall remain in effect **]**for no longer than two months
12 following the end of the Public Health Emergency or State of
13 Emergency**]** until July 31, 2021, except that the executive order
14 may be extended if there is substantial evidence that
15 hospitalizations and deaths due to the COVID-19 pandemic are
16 likely to recur or substantially worsen if an extension is not ordered.
17 The Governor shall adjust the executive order issued pursuant to
18 P.L.2020, c.1 (C.2A:18-59.3) through the issuance of a subsequent
19 executive order, in order to comply with P.L. _____, c. _____ (C. _____)
20 (pending before the Legislature as this bill).

21 b. Eviction and foreclosure proceedings may be initiated or
22 continued during the time of an executive order issued pursuant to
23 this section, but enforcement of all judgments for possession,
24 warrants of removal, and writs of possession shall be stayed during
25 this period if the Governor has issued an executive order prohibiting
26 certain removals from residential property pursuant to subsection a.
27 of this section, unless the court determines on its own motion or
28 motion of the parties that enforcement is necessary in the interest of
29 justice.

30 c. Sheriffs, court officers, and their agents shall refrain from
31 acting to remove individuals from residential properties through the
32 eviction or foreclosure processes during the time of an executive
33 order issued by the Governor prohibiting certain removals from
34 residential property pursuant to subsection a. of this section, unless
35 the court determines on its own motion or motion of the parties that
36 removal is necessary in the interest of justice.

37 d. As used in this section, "residential property" means any
38 property rented or owned for residential purposes, including, but
39 not limited to, any house, building, mobile home or land in a mobile
40 home park, or tenement leased for residential purposes, but shall not
41 include any hotel, motel, or other guest house, or part thereof,
42 rented to a transient guest or seasonal tenant, or a residential health
43 care facility.

44 (cf: P.L.2020, c.1, s.1)

45

46 7. (New section) The following sums are appropriated from the
47 funds provided to the State by the United States government for the
48 purpose of providing relief to tenants affected in any way due to the

S3691 STACK, RICE

12

1 COVID-19 pandemic: for the “Eviction and Homelessness
2 Prevention Program” the sum of \$750,000,000; for the Office of
3 Eviction Prevention the sum of \$5,000,000. The department may
4 use up to \$20,000,000 of the sums appropriated pursuant to this
5 section for the purpose of funding those actions needed to
6 effectively implement and administer the Eviction and
7 Homelessness Prevention Program, \$2,000,000 million of which
8 shall be provided to nonprofit organizations for supporting the
9 education and outreach for this program. Additional federal
10 funding for emergency rental assistance related to the COVID-19
11 pandemic shall be appropriated to the foregoing programs as it
12 becomes available. Households otherwise ineligible for assistance
13 using federal funds shall be assisted with State funds.

14

15 8. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill would provide financial relief to certain residential
21 landlords and tenants in response to the COVID-19 pandemic.

22 Specifically, the bill would protect low-income, moderate-
23 income, and middle-income households from residential evictions
24 based upon nonpayment or habitual late payment of rent that
25 accrued during the covered period, which began on March 1, 2020,
26 and would last until the end of July, 2021. The bill establishes
27 definitions for very low-income, low-income, moderate-income,
28 and middle-income households as those with incomes of 30 percent
29 or less than, 50 percent or less than, between 50 and 80 percent of,
30 and 80 percent to 120 percent of the area median income,
31 respectively. The bill would require that payments made by a
32 tenant after the covered period ends would be credited first to the
33 current month’s rental obligation, and any balance would be
34 credited to any arrearage owed by the tenant. The bill provides that
35 amount of rent due to a landlord during the covered period would be
36 considered civil debt and could be pursued as a money judgment.

37 The bill provides that any amount of unpaid rent due either prior
38 to the start of the covered period or after the covered period ends
39 may be pursued in the manner allowed by law for any other
40 landlord-tenant action for rent due outside of the covered period.
41 However, the bill would provide low-income household tenants
42 with continued protections from evictions for the month of August
43 2021 if they pay 50 percent of their rent for the month of August
44 2021. The remaining 50 percent of the low-income tenant’s rent
45 due for that month would be considered civil debt. Additionally,
46 the bill would provide moderate-income household tenants with
47 continued protections from evictions for the month of August 2021
48 if they pay 75 percent of their rent for the month of August 2021.

1 The remaining 25 percent of rent due for that month would be
2 considered civil debt. The bill would also prohibit a landlord from
3 imposing any late fees for rent payments not made during the
4 covered period.

5 The bill would require that all pending landlord-tenant actions
6 alleging nonpayment or habitual late payment of rent that accrued
7 during the covered period shall be stayed and shall be dismissed
8 upon certification that the tenant is low-income, moderate-income,
9 or middle-income and that the reason for filing was nonpayment or
10 habitual late payment of rent during the covered period. The bill
11 would require the Superior Court to return or credit to the landlord
12 all fees paid by the landlord to file such cases.

