

**WILLIAM G. BUSH, IV**  
STATE REPRESENTATIVE  
29<sup>th</sup> District



HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
411 LEGISLATIVE AVENUE  
DOVER, DELAWARE 19901

#### COMMITTEES

Economic  
Development/Banking/Insurance &  
Commerce, Chair  
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Public Safety & Homeland Security,  
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## House Economic Development, Banking, Insurance & Commerce Committee Minutes

Date: 6.18.2024

### [House Committee Meeting](#)

Chair Bush called the meeting to order at 10:05 a.m.

Members present:

Representative William Bush, Chair  
Representative Krista Griffith  
Representative Ronald Gray  
Representative Madinah Wilson-Anton  
Representative Jeffrey Spiegelman  
Representative Sherry Dorsey Walker  
Representative Larry Lambert  
Representative Michael Smith

Chair Bush introduced **SB 291 AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE REGISTRATION OF TRADE NAMES, PARTNERSHIPS AND ASSOCIATIONS IN THE SUPERIOR COURT.** *Time Stamp: 10:07*

Rep. Griffith shared that this Act removes the registration of trade names for sole proprietorships, partnerships, and associations in the Superior Court Prothonotaries and places registration of such trade names with the Division of Revenue. Additionally, this Act provides that the filing of certificates will be recorded electronically and the fee for such filing is \$25.00. Under Superior Court Civil R. 77(h), the current filing fee is \$25.00. This change updates the statute consistent with the current fee collected by the Superior Court.

Rep. Gray asked is there a requirement that the state does not do today.

Rep. Griffith asked Linda Carmichael, Delaware Superior Court.

Rep. Griffith responded that annually businesses must register and that this process makes the trade name registration occur one time when they are doing the annual registration with the Department of Revenue.

Ms. Carmichael followed up by stating that when registering a trade name, you register it within the Superior Court in the county where you plan to do business. It is a \$25 fee for registering that

trade name and if you plan to register in all three counties it is a \$25 fee each time. The plan is to make one registration process that would be statewide.

Rep. Gray asked whether today you must renew it yearly.

Ms. Carmichael responded no.

Rep. Gray asked that after this bill, would they have to renew it yearly.

Ms. Carmichael responded that it is a question better suited for the Department of Revenue.

Rep. Griffith called Jamie Johnstone, Deputy Director of Revenue, to the floor.

Mr. Johnstone shared that it is their intent to have it be the same as existing process in that you will register once; the intent is not to have an annual fee to register one's trade name continually, but rather have a refreshed of existing trade name by registering everything in the Department of Revenue's system.

Rep. Gray stated that it would be annually, but it would not be a charge.

Mr. Johnstone shared that it will be annually the first time you register it. The idea is to have less work for the small businesses.

Chair Bush opened the floor to public comment. *Time Stamp: 2:14*

Jamie Johnstone, Deputy Director of Revenue, shared his support of the legislation because of its efficiency and reduction in administration burden.

A motion was made by Rep. Wilson-Anton and seconded by Rep. Spiegelman to release SB 291; motion carried. Yes = 7 (Bush, Dorsey Walker, Gray, Griffith, Lambert, Spiegelman, Wilson-Anton). Absent = 6 (Baumbach, Carson, Hensley, Matthews, Short, Smith). No = 0. The bill was released with a F = 0, M = 7, U = 0.

Chair Based introduced **SB 256 w/SA 1 AN ACT TO AMEND TITLES 6 AND 29 OF THE DELAWARE CODE RELATING TO CONSUMER PROTECTION.** *Time Stamp: 10:15*

Rep. Griffith called upon Owen Lefkon, Department of Justice. Rep. Griffith noted that the legislation comes from the Department of Justice and is a request to clarify the Attorney General's existing authority to enforce the State's consumer protection laws, specifically the Attorney General's ability to pursue non-penalty civil remedies, such as damages and restitution, without having to show that a person's violation of a law or regulation enforced by the Department of Justice's Division of Consumer Protection was willful. Rep. Griffith asked for Mr. Lefkon to explain the changes that the department is requesting and why is it necessary.

