



SPONSOR: Sen. Lockman & Sen. Townsend
Rep. Baumbach

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 167

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO THE LANDLORD MITIGATION FUND.

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

1 Section 1. Amend Chapter 40, Title 31 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 4070. Landlord Mitigation Fund.

4 (a) Establishment of Landlord Mitigation Fund; purpose; administration; funding.

5 (1) There is hereby created a Landlord Mitigation Fund.

6 (2) The purpose of the Landlord Mitigation Fund is to provide payment for certain expenses incurred by landlords
7 participating in a government-sponsored housing choice voucher program for private rental residency, subject to
8 the availability of funds.

9 (3) The DSHA shall administer the Landlord Mitigation Fund. In addition, the DSHA shall adopt rules to
10 implement the provisions of this section, including prescribing additional qualifications and requirements that
11 must be met by landlords, and the form of application that must be submitted to the DSHA to receive assistance
12 under the program.

13 (4) The Landlord Mitigation Fund shall be able to accept: (i) appropriations from the General Assembly; (ii)
14 federal funds, including funds from the American Rescue Plan Act of 2021, and (iii) unappropriated amounts that
15 may be deposited by the DSHA from other available sources, including monies repaid pursuant to subsection (f).

16 (b) Claims. The following types of claims related to landlord mitigation for renting private market rental units
17 pursuant to a government-sponsored housing choice voucher program are eligible for payment from the Landlord
18 Mitigation Fund:

19 (1) A security deposit, in an amount not to exceed 1 month's rent.

20 (2) Lost rental income due to delays in the public housing authority inspection process, in an amount equal to
21 the lost rental income from the date of offer of housing to the applicant whose housing subsidy program was
22 conditioned on the real property passing inspection until move in by that applicant, not to exceed 1 month's rent.

(3) Lost rental income due to the tenant vacating the tenancy without notice, in an amount not to exceed 1 month's rent.

(4) Reimbursement for damages to the real property other than for normal wear and tear, in excess of the security deposit, in an amount not to exceed \$2,000. In order for a claim to be eligible for reimbursement under this subsection, the landlord must provide DSHA with proof of the expenditures for which the landlord is seeking reimbursement.

(5) Reimbursement for improvements required by the public housing authority inspection, in an amount not to exceed \$2,000. In order for a claim to be eligible under this subsection, (i) the landlord must provide DSHA with proof of the expenditures for which the landlord is seeking reimbursement; and (ii) the landlord must rent to the tenant whose housing subsidy was conditioned on the real property passing inspection.

(c) Limitations. Total payment from the Landlord Mitigation Fund may not exceed \$5,000 per tenancy.

(d) Claim review and determinations regarding payment; payment; creation of waitlist.

(1) The DSHA, in its sole discretion, may inspect the property and the landlord's records related to a claim, including the use of a third-party inspector as needed to investigate fraud, to assist in making its claim review and determination of eligibility.

(2) Determinations regarding payment from the Landlord Mitigation Fund are made by the DSHA in its sole discretion.

(3) All payments for eligible claims are made on a first-come, first served basis, to the extent of available funds.

(4) If at any time funds do not exist in the Landlord Mitigation Fund to pay eligible claims submitted under subsection (b), the DSHA must create and maintain a waitlist and distribute funds in the order the claims are received. Payment of any claims on the waitlist may be made only from the Landlord Mitigation Fund. The DSHA shall not be civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for payment or reimbursement.

(e) Limitations on other remedies. A landlord in receipt of payment from the Landlord Mitigation Fund is prohibited from:

(1) Taking legal action against the tenant for damages attributable to the same tenancy; or

(2) Pursuing collection, or authorizing another entity to pursue collection, on the landlord's behalf, of a judgment against the tenant for damages attributable to the same tenancy.

(f) Repayment.

52 (1) When a landlord has been paid for a claim pursuant to subsection (b)(3) or (b)(4), the DSHA shall require the
53 tenant for whom payment was made to repay the full or a partial amount of any assistance paid to the landlord and
54 shall offer the responsible tenant a reasonable repayment agreement. Amounts repaid by tenants under this
55 subsection must be deposited into the Landlord Mitigation Fund.
56 (2) The tenant may seek a waiver of repayment requirements under this subsection for good cause shown and may
57 contest the DSHA's determination that the tenant has an obligation to repay any amounts of assistant paid to a
58 landlord on the tenant's behalf.
59 (3) The DSHA shall waive the requirements of this subsection for good cause.

SYNOPSIS

This Act seeks to increase the supply of homes available to rent for low-income individuals and families by providing incentives to landlords who participate in a government-sponsored housing choice voucher program. To that end, this Act creates a Landlord Mitigation Fund, administered by the Delaware State Housing Authority ("DSHA"), to provide payment for certain types of claims for payment or reimbursement for certain expenses incurred by participating landlords.

This Act limits the amount that may be claimed based on the type of claim. For claims for payment of a security deposit, or for lost rental income due to delays in the public housing authority inspection process, or the tenant vacating the tenancy without notice, the maximum amount that may be claimed is 1 month's rent. For claims seeking reimbursement for damages or for improvements required by a public housing authority inspection, the maximum amount that may be claimed is \$2,000. The maximum amount of payment that may be claimed per tenancy is \$5,000.

The DSHA has sole discretion to determine payment from the Landlord Mitigation Fund. Payment is subject to the availability of funds in the Landlord Mitigation Fund. If the Landlord Mitigation Fund is insufficient to pay eligible claims, the DSHA will create a waitlist and distribute funds in the order claims are received.

A landlord who has received payment from the Landlord Mitigation Fund is prohibited from taking legal action against, or pursuing collection from, a tenant for damages attributable to the same tenancy.

When a landlord has been paid under this Act for lost rent due to the tenant vacating the tenancy without notice, or reimbursed for damages under this Act, the tenant for whom payment was made is responsible for repaying to DSHA the full or a partial amount of the assistance paid to the landlord. Amounts repaid by the tenant are deposited in the Landlord Mitigation Fund. The tenant may seek waiver of the requirement to repay for good cause.

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