13 The bill would direct the court to modify the jurisdictional limits
14 of the Small Claims Section of the Special Civil Part to \$9,000, and
15 modify the regular Special Civil Part to \$45,000, for actions to
16 recover unpaid rent that accrued during the covered period related
17 to a landlord-tenant action under the bill.

18 The bill would prohibit a landlord from furnishing information
19 about the nonpayment or late payment of rent which accrued during
20 the covered period, or other court filings or proceedings related to
21 non-payment or late payment of rent which accrued during the
22 covered period, directly to another residential landlord, or to a debt
23 collection or credit reporting agency. This restriction would not
24 apply to a tenant's rent payments that remain due as the result of a
25 payment missed prior to March 1, 2020, limit the ability of a
26 landlord to share information with the landlord's attorney or
27 property management company, or notice the tenant in compliance
28 with the Anti-Eviction Act.

29 If the action is conducted as a result of any record or information
30 reflecting a tenant's non-payment or late payment of rent, or a
31 related court filing, during the covered period, the bill would
32 prohibit a landlord from refusing to rent to a prospective residential
33 tenant, or placing, or disseminating a tenant's information for the
34 purpose of placing, a tenant on a list for the use of other landlords
35 for any purpose.

36 The bill would authorize the Attorney General, in response to a
37 complaint from a tenant, or on the Attorney General's independent
38 initiative, to bring an action alleging a landlord has violated the
39 bill's restrictions on nonpayment information dissemination.
40 Regarding a first violation, the court would provide the landlord
41 with an opportunity to correct the violation prior to imposing a
42 penalty. Following the provision of this opportunity to correct any
43 first violation, upon a finding that non-compliance with this
44 subsection has occurred, the bill would authorize a court of
45 competent jurisdiction to:

- 46 • order the non-compliant landlord to retract the report of debt
47 or court filing data;

S3691 STACK, RICE

14

- 1 • impose a fine on the non-compliant landlord, not to exceed
- 2 \$500 for a first violation, \$1,000 for a second violation, and
- 3 \$2,500 for each subsequent violation;
- 4 • order the non-compliant landlord to pay the tenant's
- 5 reasonable counsel fee;
- 6 • provide a free copy of the order immediately upon the
- 7 request of the tenant;
- 8 • order the non-compliant landlord to take such steps as are
- 9 necessary, within 30 days of the order, to rehabilitate the
- 10 credit record of the tenant; and
- 11 • if the tenant is able to show actual damages that have
- 12 resulted from this violation, order the non-compliant
- 13 landlord to pay an award of damages to the tenant not to
- 14 exceed 25 percent of the debt attempted to be collected or
- 15 reported by the non-complaint landlord to the collection or
- 16 credit reporting agency, bureau, or data collection facility,
- 17 with a minimum award of \$350.

18 A landlord who has furnished rental payment data to another
19 landlord, collection or credit reporting agency related to the non-
20 payment of rent during the covered period, but before the enactment
21 of the bill would not be subject to these penalty provisions, except
22 for any order to retract the report.

23 The bill would direct the Commissioner of Community Affairs
24 ("commissioner") to rename the current "Homelessness Prevention
25 Program" ("program") as the "Eviction and Homelessness
26 Prevention Program." The commissioner would revise the program
27 regulations to provide for the following: (1) the regulations would
28 be renamed the "Eviction and Homelessness Prevention Program
29 Regulations", (2) a household would be eligible to participate in the
30 program if, due to reasons beyond the household's control, the
31 household is unable to make residential rental payments which are
32 due and owing pursuant to a valid and enforceable oral or written
33 lease, stipulation of settlement, judgment, order or other type of
34 legally binding agreement, (3) a household would be eligible for
35 assistance under this program regardless of whether the household
36 has been served with a summons and complaint for eviction, (4) a
37 household would be eligible for assistance if their annualized
38 current income is no more than 80 percent of the area median
39 income; however, the commissioner may establish funding
40 priorities to benefit very low-income and low-income households,
41 (5) a household would be eligible for assistance under this program
42 although it may be unlikely for the household to have the ability to
43 pay shelter costs after the period of assistance has ended, and (6)
44 eligible households would be awarded grants for periods of up to
45 two years, depending upon the person's or household's particular
46 circumstances. The Department of Community Affairs
47 ("department") would provide assistance along a continuum based
48 upon the income level of the tenant household, and would include

1 deep subsidies, shallow subsidies, and flat amounts. The bill would
2 authorize these grants be renewed to prevent eviction or
3 homelessness. The commissioner would prepare guidance covering
4 the amount and duration of the grants, in accordance with the
5 following guidelines and principles: (a) for a very low-income
6 household, a deep subsidy would be provided in the amount
7 necessary to limit the household's share of ongoing rent to not more
8 than 40 percent of the household's income, (b) for a low-income
9 household, a shallow subsidy would be provided in the amount
10 necessary to limit the household's share of ongoing rent to not more
11 than 40 percent of the household's income, provided, however, that
12 the amount of any such subsidy would not exceed \$800 per month,
13 and (c) for a moderate-income household, assistance in the form of
14 a flat monthly grant of \$250 would be provided to the household if
15 the household pays more than 50 percent of the household's income
16 as ongoing rent.

