

Wilmington, Delaware
April 1, 2021

#XXXX **WHEREAS**, 30 Del. Code § 2101 provides that no person shall engage in or carry on any trade or business for which a license is required without first having obtained a license from the Department of Finance; and

Sponsor:

Council Member Darby

WHEREAS, Black’s Law Dictionary defines “business” as, “A commercial enterprise carried on for profit; a particular occupation or employment habitually engaged in for livelihood or gain;” and

WHEREAS, Part III of Title 30 of the Delaware Code (“Part III”) goes on to include licensing requirements for contractors, manufacturers, retail and wholesale merchants, and persons engaged in specific occupations including, among many, commercial lessors and tourist home operators; and

WHEREAS, neither Part III nor any other provision of the Delaware Code require lessors of residential properties to obtain a business license; and

WHEREAS, therefore, Delaware residential landlords receive the full benefits of operating as a business without adhering to the standards and authority of applicable Delaware law; and

WHEREAS, currently the City of Wilmington requires all landlords to obtain and maintain a Residential Property Rental License annually and also requires all rental properties to be registered and receive interior and exterior inspections; and

WHEREAS, the Wilmington City Council believes it is necessary and proper to require Delaware landlords of residential property to obtain and maintain a valid business license; and

WHEREAS, currently under Delaware state law, failure of anyone to carry on without a license, any occupation or business for which a license is required, makes them liable for the

payment of license fees and a fine of up to \$3,000, or imprisonment not more than two years, or both; and

WHEREAS, landlords in Delaware are not currently subjected to such requirements or enforcement; and

WHEREAS, a landlord's noncompliance with state law can potentially harm the physical, mental and emotional well-being of Delaware renters and the State's interest in decreasing homelessness; and

WHEREAS, the Wilmington City Council believes that landlords should be held to the same standards as all Delaware business owners, and landlords who seek remedy under the law should first be required to show that they have been compliant with the law; and

WHEREAS, Delaware legal aid organizations, researchers and housing advocates have argued, and the Wilmington City Council agrees, that the ease with which Delaware landlords can evict tenants contributes to Delaware's high eviction rates and homelessness statewide; and

WHEREAS, the Princeton Eviction Lab—responsible for the first ever nationwide eviction data sets on evictions for the years 2000 to 2016—found Delaware's 2016 eviction rate was 5.1%, averaging approximately 14 evictions per day, while the 2016 national average was approximately 3%; and

WHEREAS, the Biden School of Public Policy & Administration Center for Community Research & Service examined a sample of 300 eviction cases from Delaware's Justice of the Peace Court #13, Delaware's busiest eviction court, and found that 82% of the eviction hearings held resulted in landlords receiving a possession judgment to evict, 72% of which were by default; and

WHEREAS, nearby jurisdictions including Philadelphia, PA, Washington D.C., Baltimore County, Maryland, Anne Arundel County, Maryland, and Ocean City, Maryland have recognized the complexity of the residential rental business in that it is not merely a source of income for investor-owners but also a source of habitable, stable housing for their residents; and

WHEREAS, the aforementioned jurisdictions have enacted laws which prevent a landlord from filing an eviction action or having an eviction or other default or consent judgment entered against a tenant if the landlord did not have a valid business license during the entire relevant period or does not possess a valid business license at the time of filing a complaint; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the Wilmington City Council urges the Delaware General Assembly to enact legislation mandating that all Delaware landlords maintain a valid business license and prohibiting landlords operating in Delaware without a valid business license from filing an eviction action or having a judgment entered against a tenant.

Passed by City Council,

ATTEST: _____

City Clerk

SYNOPSIS: This Resolution urges the Delaware General Assembly to enact legislation that will hold landlords of residential property to the same standards and licensing requirements as other Delaware businesses. Additionally, this Resolution urges the Delaware General Assembly to protect tenants from noncompliant landlords by prohibiting landlords operating in Delaware without a valid business license from filing an eviction action or having a judgment entered against a tenant.