Mr. Lefkon shared that SB 256 does three primary things. First, it makes the remedies for enforcement of the consumer fraud act consistent without regard to where the DOJ brings an action. Second, it makes clear the finding of willfulness is necessary to order penalties order the act but does not apply to more standard remedies such as restitution. Third, it streamlines the administrative hearing process and extends the timetable to match more closely existing practice.

SA 1 was added to give comfort to stakeholders who had concerns with the DOJ abilities to seek damages on behalf of victims.

Chair Bush opened the floor to public comment. *Time Stamp: 10:18*

A motion was made by Rep. Spiegelman and seconded by Wilson-Anton to release SB 256 w/SA 1; motion carried. Yes = 7 (Bush, Dorsey Walker, Gray, Griffith, Lambert, Spiegelman, Wilson-Anton). Absent = 6 (Baumbach, Carson, Hensley, Matthews, Short, Smith). No = 0. The bill was released with a F = 0, M = 7, U = 0.

Chair Bush introduced **SB 302 AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO BREWERY-PUBS**. *Time Stamp: 10:19*

Chair Bush noted that this bill stems from Big Oyster opening a new brewery in Milford. This Act allows a licensed brewery-pub located within the premises of a public golf course to apply to the Commissioner for a license to sell alcoholic beverages to patrons of the golf course if the brewery-pub and public golf course share common ownership.

Rep. Wilson-Anton jokingly asked if the committee can be re-named to include “alcohol” due to the amount of bills containing alcohol within the committee.

Chair Bush responded it’s all a part of economic development.

Rep. Spiegelman asked if you have a restaurant and golf course with common ownership, is the restaurant able to take advantage of this law.

Chair Bush shared that this is just for breweries and, it’s his understanding, restaurants can already do it because it is a separate license.

Rep. Spiegelman reiterated that this brings brew pubs in line with other establishments.

Chair Bush confirmed.

Chair Bush opened the floor to public comment. *Time Stamp: 10:21*

James Nutter, Big Oyster, stated that multi- activity club licenses currently do not permit the brewery of beer; he uttered his support.

Rep. Gray asked how soon could this happen for them.

Mr. Nutter stated that the restaurant just opened and, if the Governor signs, then the process would begin as soon as possible.

A motion was made by Rep. Wilson-Anton and seconded by Rep. Spiegelman to release SB 302; motion carried. Yes = 7 (Bush, Dorsey Walker, Gray, Griffith, Lambert, Spiegelman, Wilson-Anton). Absent = 6 (Baumbach, Carson, Hensley, Matthews, Short, Smith). No = 0. The bill was released with a F = 1, M = 7, U = 0.

Chair Bush introduced **SS 1 for SB 166 AN ACT TO AMEND TITLE 6 AND TITLE 12 OF THE DELAWARE CODE RELATING TO UNCLAIMED PROPERTY**. *Time Stamp: 10:25*

Chair Bush introduced Brenda Mayrack, Director of the Office of Unclaimed Property.

Rep. Gray asked if she could tell the committee a little bit about the bill.

Ms. Mayrack explained that this is part of a package of the two bills from her office. This act clarifies how a whistleblower may submit information regarding a violation of the reporting requirements of the UPL and defines what payment a whistleblower may receive; in the event the State receives payment as a result of the whistleblower's information. SS 1 differs from SB 266 in that it sets forth specific criteria that must be satisfied for the Attorney General to bring an action for violation of the reporting requirements of the UPL. Ms. Mayrack continued by stating the purpose is to limit the state's mitigation risk in this area which ultimately saves the state money.

