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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 455

AN ACT TO AMEND TITLE 25 AND TITLE 31 OF THE DELAWARE CODE RELATING TO RENT INCREASES IN RESIDENTIAL RENTAL AGREEMENTS AND RENTAL UNIT DATA COLLECTION.

1 WHEREAS, rising housing costs have increased the number of Delaware households with unstable housing, and
2 as such, have contributed to the reasons that 8% of Delawareans are living out of their cars, couch surfing, or temporarily
3 living with friends or family; and

4 WHEREAS, when households have stable housing, they can contribute to the local economy, support the
5 economic growth of their families, and manage their families' health and well-being; and

6 WHEREAS, because renters pay a higher percentage of their income for housing than homeowners, renters have
7 trouble saving for a down payment on a home, decreasing Delaware's homeownership rate; and

8 WHEREAS, 28.5% of Delaware households are renters; and

9 WHEREAS, 50% of Delaware renters, 50,000 households, are cost-burdened, paying more than 30% of their
10 income in rent; and

11 WHEREAS, 25% of Delaware renters, 25,000 households, are severely cost-burdened, paying more than 50% of
12 their income in rent; and

13 WHEREAS, nationally 62% of Latinx renters are cost-burdened; 60% of Black renters are cost burdened, and 48%
14 of White renters are cost-burdened; and

15 WHEREAS, low-income renters who experience eviction have an increased risk of homelessness, employment
16 loss, damage to their credit standing, and damage to the mental, physical, and academic health of their children, which then
17 lead to an increased risk of out-of-home placement of their children; and

18 WHEREAS, according to the U.S. Government Accountability Office, it is estimated that a \$100 increase in
19 median rent is associated with a 9% increase in the estimated rate of homelessness; and

20 WHEREAS, 60% of Americans currently live paycheck to paycheck and only 30% of Americans have an
21 emergency fund; and

22 WHEREAS, in the past 3 years, renter income has risen at a much slower rate than is necessary to keep up with
23 rising rental costs; and

24 WHEREAS, renters move much more frequently than owners, and the cost of rent is the driving factor for half of
25 renters' moves; and

26 WHEREAS, housing prices continue to increase around the nation, with a 25% increase in the average rent since
27 February 2020; and

28 WHEREAS, the average rent is expected to continue increasing at a rate of 7% for the next several years; and

29 WHEREAS, according to a survey by online insurance marketplace QuoteWizard, a LendingTree company, from
30 2019 to 2021, Delaware had the highest increase in residential rent in the country; and

31 WHEREAS, for 2024, the fair market rent for a 1-bedroom unit in New Castle County is \$1,451, which is
32 comparable to fair market rent in Philadelphia; and

33 WHEREAS, in New Castle County, only 32 available and affordable rental units exist for every 100 extremely
34 low-income renter households; and

35 WHEREAS, while additional funding for the construction of affordable housing units and additional funding for
36 rental assistant programs are good long-term solutions for our affordable housing crisis, Delaware's vulnerable, cost-
37 burdened renters need a more immediate solution for rent increases that are consistently outpacing their income growth.

38 NOW, THEREFORE:

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

40 Section 1. Amend Part III, Title 25 of the Delaware Code by making deletions as shown by strike through and
41 insertions as shown by underline as follows:

42 Chapter 52. Rent stabilization, rent increase limitations.

43 § 5201. Purpose.

44 The General Assembly finds that the current housing crisis requires a statewide response to address the lack of
45 affordable housing by establishing statewide limitations on rent increases under residential rental agreements.

46 § 5202. Applicability.

47 (a) This chapter applies to rental agreements renewed on or after January 1, 2025, through December 31, 2034.

48 (b) Notwithstanding subsection (a) of this section, this chapter does not apply to any of the following:

49 (1) A single structure with 2 dwelling units in which the owner occupies 1 of the units as the owner's primary
50 residence.

51 (2) Under § 5107(d) of this title, rental agreements where the tenant's rent is a function of the tenant's income
52 under HUD regulations or guidelines.

53 (3) A rental unit if the maximum rent is a function of the Average Median Gross Income under the Low-
54 Income Housing Tax Credit program.

55 (c)(1) If a tenant of a rental unit subject to a rental agreement under this section enters into a sublease for that
56 rental unit, the total rent that the tenant receives for the rental unit may not exceed the amount of rent otherwise allowed
57 under this chapter.

58 (2) Paragraph (c)(1) of this section does not authorize a tenant to sublet or assign the tenant's interest in a
59 rental unit where otherwise prohibited.

