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DELAWARE STATE SENATE  
152nd GENERAL ASSEMBLY

SENATE BILL NO. 293

AN ACT TO AMEND TITLE 6 AND TITLE 25 OF THE DELAWARE CODE RELATING TO FAIR HOUSING.

1 WHEREAS, both the Delaware Fair Housing Act, Chapter 46 of Title 6, and Residential Landlord-Tenant Code,  
2 Chapter 51 of Title 25, prohibit discrimination based on source of income, which is defined as including rental payments  
3 from any government program; and

4 WHEREAS, both the Delaware Fair Housing Act and Residential Landlord-Tenant Code include an exemption so  
5 that a landlord's nonparticipation in a government-sponsored rental assistance, voucher, or certificate system (voucher) is  
6 not a basis for an administrative or judicial proceeding; and

7 WHEREAS, this exemption means that the laws prohibiting discrimination based on source of income explicitly  
8 allow discrimination against people who have a source of income that can only be used to pay for housing; and

9 WHEREAS, Delaware has a severe affordable housing shortage, with only 38 available and affordable rental units  
10 for every 100 extremely low-income renters; and

11 WHEREAS, voucher recipients face significant hurdles in finding units to rent; and

12 WHEREAS, when voucher recipients are unable to secure housing before their voucher expires, they lose their  
13 voucher and thus, this crucial housing assistance for which they are eligible; and

14 WHEREAS, New Castle County gives voucher holders 120 days to find housing, but currently only 42% of  
15 voucher holders find units during that window due to the lack of affordable housing; and

16 WHEREAS, this is a decrease from 2022, when 50% of New Castle County voucher holders were able to secure  
17 housing with their voucher; and

18 WHEREAS, in Kent and Sussex counties, only 36% of households with federal Housing Choice Vouchers  
19 administered by the Delaware State Housing Authority (DSHA) were able to secure housing with their voucher in 2023;  
20 and

21 WHEREAS, even voucher holders that receive case management services under the DSHA-administered State  
22 Rental Assistance Program (SRAP) experience difficulty renting a unit and only 79% of SRAP voucher recipients were  
23 able to secure housing with their voucher in 2023; and

24 WHEREAS, a New York University study of jurisdictions that enacted laws prohibiting source of income  
25 discrimination against housing voucher holders found that these laws lead to more upwardly mobile moves among existing  
26 voucher holders; and

27 WHEREAS, research by Opportunity Insights, based at Harvard University, found that children who grow up in  
28 communities with more cross-class interaction are much more likely to rise up out of poverty; and

29 WHEREAS, both DSHA's *2020 Delaware Statewide Analysis of Impediments to Fair Housing Choice* and the  
30 Infrastructure & Environment Subcommittee of the African American Task Force, established under Section 39(j)(1)d. of  
31 SB 260 (150<sup>th</sup>), recommended prohibiting discrimination against tenants with housing vouchers.

32 NOW, THEREFORE:

33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

34 Section 1. Amend § 4607, Title 6 of the Delaware Code by making deletions as shown by strike through and  
35 insertions as shown by underline as follows:

36 § 4607. Exemptions in certain situations.

37 ~~(j) A landlord is not required to participate in any government-sponsored rental assistance program, voucher, or~~  
38 ~~certificate system. A landlord's nonparticipation in any government-sponsored rental assistance program, voucher, or~~  
39 ~~certificate system may not serve as the basis for any administrative or judicial proceeding under this chapter. [Repealed.]~~

40 Section 2. Amend § 5116, Title 25 of the Delaware Code by making deletions as shown by strike through and  
41 insertions as shown by underline as follows:

42 § 5116. Fair housing provisions.

43 ~~(e) A landlord not be required to participate in any government-sponsored rental assistance program, voucher, or~~  
44 ~~certificate system. A landlord's nonparticipation in any government-sponsored rental assistance program, voucher, or~~  
45 ~~certificate system may not serve as the basis for any administrative or judicial proceeding under this chapter. [Repealed.]~~

46 Section 3. This Act takes effect as follows:

47 (1) On the first day of the month after the date in paragraph (2) of this section.

48 (2) Five months following its enactment into law.

#### SYNOPSIS

The Delaware Fair Housing Act, Chapter 46 of Title 6, and Residential Landlord-Tenant Code, Chapter 51 of Title 25, both prohibit discrimination based on source of income, which is defined as including rental payments from any government program. However, both laws also provide that a landlord's nonparticipation in a government-sponsored rental assistance, voucher, or certificate system cannot be the basis for an administrative or judicial proceeding.

This Act revises both the Delaware Fair Housing Act and Residential Landlord-Tenant Code to repeal the exemption to discrimination based on source of income that allows a landlord to discriminate against tenants who participate in government-sponsored rental assistance programs because this exemption contributes to a lack of affordable

housing in this State. There is currently a severe shortage of affordable housing for extremely low-income households in Delaware, with only 38 affordable rental units available for every 100 extremely low-income households. In addition, studies have shown that people who use government subsidies to move from high-poverty neighborhoods to communities with more opportunity have measurable health improvements and the children in these families earn more in adulthood than children who remain in high-poverty neighborhoods.

This Act delays the effective date of this Act to allow the opportunity for all of the following to occur:

1. Conduct outreach and education to landlords about how this Act changes the law. This outreach will include information explaining that while the law prohibits a landlord from having a blanket policy of not accepting government assistance to pay rent, it does not require a landlord to accept all applicants who receive rental assistance, such as applicants who have a history of evictions or not paying utility bills.

2. Explore opportunities to streamline and standardize the processes used by government assistance.

Author: Senator Lockman