Chair Bush opened the floor to public comment. *Time Stamp: 10:27*

A motion was made by Rep. Spiegelman and seconded by Rep. Wilson-Anton to release SS 1 for SB 166; motion carried. Yes = 8 (Bush, Dorsey Walker, Gray, Griffith, Lambert, Spiegelman, Wilson-Anton, Smith). Absent = 5 (Baumbach, Carson, Hensley, Matthews, Short). No = 0. The bill was released with a F = 0, M = 8, U = 0.

Chair Bush introduced **SB 308 AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO THE UNIFORM SPECIAL DEPOSITS ACT.** *Time Stamp: 10:28*

Chair Bush introduced Mark Cutrona, Director of the Division of Research, to speak about the bill.

Mr. Cutrona noted his role with the Uniform Law Commission along with five other Delawareans. The Uniform Law Commission "provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law." The Act was adopted by the Uniform Law Commission in October 2023 and has been adopted in two states and introduced in three other states. The Act addresses deposits at a bank where the identity of the person entitled to payment is not determined until the occurrence of a contingency identified at the time that the deposit is created. An example of such an account is an escrow account holding funds that will be paid to one of two potential beneficiaries depending on the outcome of a contingency. Although such accounts are commonly used, the legal protections afforded them are uncertain. The fundamental purpose of the Uniform Special Deposits Act is to provide a vehicle that banks, and their customers can elect to use providing greater legal certainty that the expectations of users will be respected. The Act provides a mechanism those that elect to be covered by the Act can use to avoid case law applied to special deposits that is murky and, in some ways, outdated in the context of modern banking.

Chair Bush opened the floor to public comment. *Time Stamp: 10:32*

Kari Bearman spoke in favor of the legislation.

A motion was made by Rep. Griffith and seconded by Rep. Lambert to release SB 308; motion carried. Yes = 8 (Bush, Dorsey Walker, Gray, Griffith, Lambert, Spiegelman, Wilson-Anton,

Smith). Absent = 5 (Baumbach, Carson, Hensley, Matthews, Short). No = 0. The bill was released with a F = 0, M = 8, U = 0.

Chair Bush introduced **HB 439 w/ HA 1, HA 2 AN ACT TO AMEND TITLES 6 AND 25 OF THE DELAWARE CODE RELATING TO HOUSING STATUS DISCRIMINATION IN HOUSING AND PROPERTY.** *Time Stamp: 10:35*

Chair Bush introduced Rep. Phillips to the floor to speak on the legislation.

Rep. Phillips explained that Delaware law prohibits discrimination based on protected characteristics in housing and property transactions. This Act would add "housing status" as a protected characteristic. She stated that most are asking does this affect public accommodations or other areas with the protected classes and her answer is no. This legislation is strictly related to housing. They have added an amendment that clarifies that other forms use qualification determinants such as income payment, history, and employment are allowed to be considered, the legislation deals with housing status.

Rep. Spiegelman sought clarity for the practicality of the bill by describing a scenario. He described a situation in which a landlord has an application, the applicant states their previous address, and then the landlord cannot deny based on last address if it were a homeless shelter. The landlord could still deny based on lack of references, for example, so long as they are consistent.

Rep. Phillips agreed and added that so long as it is covered under state and federal housing laws.

Rep. Wilson-Anton thanked the sponsor for the legislation.

Rep. Dorsey Walker shared that just recently she met an individual who was unhoused and shared her support of the legislation.

Chair Bush opened the floor to public comment. *Time Stamp: 10:38*

Maggie Haass, Delaware Association of Realtors, asked the delayed passage of the bill.

Sarah Rhine, CLASI, shared her support of the legislation.

Rachel Stuker, HAD, shared her support of the legislation.

Amber Eppurs, Private Citizen, shared her support of the legislation.

Shyanne Miller, Homes Campaign, spoke in favor of the legislation.

Jeffrey Lott, Self, shared that making the homeless a protected class is human rights issue, not a real estate issue.

Dina Vendetti, CDCC, applauded the intent of the legislation, however she has an issue with the creation a protected class.

Lisa Rice, HAD, spoke in favor of the legislation.

Tara Shellan, DE Stonewall, shared her support of the legislation.

