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

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

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

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

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

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

k. It is, therefore, necessary for the Legislature to assist landlords who have suffered deep economic losses through no fault of their tenants or themselves, and, simultaneously, make efforts to assist tenants who need help as a result of this crisis, in order to ensure some measure of security and stability for their families and communities; provide landlords with the restored rental income stream required to safely and efficiently operate their buildings; and prevent a resurgence of the COVID-19 pandemic that will threaten the health and safety of tenants, landlords, and the public at large.
2. (New section) As used in P.L. , c. (C. ) (pending before the Legislature as this bill):

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

“Commissioner” means the Commissioner of Community Affairs.

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


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

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

“Department” means the Department of Community Affairs.

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

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

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

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

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

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

3. (New section) a. Notwithstanding any other law to the contrary, no residential tenant of a low-income household, moderate-income household, or middle-income household shall be evicted based upon nonpayment or habitual late payment of rent
that accrued during the covered period. Payments made by a tenant
after the covered period ends shall be credited first to the current
month’s rental obligation, and any balance shall be credited to any
arrearage owed by the tenant.

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

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

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

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

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

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

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

g. The Administrative Director of the Courts shall modify the
jurisdictional limits of the Small Claims Section of the Special Civil
Part to $9,000 for actions to recover unpaid residential rent that
accrued during the covered period.
h. The Administrative Director of the Courts shall modify the
jurisdictional limits of the regular Special Civil Part to $45,000 for
actions to recover unpaid residential rent that accrued during the
covered period.
i. A tenant in such an action shall retain the right to assert any
and all counterclaims, setoffs, legal defenses, affirmative defenses,
and equitable defenses that would otherwise be available to them.

j. A landlord shall not impose any late fees for residential rent
payments not made during the covered period.
k. (1) Consistent with the provisions of 15 U.S.C. s.1681s-
2(a)(1)(F), a landlord shall not at any time furnish information
about the nonpayment or late payment of residential rent which
accrued during the covered period, or summary dispossess or other
court filings or proceedings related to non-payment or late payment
of residential rent which accrued during the covered period, directly
to another residential landlord, or to a debt collection or credit
reporting agency. This paragraph shall not:

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

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

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

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

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

(3) In addition to a tenant’s right to pursue an action seeking
injunctive or declaratory relief for a violation of this subsection, the
Attorney General, in response to a complaint from a tenant, or on
the Attorney General’s independent initiative, may bring an action
alleging a landlord has violated the provisions of this subsection.
Regarding a first violation, the court shall provide the landlord with
an opportunity to correct the violation prior to imposing a penalty.
Following the provision of this opportunity to correct any first
violation, upon a finding that non-compliance with this subsection has occurred, a court of competent jurisdiction may:

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

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

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

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

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

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

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


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

(1) the regulations shall be renamed the “Eviction and Homelessness Prevention Program Regulations”;

(2) a household shall be eligible to participate in the program if, due to reasons beyond the household’s control, the household is unable to make residential rental payments which are due and owing pursuant to a valid and enforceable oral or written lease, stipulation of settlement, judgment, order or other type of legally binding agreement;
(3) A household shall be eligible for assistance under this program regardless of whether the household has been served with a summons and complaint for eviction, and an oral or written communication from the landlord indicating that an eviction filing is imminent or contemplated shall be sufficient to trigger eligibility for the program;

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

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

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

   (a) For a very low-income household, a deep subsidy shall be provided in the amount necessary to limit the household’s share of ongoing rent to not more than 40 percent of the household’s income;

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

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

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

(8) During the course of the payment period, a participant household shall certify the household’s current income once every three months, using a one-page form to be developed by the department, including any necessary attachments. Beginning the
month following receipt of a certification, the department shall increase or decrease the amount of subsidy provided to the household in accordance with the subsidy category applicable to the most recent reported income, provided that limited non-recurring short term increases in income shall not require a subsidy adjustment.

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

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

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

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

(a) the number of occupants of the unit;  
(b) the tenant household’s income; and  
(c) if a specific funding source is involved, a certification providing the minimum amount of information needed to comply with the requirements of that funding source.

The commissioner shall make the application forms and related verification requirements as simple as possible, shall require the minimum documentation permissible by said funding sources, and shall rely on self-certification and verification to the greatest extent
possible. Any certifications made by a tenant under this program shall remain confidential to the maximum extent possible.

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

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

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

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

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

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

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

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

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

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

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

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

7. (New section) The following sums are appropriated from the funds provided to the State by the United States government for the purpose of providing relief to tenants affected in any way due to the
COVID-19 pandemic: for the “Eviction and Homelessness Prevention Program” the sum of $750,000,000; for the Office of Eviction Prevention the sum of $5,000,000. The department may use up to $20,000,000 of the sums appropriated pursuant to this section for the purpose of funding those actions needed to effectively implement and administer the Eviction and Homelessness Prevention Program. $2,000,000 million of which shall be provided to nonprofit organizations for supporting the education and outreach for this program. Additional federal funding for emergency rental assistance related to the COVID-19 pandemic shall be appropriated to the foregoing programs as it becomes available. Households otherwise ineligible for assistance using federal funds shall be assisted with State funds.

