AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE TO ALLOW RESIDENTIAL TENANTS IN CITY PROPERTIES TO DEPOSIT WITHHELD RENT IN A CITY-HELD ESCROW ACCOUNT_____

Rev. 1
#0296

Sponsor:

Council Member McCoy

WHEREAS, the State of Delaware Landlord-Tenant Code allows tenants to withhold rent from landlords if certain conditions exist; and

WHEREAS, tenants who withhold rent may need a secure place to deposit it; and

WHEREAS, the City wants to protect tenants (and landlords) by providing a safe, neutral place to deposit withheld rent; and

WHEREAS, City Council deems it necessary and appropriate to amend Chapter 34 of the City Code to establish a voluntary rent escrow program.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 34 of the City Code is hereby amended by deleting Sections 34-151 through 34-195 in their entirety.

SECTION 2. Chapter 34 of the City Code is hereby amended by adding in a new Section 34-151 to read as follows:

Sec. 34-151. – Voluntary Rent Escrow Program.

a) There is hereby authorized a voluntary rental escrow program for residential tenants to deposit withheld rent with the City to serve as evidence of funds in landlord-tenant actions.

b) The Department of Licenses and Inspections shall develop an affidavit consistent with this Section.

c) Eligibility. To be eligible to use this section, a tenant must:
   (1) Be a residential tenant currently occupying a rental property; and
   (2) Within the limits of the City of Wilmington; and
   (3) Have not yet received a written notice that rent is late; and

(4) Have sent their landlord a written request to make repairs; and

(5) Given the landlord a reasonable time period, as defined in 25 *Del. C.* §§ 5307 or 5308, in which to make repairs, unless:

    a. There is a lack of heat, hot water, water, electricity, or conditions exist that materially deprives a tenant of a substantial part of the benefit of the tenant's bargain.

d) Tenants' Obligations

(1) Fill out an affidavit with the Department of Licenses and Inspections; and

(2) Bring lease and all written notices provided to the Landlord; and

(3) Bring the money to be withheld in escrow.

    a. The amount of money withheld cannot exceed 2/3 of the monthly rent

e) City's Obligations

(1) Maintain copies of the affidavit and provide them upon sufficient notice; and

(2) Deposit the funds in an escrow account with an established local bank; and

(3) Provide the tenant a receipt verifying the deposit; and

(4) Sending notice to the landlord, which counts as notice to protect against retaliatory acts under 25 *Del. C.* 5516; and

(5) Coordinate inspections of the rental property in accordance with the City Code; and

(6) Refer the offending landlord to the Law Department for prosecution under Chapter 34 of the City Code.

f) Fund Release

(1) The City will release the funds upon receiving:

    a. A Court Order; or

    b. A joint affidavit signed by the landlord and the tenant certifying the release of funds

SECTION 3. Chapter 34 of the City Code is hereby amended by renumbering Section 34-196 as Section 34-152, and making Sections 34-153 through 34-230 reserved as follow:

Sec. 34-152. – Rights of tenants and landlord not affected.

Secs. 34-<u>153</u>—34-230. – Reserved.

SECTION 4. This Ordinance shall become effective 30 days after an employee is assigned to manage the Escrow Accounts, and an Escrow Agreement is set up with a local financial institution.

First Reading…………….May 4, 2023
Second Reading………….May 4, 2023
Third Reading…………...

Passed by City Council,

_____
President of City Council

ATTEST:_____
City Clerk

Approved this ____ day of _____, 2023.

_____
Mayor

SYNOPSIS: This Ordinance amends Chapter 34 of the City Code to establish a voluntary escrow program for tenants living in City properties.

FISCAL IMPACT STATEMENT: This Ordinance's fiscal impact should be *de minimis.*

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