Rebecca Cotto, YWCA, strongly supported the legislation.

Mariann Kenville-Moore, DCADV, supported the legislation.

Nick Beard, asked the committee to support the legislation.

Dr. DeBorah Gilbert, spoke in favor of the legislation.

Lynne Kielhorn supported the passage of this bill.

Rep. Smith commented that domestic violence, substance abuse and alcoholism contribute to homelessness in several ways that was highlighted by public comment. He shared that the opioid-impact fee is wasted money and believes that the state has not created the systems or housing that people need in those situations and believes that in the next General Assembly they should work to tackle these issues.

A motion was made by Rep. Smith and seconded by Rep. Wilson-Anton to release HB 439 w/ HA 1, HA 2. Yes = 5 (Bush, Wilson-Anton, Griffith, Lambert, Smith). Absent = 6 (Carson, Dorsey Walker, Spiegelman, Short, Matthews, Baumbach). No = 1 (Gray). The bill was released with a F = 4. M = 3, U = 0.

Chair Bush introduced **SS 1 for SB 293 AN ACT TO AMEND TITLE 6 AND TITLE 25 OF THE DELAWARE CODE RELATING TO FAIR HOUSING.** *Time Stamp: 11:03*

Rep. Moore stated that 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. Like Senate Bill No. 293, Senate Substitute No. 1 for Senate Bill No. 293 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.

Rep. Spiegelman asked why a landlord would not participate now in Section 8 vouchers.

Caitlin Del Collo, DSHA, answered that what they have heard from landlords is that the reluctance to accept vouchers goes back to the front-end process of having to get an inspection, paperwork and dealing with the five public housing authorities, where each authority does thing differently. However, they are actively addressing the concerns about the lease up process through a third-party consultant called Enterprise Advisors.

Rep. Spiegelman asked how much the division has control over federal requirements.

Ms. Del Collo responded HUD sets the requirement for inspecting rental units. Local level authority consists of the paper they request from the landlord, the deed or an online registration portal.

Rep. Spiegelman stated that the federal has their own requirements.

Ms. Del Collo answered yes.

Rep. Spiegelman asked that the state does not have a lot of jurisdictions over what would be a federal requirement and even if we streamlined the state's programs to match the private sector, they'd still have federal programs.

Ms. Del Collo responded that the voucher programs are federal programs which are administered locally. She stated that we are all answering to HUD and following their inspection requirements. There is power in how it is administered, but there is no override of HUD.

Rep. Spiegelman asked about the difference in size from a landlord with one unit to a thousand.

Ms. Del Collo responded that this legislation does not distinguish between the size of units.

Rep. Spiegelman commented this is an issue but was interrupted from someone in the crowd. He stated that he applauds the effort but believes that this is a burden to fair housing due to economies of scale and the potential for landlords to sell the units rather than rent them to individual's vouchers if size is a concern.

Rep. Lambert thanked the sponsor for her efforts on the bill and shared a personal story of a constituent who a landlord denied based on the constituent having a voucher.

Rep. Moore wanted to address the supply of units.

Ms. Del Collo addressed that landlords are selling their units instead of renting to voucher holders is a real issue. There are about 6,500 vouchers in the State of Delaware which is about six percent of the renter's household in the state. She does not believe that if a change impacting six percent would be a big enough disruption to cause landlords to cause them to sell it off. Separately, she shared that another housing bill was introduced to create a task force to look at increasing the supply of affordable housing.

Rep. Spiegelman responded that bills do not exist in a bubble, and the bills passed in the four to five years has had the opposite effect of their intent and it's being ignored.

Chair Bush opened the floor to public comment. *Time Stamp: 11:19*

Sonya Starr, DAHC, Rachel Stuker, HAD, and Melanic Ross Levin, Office of Women's Advancement and Advocacy spoke in favor of the legislation.

Jeff Hepur, Self, a disabled officer described how he has been discriminated against because his landlord discovered.