60 § 5203. Definitions.

61 For purposes of this chapter:

62 (1) "36-month CPI-U" means the average annual increase of the CPI-U for the most recently available
63 preceding 36-month period, as follows:

64 a. For rent increases that take effect before August 1, the average annual increase in the amount of the
65 CPI-U published for April of the previous calendar year and for April in the 2 prior calendar years.

66 b. For rent increases that take effect on or after August 1, the average annual increase in the amount the
67 CPI-U for April of the current calendar year, the previous calendar year, and the prior calendar year.

68 c. If the CPI-U is not published for April of all 3 of the years under paragraphs (c)(1)a. through b. of this
69 section, the 36-month CPI-U is calculated using the CPI-U for March of the applicable years.

70 (2) "CPI-U" means the Consumer Price Index for All Urban Consumers for the area in which the rental unit is
71 located as follows:

72 a. For New Castle County, the Philadelphia-Camden-Wilmington region.

73 b. For Kent or Sussex counties, the South region.

74 (3) "DSHA" means the Delaware State Housing Authority.

75 (4) "FMR" means the most recent Fair Market Rents published by the U.S. Department of Housing and Urban
76 Development for the county where the rental unit is located.

77 (5) "Previous 12-month period" means the most recent 12 months before any of the following:

78 a. The date the tenant takes possession under the rental agreement.

79 b. The notice of a rent increase under § 5107 of this title.

80 (6) "Previous calendar year" means the most recent calendar year before the current calendar year.

81 (7) "Previous rent" means either of the following:

82 a. For a renewal of a rental agreement, the amount of rent in the current rental agreement that is being
83 renewed.

84 b. For a new rental agreement, the highest amount of rent during the previous 12-month period.

85 (8) “Prior calendar year” means the most recent calendar year before the beginning of the previous calendar
86 year.

87 § 5204. Limitations on rent increases; renewal of a rental agreement.

88 (a) Rent may not be increased more than once during any 12-month period.

89 (b)(1) If a rental agreement renewed under § 5107 of this title includes an increase in the amount of rent for the
90 rental unit, the amount of the rent increase may not exceed 5% of the previous rent unless paragraph (b)(2) of this section
91 applies.

92 (2) If the 36-month CPI-U is greater than 5%, the rent may be increased by the 36-month CPI-U up to an
93 amount that does not exceed 7% of the previous rent.

94 § 5205. Limitations on rent; new rental agreement.

95 (a) If a rental unit has been subject to a rental agreement during the previous 12-month period, the maximum
96 amount of the rent under a rental agreement is as follows:

97 (1) If the amount of the previous rent is equal to or exceeds the FMR, the rent may not exceed the previous
98 rent plus the amount allowed for a rent increase under § 5204(b) of this title.

99 (2) If the amount of the previous rent plus 7% of the FMR equals or exceeds the FMR, the rent may not
100 exceed the previous rent plus the amount allowed for a rent increase under § 5204(b) of this title.

101 (3) If the amount of the previous rent plus 7% of the FMR equals less than the FMR, the rent may not exceed
102 the previous rent plus 7% of the FMR.

103 (b) In addition to the disclosures required under § 5105 of this title, a rental agreement under this section must
104 include the amount of the previous rent and a copy of the DSHA publication under § 5207(a)(3) of this title.

105 § 5206. Limitations on rent; violations.

106 (a) If the amount of rent under a rental agreement does not comply with § 5204 or § 5107(a)(3) of this title, the
107 rent increase does not take effect and the landlord must do all of the following:

108 (1) Immediately reduce the rent to the amount of the previous rent.

109 (2) Refund to the tenant the amount of rent collected that exceeds the amount under paragraph (a)(1) of this
110 section, with interest.

111 (b) If the amount of rent under a rental agreement exceeds the maximum amount of rent allowed under § 5205 of
112 this title, the rent equals the maximum amount allowed under § 5205(a) of this title and the landlord must do all of the
113 following:

114 (1) Immediately reduce the rent to the maximum amount allowed under § 5205(a) of this title.

115 (2) Refund to the tenant the amount of rent collected that exceeds the amount under paragraph (b)(1) of this
116 section, with interest.

117 (c) If the amount of rent under a rental agreement is reduced under subsection (a) or (b) of this section, all other
118 provisions of the rental agreement remain unchanged until the rental agreement is renewed with modifications under § 5107
119 of this title.

120 (d) For purposes of Chapter 56 of this title, an action by a tenant to enforce the requirements under this chapter is
121 the functional equivalent of a covered proceeding under § 5601(3)a. of this title.