17 The revisions to the "Homeless Prevention Program Regulations"
18 would also provide that, during the course of the payment period, if
19 the department is notified by either the landlord or the program
20 participant that a person or household has begun to experience
21 difficulty paying rent as a result of reasons beyond the household's
22 control, the household's income would be reevaluated in light of the
23 changed conditions, and the person or household would be placed in
24 a different assistance tier, if necessary, to prevent eviction. Finally,
25 these regulatory revisions would also provide that, during the
26 course of the payment period, a participant household would certify
27 the household's current income and family situation once every
28 three months, using a one-page form to be developed by the
29 department, including any necessary attachments. Beginning the
30 month following receipt of a certification, the department would
31 increase or decrease the amount of subsidy provided to the
32 household in accordance with the subsidy category applicable to the
33 most recent reported income, provided that limited non-recurring
34 short term increases in income would not require a subsidy
35 adjustment.

36 At least 30 days prior to the expiration of the covered period, the
37 department would be required to implement a comprehensive public
38 information plan to ensure that eligible tenants are aware of the
39 assistance provided by the program. In addition, the department
40 would prepare a form notice describing the program and distribute
41 the notice to all landlords for inclusion with any notice or complaint
42 sent to a tenant related to an eviction for nonpayment of rent. Prior
43 to the end of covered period, the landlord would be required to post
44 a written notice in a conspicuous location within the common area
45 of a multiple dwelling highlighting the potential availability of
46 rental assistance from program and other governmental assistance
47 programs included in the department's form notice.

1 A program application would be required to state the total
2 amount of rent due from the landlord's residential tenants
3 established in the corresponding leases, the amount paid by the
4 tenants or third parties, if any, the amount unpaid, the amount of
5 security deposit funding that the landlord's tenants have applied
6 against rent, and any other information required by the department
7 for determining financial need.

8 An application would include a certification by the tenant as to
9 the number of occupants of the unit, the tenant household's income,
10 a brief statement or by the tenant explaining how the pandemic
11 affected the tenant's ability to pay rent, and any other information
12 required by the funding sources from which the program payments
13 will be made.

14 Assistance as is needed would be provided, and extended in
15 monthly increments, as necessary in order for the application
16 process, including any administrative appeals, to be completed and
17 a final determination made with regard to eligibility.

18 Within 30 days following enactment, the bill would require the
19 department to establish an "Office of Eviction Prevention," which
20 would be responsible for: (1) the identification of all federal, State,
21 local and other sources of financial assistance that could be used to
22 prevent the eviction of residential tenants; (2) becoming
23 knowledgeable with regard to the application process for each such
24 program; and (3) identifying, and proposing remedies for, the gaps
25 in the overall assistance system. This office would be responsible
26 for the compilation, publication, and ongoing update of this
27 information, and for identifying and training at least one non-profit,
28 community-based organization in each county with regard to the
29 availability of and means of accessing such financial assistance by
30 at-risk tenants.

31 The bill would also adjust the provisions of P.L.2020, c.1, which
32 enhanced the Governor's powers to prevent evictions during times
33 of a public health emergency or state of emergency. The
34 adjustments provided by the bill would make these enhanced
35 powers applicable only to the public health emergency declared in
36 response to the COVID-19 pandemic. The bill would require any
37 executive order declared to restrict evictions pursuant to P.L.2020,
38 c.1 to expire at the end of the covered period, unless there is
39 substantial evidence that hospitalizations and deaths due to the
40 COVID-19 pandemic which triggered the initial issuance of the
41 order are likely to recur or substantially worsen if an extension is
42 not ordered.

43 Finally, the bill would appropriate from the funds provided to the
44 State by the United States government for the purpose of providing
45 relief to tenants affected in any way by the COVID-19 pandemic:
46 for the "Eviction and Homelessness Prevention Program" the sum
47 of \$750,000,000; for the Office of Eviction Prevention the sum of
48 \$5,000,000. The bill also authorizes the department to use up to

S3691 STACK, RICE

17

1 \$20,000,000 for the purpose of funding those actions needed to
2 effectively implement and administer the Eviction and
3 Homelessness Prevention Program, \$2,000,000 million of which
4 would be provided to nonprofit organizations for education and
5 outreach regarding this program. Additional federal funding for
6 emergency rental assistance related to the COVID-19 pandemic
7 would be appropriated to the foregoing programs as it becomes
8 available.