Brandon Fletcher, Homes Campaign, described the importance of housing justice and voiced support of the legislation.

Shyanne Miller, Homes Campaign, expressed strong support for the legislation.

Caitlin Del Collo, DSHA, spoke on behalf of Ray Fitzgerald, Executive Director of Wilmington Housing Authority, expressed his support of the legislation.

Rebecca Cotto, YWCA, expressed strong support of the legislation.

Debra Burgos, DAA, commented that landlords have an issue with the program and its financial burden to them. She stated the continued efforts on the bill and ask the committee not to release the bill yet.

Jeff Shoroton, GWHP, shared that forced legislation discourages future investment and shared his grievance with the housing authorities.

Lisa Rice, HAD, shared her support of the legislation.

Mariann Kenville-Moore, DCADV, expressed her support of the legislation.

Nick Beard expressed that every individual should be treated as an individual and voiced support of the legislation.

Nicole Waters welcomed continued efforts and voiced support of legislation.

Sarah Rhine, CLASI, shared that it does not force the landlords to accept these individuals and supported the legislation.

Rep. Wilson-Anton commented from an earlier comment that source of income was a proxy for race and that 80 percent of voucher holders are black or African American and stated how she looks forward to working with this.

A motion to release was made by Rep. Wilson-Anton and seconded by Rep. Lambert to release SS 1 for SB 293. Yes = 3 (Bush, Wilson-Anton, Lambert). Absent = 8 (Carson, Dorsey Walker, Griffith, Short, Matthews, Baumbach, Hensley, Smith). No = 2 (Gray and Spiegelman). The bill was released from committee with a F = 4, M = 3, U = 0.

Chair Bush adjourned at 11:49.

Respectfully submitted by Tyron Herring.

Attendee list:

- Jamie Johnstone, Deputy Director of Revenue
- Maggie Haass, Delaware Association of Realtors
- Sonya Starr, DAHC
- Sarah Rhine, CLASI
- Rachel Stuker, HAD
- Amber Eppurs, Private Citizen
- Melanic Ross Levin, Office of Women's Advancement and Advocacy
- Jeff Hepur, Self
- Brandon Fletcher, Homes Campaign
- James Nutter, Big Oyster



- Shyanne Miller, Homes Campaign
- Jeffrey Lott, Self
- Dina Vendetti, CDCC
- Caitlin Del Collo, DSHA
- Rebecca Cotto, YWCA
- Debra Burgos, DAA
- Jeff Shoroton, GWHP
- Lisa Rice, HAD
- Tara Shellan, DE Stonewall
- Rebecca Cotto, YWCA
- Mariann Kenville-Moore, DCADV
- Linda Carmichael, Delaware Superior Court
- Owen Lefkon, Department of Justice
- Brenda Mayrack, Director of the Office of Unclaimed Property
- Mark Cutrona, Director of the Division of Research



**Uniform Law Commission**  
NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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June 18, 2024,

Dear Chair Bush, Vice Chair Carson, and members of the House Economic Development/Banking/Insurance & Commerce Committee,

Thank you for the opportunity to testify in support of Senate Bill 308, which adopts the Uniform Special Deposits Act. A copy of the Act, as well as other supporting materials can be found on the Uniform Law Commission's website [www.uniformlaws.org](http://www.uniformlaws.org).

The Uniform Law Commission (ULC) is a state-supported organization that was established in 1892 and provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

ULC commissioners must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff, and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands. ULC commissioners donate thousands of hours of legal work, without compensation, to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

The Uniform Special Deposits Act (the "Act"), as adopted by Senate Bill 308, is the result of a multiyear, collaborative drafting process with input from leading experts in commercial law and the financial services industry. The Act provides clarity to an area of law that has been uncertain for a number of years.