122 § 5207. Delaware State Housing Authority; responsibilities.

123 (a) No later than May 1, DSHA shall annually do all of the following:

124 (1) Calculate and publish the 36-month CPI-U for New Castle County and for Kent and Sussex counties.

125 (2) Publish the FMR for each county.

126 (3) Create and publish an explanation of the requirements under this chapter that includes all of the following:

127 a. The most recent 36-month CPI-U for each county.

128 b. The most recent FMR for each county.

129 c. A section where a landlord can provide the amount of the previous rent, the percentage increase from
130 the previous rent, and to indicate whether the increase is based on the 36-month CPI-U or FMR.

131 d. The website where rental unit data is published under § 4006 of Title 31.

132 e. A statement that under § 5301(b) of this title, an amount of rent that violates this chapter is prohibited
133 under § 5301(a)(1) of this title and that under § 5301(b) of this title, all of the following apply to the amount of the
134 rent that is prohibited:

135 1. It is unenforceable, without any requirement that a tenant reserve the right to challenge the amount
136 of the rent before signing the agreement or making rental payments based on the improper amount.

137 2. If the landlord attempts to enforce the amount of the rent that is prohibited, the remedies under §
138 5301(b) of this title apply.

139 (b)(1) Beginning January 1, 2026, DSHA shall annually compile a report regarding the impact of the limits on the
140 amount of rent under this chapter.

141 (2) Beginning January 1, 2027, the DSHA report under paragraph (b)(1) of this section must contain a
142 summary of the data collected under § 4006 of Title 31.

143 (3) No later than January 1, 2034, DSHA shall compile a comprehensive report regarding the effectiveness of
144 this chapter.

145 (4) DSHA shall submit the reports required under this subsection (b) to the President Pro Tempore of the
146 Senate and the Speaker of the House of Representatives, with copies to all members of the General Assembly, the
147 Governor, the Director and the Librarian of the Division of Research of Legislative Council, and the Delaware Public
148 Archives.

149 Section 2. Amend § 5107, Title 25 of the Delaware Code by making deletions as shown by strike through and
150 insertions as shown by underline as follows:

151 § 5107. Renewals of rental agreements with modifications.

152 (a)(1) If the landlord intends to renew the rental agreement subject to amended or modified provisions, the
153 landlord shall give the tenant a minimum of 60 days' written notice prior to the expiration of the rental agreement that the
154 agreement shall be renewed subject to amended or modified provisions, ~~including, but not limited to,~~ including amended
155 provisions relating to the length of term or the amount of security deposit or rent. ~~Such~~

156 (2) A notice under paragraph (a)(1) of this section shall specify ~~the~~ all of the following:

157 a. The modified or amended ~~provisions,~~ the provisions.

158 b. The amount of any rent or security ~~deposit and the~~ deposit.

159 c. The date on which any modifications or amendments ~~shall~~ take effect.

160 (3) If a renewal of a rental agreement under this subsection (a) increases the amount of rent, all of the
161 following apply:

162 a. The amount of the rent increase must comply with the limitations on rent increases under § 5204 of this
163 title.

164 b. The notice under paragraph (a)(1) of this section must include a copy of the Delaware State Housing
165 Authority's publication under § 5207(a)(3) of this title.

166 c. The time period under paragraph (a)(1) of this section does not start until the landlord has provided the
167 tenant the notice required under paragraph (a)(1) of this section and the DSHA publication required under
168 paragraph (a)(3)b. of this section.

169 Section 3. Amend § 5123, Title 25 of the Delaware Code by making deletions as shown by strike through and
170 insertions as shown by underline as follows:

171 § 5123. Rights and responsibilities guide for landlords and tenants.

172 (e) The guide must include all of the following:

173 (12) Requirements related to reporting rental unit data by landlords under § 4006 of Title 31 and the website
174 where rental unit data is published.

175 Section 4. Amend Subchapter I, Chapter 40, Title 31 of the Delaware Code by making deletions as shown by
176 strike through and insertions as shown by underline as follows:

177 § 4006. Rental unit data collection; reporting.

178 (a) For purposes of this section:

179 (1) “Data” means the rental unit data required under this section.

180 (2) “Previous rent” means as defined in § 5203 of Title 25.

181 (3) The following terms mean as defined in § 5141 of Title 25.

182 a. “Landlord”.

183 b. “Previous calendar year”.

184 c. “Rental unit”.

