



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

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
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 rental assistance program, subject to the availability of funds.

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

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

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

18 (1) Lost rental income due to delays in the public housing authority inspection process, in an amount equal to the
19 lost rental income from the date of offer of housing to the applicant whose housing subsidy program was
20 conditioned on the real property passing inspection until move in by that applicant.

(2) Lost rental income due to the tenant vacating the tenancy without notice.

(3) Reimbursement for damages to the real property other than for normal wear and tear, in excess of the security deposit. 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.

(4) Reimbursement for improvements required by the public housing authority inspection. In order for a claim to be eligible for reimbursement 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. The DSHA shall set the maximum amount or amounts that a landlord may receive from the Landlord Mitigation Fund per claim and per tenancy.

(d) Claim review and determinations regarding payment.

(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.

(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, except to the extent the landlord seeks damages in excess of those amounts received from the Landlord Mitigation Fund.

(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 except to the extent the landlord seeks damages in excess of those received from the Landlord Mitigation Fund.

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 rental assistance 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.

The Act provides that the DSHA shall set the maximum amount that a landlord may recover from the Landlord Mitigation Fund, per claim and per tenancy. In addition, the Act provides that 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.

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, except to the extent the landlord seeks damages in excess of the amounts received from the Landlord Mitigation Fund.

The Act is a substitute for and differs from Senate Bill No. 167 by eliminating claims for payment of a security deposit from the types of claims for which reimbursement from the Landlord Mitigation Fund may be sought. In addition, this Act removes dollar limitations on reimbursement from the Landlord Mitigation Fund and instead authorizes the DSHA to determine such limitations. The Act further eliminates the requirement that the DSHA create and maintain a waitlist, in the event that funds do not exist in the Landlord Mitigation Fund to pay eligible claims. The Act also creates exceptions to the limits on remedies for landlords receiving a payment from the Landlord Mitigation Fund. Finally, the Act eliminates the requirement that a tenant repay to the DSHA amounts paid to a landlord for a claim pursuant to subsection (b)(3) or (b)(4).

Author: Senator Lockman