Special deposits are banking products that have different characteristics than other deposit accounts like checking or savings deposits. Special deposits are established for a particular purpose, and a beneficiary's entitlement to payment is determined only after a contingency has occurred. That contingency could be the closing of a sale of real estate, the distribution of funds to class members after the court approves of the settlement of a class action, or the distribution of a commercial tenant's security deposit when the leasehold ends. These deposits ensure funds will be available to the person entitled to them in the future.

Special deposits serve an important function in commerce and industry. They are safe, secure, and efficient. Safety and security are provided by a regulated bank, banking regulation (including the regulators), and perhaps deposit insurance. Efficiency is provided by the simplicity of the deposit account mechanism, its relatively low cost, and the fact that banks typically provide a return on the principal balance of deposits in the form of interest. Parties using a special deposit expect that, when the contingency occurs, the money will be there to pay.



While they are a vital component of our banking infrastructure, legal uncertainties have caused many to avoid using special deposits. These uncertainties thwart the parties' expectations that funds in a special deposit will be available to them once the contingency has occurred. Historically courts have attempted to fashion protections through, among other measures, common law referring to special deposits. Case law has analogized special deposits to a trust, bailment, or custody arrangement. However, these characterizations are anachronistic in the context of modern banking and do not reflect how the special deposit is used in practice. The attributes that make a deposit "special," that is, the rights of the parties interested in the special deposit, are also uncertain under current law.

The key objectives of Senate Bill 308 are to: (1) preserve and protect the important functionality of the special deposit by eliminating the legal uncertainties that inhibit use; (2) honor the expectations of the parties; (3) build on existing law applicable to general deposits in the 50 states; (4) disrupt existing law as little as possible; and (5) deliver narrowly-tailored solutions to cure four problems that can frustrate the expectations of parties electing to use a special deposit.

These are the areas where the common law needs to be improved:

### ***Identification of the Special Deposit***

The Act clarifies the defining characteristics of a special, as opposed to general, deposit. Under the Act, a special deposit must be (i) designated as "special" in an account agreement governing the deposit at a bank, (ii) for the benefit of at least two beneficiaries, (iii) denominated in money, (iv) for a permissible purpose identified in the account agreement, and (v) subject to a contingency specified in the account agreement that is not certain to occur, but if it does occur, creates the bank's obligation to pay a beneficiary. If all those characteristics are present, the deposit is a special deposit.

The requirement that the special deposit serve a permissible purpose is a crucial feature of the Act. It prevents the special deposit from being used inappropriately for fraudulent or abusive purposes—for example, to hinder or defraud creditors. A permissible purpose is defined as "a governmental, regulatory, commercial, charitable, or testamentary objective of the parties stated in the account agreement." A special deposit must serve a permissible purpose from creation until termination. If the special deposit ceases to serve such a purpose before termination, the protections of the Act will not apply to any future funds deposited in the account. In addition, the Act ensures that a deposit or transfer voidable under other law is not protected by designating it as a special deposit.

### ***Bankruptcy of the Depositor***



The Act also clarifies the treatment of a special deposit in the event of a depositor's bankruptcy. Under the law of many states, a depositor will retain rights to a special deposit until the determination of a contingency that resolves ownership of the deposited funds. Thus, a special deposit could be "swept" into the bankruptcy estate of the person who deposited them.

For example, imagine a commercial office building where the landlord requires tenants to pre-pay rent as a security deposit. The landlord may put each tenant's security deposit into a single, commingled account. If there is no damage to the property at the end of the lease, the security deposit is due to the tenant. If the landlord declares bankruptcy, the tenant's security deposit could be caught up in the bankruptcy proceeding. The Act will prevent this outcome and ensure funds remain available for the tenant.

### ***Premature Creditor Process***

Third, the Act provides certainty about the applicability of creditor process on a special deposit. Under current law, there is considerable uncertainty as to whether a creditor of a debtor who is a potential payee from a special deposit may either attach the special deposit or reach the special deposit with a temporary restraining order or injunction. After all, the identity of the ultimate beneficiary has not been determined at the time the special deposit is established because the contingency has not yet occurred. Creditor process can therefore "freeze" a special deposit and interfere with the intended purpose.

