

Wilmington, Delaware
February 23, 2023

#xxxx

Sponsor:

**Council
Member
Darby**

WHEREAS, the Wilmington City Council wishes to express support for House Bill No. 37 (HB No. 37), An Act to Amend Title 25 of the Delaware Code Relating to Landlord Obligations and Tenant Remedies, which allows tenants to withhold rent payments or pay rent into an escrow account if a landlord fails to rectify essential maintenance issues; and

WHEREAS, § 5305 of the Delaware Code requires that “at all times during the tenancy,” a rental unit must not endanger the health, welfare, or safety of the tenants or occupants. HB No. 37 provides recourse for tenants if such conditions are not met, while also providing further assurance that landlords receive outstanding rent balances expeditiously when the problems in dispute have been rectified; and

WHEREAS, it is the policy of this State that an effective mechanism is established for the repair and prevention of dangerous conditions and defects in leased premises and that meaningful sanctions are imposed on landlords who allow such conditions to exist. HB No. 37 permits tenants to bring an action of rent escrow to pay rent into the court or to refuse to pay rent and cite the existence of such defects or conditions as an affirmative defense to an action for summary possession or an action for nonpayment of rent; and

WHEREAS, HB No. 37 further requires that tenants give proper notice and a reasonable opportunity for the landlord to complete the necessary repairs. This Act authorizes the Court to evaluate whether tenants’ claims are substantiated and make appropriate deliberations, which may include “termination of the lease and return of the leased premises to the landlord, order that the action for rent escrow be dismissed, order that the amount of rent be reduced in

an amount determined by the court to be fair and equitable, or order the landlord to make the repairs or correct the conditions complained of by the tenant”; and

WHEREAS, the United States Census estimated that from 2017-2021, more than half of Wilmington’s residents were renters. The risks of living in substandard housing are compounded for renters who must depend on landlords to make critical repairs to their residences. Standard lease agreements preclude renters from making major modifications to their residences without the landlords’ permission. This also implies that renters often lack the legal standing to qualify for home repair assistance programs to subsidize home maintenance costs; and

WHEREAS, 73% of the City’s housing stock was built prior to 1970. According to an assessment of housing repair needs conducted by the University of Delaware Center for Community Research and Service, areas of inner-city Wilmington are particularly susceptible to the presence of substandard housing due to the advanced age of the housing stock, elevated poverty levels, and the housing challenges faced by predominantly Black and Latino populations. It sets an acceptable standard for good faith negotiations between tenants and landlords, while also providing access to arbitration for both landlords and tenants in matters concerning health and safety risks to tenants; and

WHEREAS, the 2022-2025 Strategic Plan of the Council of the City of Wilmington aims to cultivate a “Stabilized Wilmington” and “Growing Wilmington” where neighborhood stabilization and revitalization are key priorities. HB No. 37 is complimentary to both these goals because it bolsters our City’s ability to safeguard residents’ rights to dignity and humane living conditions for all Wilmingtonians, regardless of their economic status, race, ethnicity, or other protected factors.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that this Legislative body is in support of House Bill No. 37, which provides guidance and protections to both landlords and tenants when life- or health-threatening defects are present in a renter's place of residence.

BE IT FURTHER RESOLVED this Council encourages the Delaware General Assembly to support this important provision to help safeguard access to adequate housing and quality of life for renters in the City of Wilmington and throughout the State of Delaware.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: This Resolution expresses support for the passage of House Bill No. 37, which aims to amend Title 25 of the Delaware Code relating to landlord obligations and tenant remedies. House Bill No. 37 provides a framework for good faith negotiations and protections to both landlords and tenants when life- or health-threatening defects are present in a renter's place of residence.