SPONSOR: Sen. Lockman & Rep. S. Moore & Rep. Dorsey Walker & Rep. Wilson-Anton
Sens. Gay, S. McBride, Pinkney, Townsend; Reps. Baumbach, Lambert, Morrison, Phillips

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 293
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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

WHEREAS, both the Delaware Fair Housing Act, Chapter 46 of Title 6, and Residential Landlord-Tenant Code, Chapter 51 of Title 25, prohibit discrimination based on source of income; and

WHEREAS, under both laws, “source of income” means any lawful source of money paid directly, indirectly, or on behalf of a renter or buyer of housing, including income or rental payments derived from any government or private assistance, grant, or loan program; and

WHEREAS, both the Delaware Fair Housing Act and Residential Landlord-Tenant Code have an exception to this prohibition against discrimination based on source of income so that a landlord's nonparticipation in a government-sponsored rental assistance, voucher, or certificate system (voucher) may not serve as the basis for an administrative or judicial proceeding; and

WHEREAS, this exception means that this State’s laws prohibiting discrimination based on source of income explicitly allow discrimination against people who have a source of income that can only be used to pay for housing; and

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

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

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

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

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

LC : DIG : CM : 5971520153
LC : HVW : CBM : 5081520262
Released: 06/30/2024 07:56 PM

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

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

WHEREAS, the 5 Delaware public housing authorities (PHAs) have retained a consultant to assist with streamlining the procedures required when landlords accept vouchers; and

WHEREAS, the Delaware Apartment Association (DAA) is actively participating in the PHAs' efforts to streamline these procedures, including by providing feedback on the current processes; and

WHEREAS, in May 2024, the consultant retained by the PHAs to assist with this streamlining process issued a recommendations report that includes specific short, medium, and long-term recommendations for the PHAs, including a recommended timeframe for the processing of Requests for Tenancy Approval; and

WHEREAS, the PHAs and consultant continue to hold meetings with the DAA and other landlords to discuss these recommendations; and

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

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

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

NOW, THEREFORE:

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

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

§ 4607. Exemptions in certain situations.

(j) ~~A landlord is not required to participate in any government-sponsored rental assistance program, voucher, or certificate system. A landlord's nonparticipation in any government-sponsored rental assistance program, voucher, or~~

~~certificate system may not serve as the basis for any administrative or judicial proceeding under this chapter.~~ The denial of a rental application under § 5116(e)(2) of Title 25 may not serve as the basis for any administrative or judicial proceeding under this chapter.

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

§ 5116. Fair housing provisions.

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

(1) The public housing authorities must implement the standardized sequence of processing a Request for Tenancy Approval recommended by the third-party consultant in the May 2024 report, "Alignment of Delaware Housing Choice Voucher Programs to Create Efficiencies and Increase Landlord Engagement", prepared for the Delaware State Housing Authority.

(2) If a public housing authority fails to comply with the standardized sequence of processing a Request for Tenancy Approval under paragraph (e)(1) of this section, a landlord may deny a rental application to ensure the reliable and timely supply of housing units.

(3) The denial of a rental application under paragraph (e)(2) of this section may not serve as the basis for any administrative or judicial proceeding under this chapter.

Section 3. (a) No later than March 1, 2028, the Delaware State Housing Authority shall compile a report regarding the work of Delaware's public housing authorities (PHAs) to streamline their procedures associated with the use of government-sponsored housing vouchers (vouchers). This report must contain all of the following:

(1) A list of the recommendations for streamlining provided to the PHAs by their hired consultant.

(2) The status of each recommendation under paragraph (a)(1) of this Section, including:

a. The recommendations that have been fully implemented.

b. The recommendations that are in the process of being implemented and the expected date of completion.

c. Recommendations that are not being implemented and the reason each is not being implemented.

(3) Any additional streamlining improvements that have been identified and the status of each.

(4) Data comparing the utilization of vouchers in calendar years 2024 and 2025 with the utilization of vouchers in calendar years 2026 and 2027, including data for each of the following:

LC : DIG : CM : 5971520153 Released: 06/30/2024 07:56 PM
LC : HVW : CBM : 5081520262

a. Federally-funded vouchers.

b. State-funded vouchers.

c. Each PHA.

d. Different categories of landlords, including by groups based on the number of rental units owned.

(b) The Delaware State Housing Authority shall submit the report required under this Section to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, with copies to all members of the General Assembly, the Governor, the Director and the Librarian of the Division of Research of Legislative Council, and the Delaware Public Archives.

Section 4. This Act is effective immediately and is to be implemented the later of the following:

(1) Notice by the Director of the Delaware State Housing Authority published in the Register of Regulations that the consultant has confirmed that the public housing authorities have successfully adopted and implemented all of the short-term recommendations in the third-party consultant's May 2024 report, "Alignment of Delaware Housing Choice Voucher Programs to Create Efficiencies and Increase Landlord Engagement".

(2) January 1, 2026.

Section 5. This Act expires on December 31, 2028, unless otherwise provided by a subsequent act of the General Assembly.

LC : DIG : CM : 5971520153
LC : HVW : CBM : 5081520262
Released: 06/30/2024 07:56 PM