Section 5109 provides that creditor process is not enforceable against the bank holding the special deposit, except in limited circumstances. It may be enforceable against the bank holding a special deposit with respect to any amount that it must pay to a beneficiary after determination of the contingency, but the special deposit itself is fully protected. Section 5110 eliminates the ability of creditors to use an injunction or temporary restraining order to achieve the same or a similar outcome.

### ***Bank Setoffs***

The Act also addresses whether the bank holding the special deposit can exercise a right of set off or recoupment that is unrelated to any payment to a beneficiary or to the special deposit itself. Section 5111 provides that a bank may not use special deposits to satisfy unrelated debts. There are certain exceptions dealing with fees associated with the special deposit, and situations where an accounting offset is needed to remedy a mistaken credit to the special deposit account. However, the general rule is clear — there is no threat from recoupment or setoff, and the special deposit is protected.

### ***Self-Imposed Limitations of the Uniform Special Deposits Act***



The Act contains several self-imposed limitations. Importantly, the Act was drafted with a “minimalist” philosophy and addresses only specific uncertainties existing under current law. The Act does not duplicate the law governing deposits generally and, instead, alleviates the problems in existing law that cause uncertainty around special deposits. This enables the Act to operate in conjunction with existing commercial law and embraces the parties’ freedom to contract.

Another important limitation of the Act is its “opt-in” nature. The bank and its customer must elect to treat the deposit as a special deposit to be covered by the Uniform Special Deposits Act. This permits existing relationships to continue undisturbed. Parties can also amend existing agreements to be covered by the Act if the relationship satisfies the Act’s criteria to establish a special deposit.

Additionally, the Act does not address the insolvency of the bank holding a special deposit, for two reasons. First, bank insolvency law regarding special deposits is clear and well-developed. Second, bank insolvency law has largely become the product of federal law. State law, including the Act, can only perform a limited role.

Finally, the Act does not require banks to offer a special deposit product. Some banks may decide that this will not be among their offered suite of products or that they will offer such a product under limited circumstances.

## **Conclusion**

The Uniform Special Deposits Act is intended not to introduce new legal concepts, but rather to eliminate uncertainty that attaches to the use of special deposits under existing law and therefore help ensure that the expectations of parties entering into those transactions are met.

Those are just a few benefits offered by the Uniform Special Deposit Act. I thank you for your time, and consideration of Senate Bill 308.

Sincerely,

Kari Bearman  
Legislative Counsel,  
Uniform Law Commission  
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## COMMUNITY LEGAL AID SOCIETY, INC. (“CLASI”)

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### House Economic Development Committee

### HB 439

**June 18, 2024**

Dear Members of House Economic Development Committee:

Community Legal Aid Society, Inc. (CLASI) urges you to support HB 439.

The affordable housing crisis and the lack of adequate resources for the lowest income Delaware households has contributed to significant levels of homelessness in Delaware.

The Civil Rights of individuals who are experiencing homelessness are routinely violated. This legislation aims to change that by including housing status as a protected class.

We know that everyone serving on this committee is here to improve the lives of Delawareans and we applaud any effort taken to ensure that our communities thrive and that each individual living in Delaware is treated with respect. We particularly commend you for considering this bill.

Every day CLASI is contacted by extremely low-income Delaware Households who are facing eviction—most of these households are facing eviction not for lack of effort, but for lack of luck. For households at or below Federal Poverty limits, a single crisis can lead to eviction and homelessness. A broken bone means missed work and missed rental payments-- a simple health crisis sends households into instability or homelessness.

CLASI is a Fair Housing Enforcement Program and works to ensure that Delawareans do not face discrimination in housing. Every year we conduct many investigations into discriminatory practices and pursue action against those who do not abide by the Fair Housing Act.

We believe that no Delawarean should face discrimination when seeking or maintaining housing. Denial of opportunity to access housing or overt discrimination should not be ignored.