185 (b)(1) DSHA must establish procedures to annually collect and analyze rental housing data in this State. This data
186 will be used to measure the supply and availability of rental housing, including the amount of rent for rental units and other
187 operating characteristics.

188 (2) DSHA must use a survey form to collect the data required under this section. This form must avoid the
189 repeated reporting of unchanged information to minimize the burden for landlords while maintaining an accurate data
190 base.

191 (c) Beginning January 1, 2026, a landlord must annually provide all of the following data to DSHA for each of the
192 landlord’s rental units:

193 (1) Address.

194 (2) Structure type.

195 (3) Year built.

196 (4) Total number of rental units in a building. If more than 1 rental unit in a building, all of the following:

197 a. The distribution of the rental units by size, based on the number of bedrooms.

198 b. Number of rental units with each number of bedrooms, that were re-rented during each month.

199 (5) Number of days the rental unit was vacant during the previous calendar year.

200 (6) Amount of the current rent.

201 (7) Amount of the previous rent.

202 (8) Availability of amenities, including air conditioning, wall-to-wall carpeting, dishwasher, garbage disposal,
203 washer and dryer in the rental unit or on the site, patio-balcony, swimming pool, and tennis courts.

204 (9) Any other information required by DSHA.

205 (d) DSHA must publish the information collected under this section on the DSHA website.

206 (e) A landlord who refuses, fails, or neglects to comply with this section is subject to a civil penalty as follows:

207 (1)a. For a first occurrence, a warning and an opportunity of no less than 30 days to comply with this section.

208 b. For the failure to comply within the opportunity provided under paragraph (e)(1)a. of this section, a
209 civil penalty in an amount that does not exceed \$150 for each violation.

210 (2) For a second or subsequent occurrence, a civil penalty in an amount that does not exceed \$150 for each
211 violation.

212 (3) Each rental unit for which a violation occurs constitutes a separate violation.

213 Section 5. If House Bill No. 381 is enacted into law, Section 3 of this Act takes effect.

214 Section 6. If House Bill No. 381 is not enacted into law, Section 3 of this Act does not take effect.

SYNOPSIS

This Act creates a 10-year program to address the lack of affordable housing in Delaware by establishing statewide limitations on the amount that rent can be increased as follows:

1. When a rental agreement is renewed, the rent increase may not exceed 5% of the previous rent unless the 36-month average annual increase of the Consumer Price Index for All Urban Consumers (CPI-U) is greater than 5%. If the 36-month CPI-U is greater than 5%, the rent may be increased by no more than 7% of the previous rent.

2. For a new rental agreement, the amount rent can be increased from the previous rent is as follows:

- If the amount of the previous rent is equal to or exceeds the Fair Market Rent (FMR), the rent may not exceed the previous rent plus the amount allowed for a rent increase for the renewal of a rental agreement.
- If the amount of the previous rent plus 7% of the FMR equals or exceeds the FMR, the rent may not exceed the previous rent plus the amount allowed for a rent increase for the renewal of a rental agreement.
- If the amount of the previous rent plus 7% of the FMR equals less than the FMR, the rent may not exceed the previous rent plus 7% of the FMR.

The limitations on the amount of rent under this Act do not apply to any of the following:

- Owner-occupied structures with 2 dwelling units.
- Rental agreements when the amount of a tenant's rent is governed by federal regulations or guidelines.
- A rental unit that has not been subject to a rental agreement during the previous 12-month period.

This Act requires that the Delaware State Housing Authority (DSHA) annually do all of the following:

- Calculate and publish the 36-month CPI-U for New Castle County and for Kent and Sussex counties.
- Publish the FMR for each county.
- Create and publish an explanation of the limitations on the amount of rent under this Act.
- Compile a report regarding the effectiveness of the limits on the amount of rent under this Act.

This Act also requires that DSHA establish procedures to annually collect and analyze rental housing data in this State to measure the supply and availability of rental housing, including the amount of rent for rental units and other operating characteristics. Beginning January 1, 2026, landlords must annually provide specific data for rental units to DSHA. If a landlord refuses or fails to comply with the data reporting requirement, the penalty for the first occurrence is a warning and opportunity to comply and for subsequent violations, a civil penalty that does not exceed \$150 for each occurrence.

Finally, if House Bill No. 381 (152nd) is also enacted, this Act requires that Delaware Real Estate Commission's comprehensive, statewide rights & responsibilities guide for landlords and tenants include information about requirements related to reporting rental unit data and the website where this data is published.

Under existing law, this Act does not apply to leases of lots for manufactured homes under Ch. 70 of Title 25.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.