



SPONSOR: Sen. Pinkney & Sen. Lockman & Rep. Wilson-Anton
Sens. Gay, Hoffner, Huxtable, S. McBride, Sokola,
Townsend; Reps. Baumbach, Harris, K. Johnson,
Morrison

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 99

AN ACT TO AMEND TITLE 22 OF THE DELAWARE CODE RELATING TO MUNICIPALITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 1, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 120. Limitation on lease provisions and evictions; criminal activity.

A municipality may not enact or enforce a law, ordinance, or regulation that does any of the following:

(1) Requires a crime-free lease agreement as a condition of tenancy.

(2) Mandates eviction after a tenant, a member of the tenant's household, or a guest is accused, arrested, charged, or convicted of 1 or more crimes.

SYNOPSIS

This Act prohibits municipal ordinances that require the eviction of tenants for criminal activity by a tenant, member of the tenant's household, or a guest. This Act does not change a landlord's ability to exercise discretion and evict a tenant for criminal activity or other material lease violations under § 5513 of Title 25 and is consistent with, and avoids conflicts with, the protections for victims of domestic abuse, sexual offenses, or stalking under § 5316 of Title 25.

This Act is a recommendation of the African American Task Force, established under Senate Bill No. 260 (150th General Assembly). In addition, the 2020 Statewide Analysis of Impediments to Fair Housing Choice, a report produced by the Delaware State Fair Housing Consortium, lists the removal of crime-free housing ordinances and legislation banning such ordinances as one of its goals for ensuring that people within the protected classes have equal access to housing.

Currently, at least 6 municipalities in Delaware have crime-free housing ordinances. Generally, these ordinances require landlords to include an addendum on their lease agreements prohibiting a tenant, member of the tenant's household, or a guest from committing a criminal activity within a specified distance of their unit. If a tenant, member of the tenant's household, or a guest commits a certain number of criminal activities within a specified time period, the landlord must initiate eviction proceedings. If a landlord does not file to evict the tenant, the landlord may lose their rental license.

Crime-free housing ordinances are problematic for the following reasons:

1. The definition of criminal activity is generally vague and open to interpretation, and may include low-level offenses such as trespassing, loitering, and disorderly conduct.
2. The standard for what is considered criminal activity does not require an arrest or conviction, and instead, can consist of merely an allegation or contact with the police.
3. These ordinances penalize victims of crime for seeking help from the police.
4. These ordinances can result in evictions of tenants based upon racially motivated complaints by neighbors.

This Act requires a greater than majority vote for passage because § 1 of Article IX of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to amend a charter issued to a municipal corporation.

Author: Senator Pinkney