This bill will provide protection to particularly vulnerable subpopulations such as individuals experiencing chronic homelessness. Often these individuals need intensive services and supports to maintain housing or to exit homelessness. These populations are more likely than other subpopulations to experience unsheltered homelessness and discrimination based on their status. Therefore, this additional protection from discrimination will have a positive impact on our most vulnerable citizens.

Thank you for your thoughtful consideration and support of this legislation which will ensure that our state protects the rights of all Delawareans.



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### House Economic Development Committee

### SB 293

**June 18, 2024**

Dear Members of House Economic Development Committee:

Community Legal Aid Society, Inc. (CLASI) urges you to support SB 293.

CLASI is committed to achieving a racially and socially equitable policy that ensures that Delawareans with the lowest incomes have access to safe and affordable housing.

This legislation makes it clear that rental assistance is protected as a Source of Income.

This clarification is important because Delaware households face a severe shortage of affordable and available homes. And, there is a significant gap between income and housing costs in the state. The gap between income and affordable housing is meant to be bridged by housing subsidy.

Under the current law, a landlord can refuse to rent to a household that is using a subsidy to bridge the gap between income and affordability. This means that the lowest-income, most marginalized renters—seniors, individuals with disabilities, families with children—have an even harder time finding housing to rent.

In Delaware, women, and specifically women of color with children, make up a very large percentage of households that receive a subsidy.

This means that landlords can engage in predatory, discriminatory and abusive behavior with few consequences under Delaware law.

Strengthening and enforcing protections for our most marginalized renters is one way that we can ensure that households at or below Federal Poverty limits do not face instability or homelessness.

CLASI is a Fair Housing Enforcement Program and works to ensure that Delawareans do not face discrimination in housing. Every year we conduct many investigations into discriminatory practices and pursue action against those who do not abide by the Fair Housing Act.

We believe that no Delawarean should face discrimination when seeking or maintaining housing.

Thank you for your thoughtful consideration and support of this important, impactful, and just approach to ensuring that our state protects the rights of all Delawareans.

## June 18

I am in support of HB 439 and encourage this committee to move this bill forward with a number of favorable votes. My church has worked with the homeless population of Greater Newark and many of those around the city of Newark I know by first name. Many have good resumes, many are admirable human beings. But they are homeless only because they cannot get a home. Whatever that reason for their inability to find housing, were blatant discrimination to be the reason, that creates a cascade of tragedies ultimately transferring the cost of that burden onto this state.

"We won't lease to you because you don't currently have a permanent home," should never be the sole reason for homelessness.

Just like at one time, "we won't lease to you because of your race", or "we won't lease to you because of your religion", or "we won't lease you because of your sexual preference" were all standard accepted business policies, saying "we won't hire you because of your housing status" can only be vanquished by likewise installing within the Delaware Code, the legal necessity for removing that from any future leasing consideration.

As with those prior milestones, when each of those groups now listed in our anti-discriminatory clause were given legal protections, an opposite group of people protested to demand they continue to be treated unequally.

This time will be no exception. But the opposition will propagate the same style of argument. Using suppositions, innuendo, theoreticals, hearsay and false arguments all based on emotions and not facts, it will always follow the formula of:

"We don't know these people".

"Because we don't know them, we are frightened by them".

"Because we are frightened by them, we need to protect ourselves from them".

"To protect ourselves from them, we can't give them the same rights everyone else has."



Most of you have lived through these arguments with the other now-legal groups. Most of you know that race, religion, national origin, sexual preference, have zero impact on how well an employee can keep a lease. Most of you know that 5 years after the code is changed, it will seem so natural to lease to transients that people will wonder why anyone ever objected to this.

The sponsors should be applauded for the courage to move this bill forward and if I could be presumptuous enough to speak for my friends who are homeless, who tomorrow will be seen in downtown Newark moving carts towards and back from the Empowerment Center, we hope enough of you also share that courage to become supporters of this necessary bill.

Sincerely,

Bill McMurray