8. This act shall take effect immediately.

STATEMENT

This bill would provide financial relief to certain residential landlords and tenants in response to the COVID-19 pandemic. Specifically, the bill would protect low-income, moderate-income, and middle-income households from residential evictions based upon nonpayment or habitual late payment of rent that accrued during the covered period, which began on March 1, 2020, and would last until the end of July, 2021. The bill establishes definitions for very low-income, low-income, moderate-income, and middle-income households as those with incomes of 30 percent or less than, 50 percent or less than, between 50 and 80 percent of, and 80 percent to 120 percent of the area median income, respectively. The bill would require that payments made by a tenant after the covered period ends would be credited first to the current month’s rental obligation, and any balance would be credited to any arrearage owed by the tenant. The bill provides that amount of rent due to a landlord during the covered period would be considered civil debt and could be pursued as a money judgment.

The bill provides that any amount of unpaid rent due either prior to the start of the covered period or after the covered period ends may be pursued in the manner allowed by law for any other landlord-tenant action for rent due outside of the covered period. However, the bill would provide low-income household tenants with continued protections from evictions for the month of August 2021 if they pay 50 percent of their rent for the month of August 2021. The remaining 50 percent of the low-income tenant’s rent due for that month would be considered civil debt. Additionally, the bill would provide moderate-income household tenants with continued protections from evictions for the month of August 2021 if they pay 75 percent of their rent for the month of August 2021.
The remaining 25 percent of rent due for that month would be considered civil debt. The bill would also prohibit a landlord from imposing any late fees for rent payments not made during the covered period.

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

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

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

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

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

- order the non-compliant landlord to retract the report of debt or court filing data;
• impose a fine on the non-compliant landlord, not to exceed $500 for a first violation, $1,000 for a second violation, and $2,500 for each subsequent violation;
• order the non-compliant landlord to pay the tenant’s reasonable counsel fee;
• provide a free copy of the order immediately upon the request of the tenant;
• order the non-compliant landlord to take such steps as are necessary, within 30 days of the order, to rehabilitate the credit record of the tenant; and
• if the tenant is able to show actual damages that have resulted from this violation, order the non-compliant landlord to pay an award of damages to the tenant not to exceed 25 percent of the debt attempted to be collected or reported by the non-complaint landlord to the collection or credit reporting agency, bureau, or data collection facility, with a minimum award of $350.

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

The bill would direct the Commissioner of Community Affairs (“commissioner”) to rename the current “Homelessness Prevention Program” (“program”) as the “Eviction and Homelessness Prevention Program.” The commissioner would revise the program regulations to provide for the following: (1) the regulations would be renamed the “Eviction and Homelessness Prevention Program Regulations”, (2) a household would be eligible to participate in the program if, due to reasons beyond the household’s control, the household is unable to make residential rental payments which are due and owing pursuant to a valid and enforceable oral or written lease, stipulation of settlement, judgment, order or other type of legally binding agreement, (3) a household would be eligible for assistance under this program regardless of whether the household has been served with a summons and complaint for eviction, (4) a household would be eligible for assistance if their annualized current income is no more than 80 percent of the area median income; however, the commissioner may establish funding priorities to benefit very low-income and low-income households, (5) a household would be eligible for assistance under this program although it may be unlikely for the household to have the ability to pay shelter costs after the period of assistance has ended, and (6) eligible households would be awarded grants for periods of up to two years, depending upon the person’s or household’s particular circumstances. The Department of Community Affairs (“department”) would provide assistance along a continuum based upon the income level of the tenant household, and would include
deep subsidies, shallow subsidies, and flat amounts. The bill would authorize these grants be renewed to prevent eviction or homelessness. The commissioner would prepare guidance covering the amount and duration of the grants, in accordance with the following guidelines and principles: (a) for a very low-income household, a deep subsidy would be provided in the amount necessary to limit the household’s share of ongoing rent to not more than 40 percent of the household’s income, (b) for a low-income household, a shallow subsidy would be provided in the amount necessary to limit the household’s share of ongoing rent to not more than 40 percent of the household’s income, provided, however, that the amount of any such subsidy would not exceed $800 per month, and (c) for a moderate-income household, assistance in the form of a flat monthly grant of $250 would be provided to the household if the household pays more than 50 percent of the household’s income as ongoing rent.

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

At least 30 days prior to the expiration of the covered period, the department would be required to implement a comprehensive public information plan to ensure that eligible tenants are aware of the assistance provided by the program. In addition, the department would prepare a form notice describing the program and distribute the notice to all landlords for inclusion with any notice or complaint sent to a tenant related to an eviction for nonpayment of rent. Prior to the end of covered period, the landlord would be required to post a written notice in a conspicuous location within the common area of a multiple dwelling highlighting the potential availability of rental assistance from program and other governmental assistance programs included in the department’s form notice.
A program application would be required to state the total amount of rent due from the landlord’s residential tenants established in the corresponding leases, the amount paid by the tenants or third parties, if any, the amount unpaid, the amount of security deposit funding that the landlord’s tenants have applied against rent, and any other information required by the department for determining financial need.

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

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

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

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

Finally, the bill would appropriate from the funds provided to the State by the United States government for the purpose of providing relief to tenants affected in any way by the COVID-19 pandemic: for the “Eviction and Homelessness Prevention Program” the sum of $750,000,000; for the Office of Eviction Prevention the sum of $5,000,000. The bill also authorizes the department to use up to
$20,000,000 for the purpose of funding those actions needed to effectively implement and administer the Eviction and Homelessness Prevention Program, $2,000,000 million of which would be provided to nonprofit organizations for education and outreach regarding this program. Additional federal funding for emergency rental assistance related to the COVID-19 pandemic would be appropriated to the foregoing programs as it becomes available.