

# STATE OF NEW YORK

8140--A

## IN SENATE

March 29, 2020

Introduced by Sens. KAVANAGH, BAILEY, BIAGGI, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, LIU, MAY, MAYER, MYRIE, PARKER, PERSAUD, RIVERA, SALAZAR, SAVINO, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public housing law, in relation to establishing a COVID-19 emergency rental assistance program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public housing law is amended by adding a new article  
2 14 to read as follows:

### ARTICLE XIV

#### COVID-19 EMERGENCY RENTAL ASSISTANCE PROGRAM

##### Section 600. Legislative findings.

###### 601. Definitions.

###### 602. Authority to implement emergency rental assistance.

###### 603. Eligibility.

###### 604. Payment of emergency vouchers.

###### 605. Rental obligation.

###### 606. Assistance payment.

###### 607. Verification of income and assets.

###### 608. Division of a recipient family.

###### 609. Fair housing obligations.

15 § 600. Legislative findings. The legislature finds that it is in the  
16 public interest and an obligation of government to ensure that individ-  
17 uals and families are not rendered homeless or severely financially  
18 burdened because of an inability to pay the cost of housing and other  
19 necessities due to loss of income related to the widespread outbreak of  
20 the coronavirus commonly known as COVID-19. The legislature further  
21 finds that providing funding for individuals and families to pay rent  
22 that they would otherwise have difficulty paying will promote the  
23 stability and proper maintenance of the housing stock and assist commu-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 nities in recovering from the adverse social and economic effects of the  
2 COVID-19 outbreak.

3 § 601. Definitions. For the purposes of this article:

4 1. "Adjusted income" shall mean income minus any deductions allowable  
5 by the rules promulgated by the commissioner pursuant to this section.  
6 Mandatory annual deductions shall include:

7 (a) four hundred eighty dollars for each dependent;

8 (b) four hundred dollars for any elderly family member and/or a family  
9 member with a disability;

10 (c) any reasonable child care expenses necessary to enable a member of  
11 the family to be employed or to further his or her education;

12 (d) the sum total of unreimbursed medical expenses for each elderly  
13 family member and/or family member with a disability plus unreimbursed  
14 attendant care and/or medical apparatus expenses for each member of the  
15 family with a disability which are necessary for any member of the fami-  
16 ly, including the member who is a person with a disability, to be  
17 employed greater than three percent of the annual income; and

18 (e) child support payments paid by the individual or member of the  
19 family.

20 2. "Child care expenses" shall mean expenses related to the care of  
21 children under the age of thirteen.

22 3. "Dependent" shall mean any member of the family who is neither the  
23 head of household, nor the head of the household's spouse, and who is  
24 under the age of eighteen, a person with a disability, or a full-time  
25 student.

26 4. "Disability" shall mean:

27 (a) the inability to engage in any substantial gainful activity by  
28 reason of any medically determinable physical or mental impairment which  
29 can be expected to result in death or which has lasted or can be  
30 expected to last for a continuous period of not less than twelve months;  
31 or

32 (b) in the case of an individual who has attained the age of fifty-  
33 five and is blind, the inability by reason of such blindness to engage  
34 in substantial gainful activity requiring skills or abilities comparable  
35 to those of any gainful activity in which they have previously engaged  
36 with some regularity and over a substantial period of time; or

37 (c) a physical, mental, or emotional impairment which:

38 (i) is expected to be of long-continued and indefinite duration;

39 (ii) substantially impedes his or her ability to live independently;  
40 and

41 (iii) is of such a nature that such ability could be improved by more  
42 suitable housing conditions; or

43 (d) a developmental disability that is a severe, chronic disability of  
44 an individual that:

45 (i) is attributable to a mental or physical impairment or combination  
46 of mental and physical impairments;

47 (ii) is manifested before the individual attains age twenty-two;

48 (iii) is likely to continue indefinitely;

49 (iv) results in substantial functional limitations in three or more of  
50 the following areas of major life activity:

51 (A) self-care;

52 (B) receptive and expressive language;

53 (C) learning;

54 (D) mobility;

55 (E) self-direction;

56 (F) capacity for independent living;

1 (G) economic self-sufficiency; and  
2 (v) reflects the individual's need for a combination and sequence of  
3 special, interdisciplinary, or generic services, individualized  
4 supports, or other forms of assistance that are of lifelong or extended  
5 duration and are individually planned and coordinated.

6 5. " Dwelling unit" shall mean a single-family dwelling, including  
7 attached structures such as porches and stoops; or a single-family  
8 dwelling unit in a structure that contains more than one separate resi-  
9 dential dwelling unit, and in which each such unit is used or occupied,  
10 or intended to be used or occupied, in whole or in part, as the resi-  
11 dence of one or more persons.

12 6. "Elderly" shall mean sixty-two years of age or older.

13 7. "Fair market rent" shall mean the fair market rent for each rental  
14 area as promulgated annually by the United States department of housing  
15 and urban development's office of policy development and research pursu-  
16 ant to 42 USC 1437f.

17 8. (a) "Family" shall mean a group of persons living in the same  
18 household who:

19 (i) are related by birth, marriage or adoption. This group includes,  
20 but is not limited to a family with or without children (a child who is  
21 temporarily away from the home because of placement in foster care is  
22 considered a member of the family), an elderly family, a near-elderly  
23 family, a disabled family, a displaced family, or the remaining member  
24 of a tenant family; or

25 (ii) are two or more individuals who are not related by blood,  
26 marriage, adoption, or other operation of law, but who can demonstrate  
27 that they have lived together previously and certify that each individ-  
28 ual's income and other resources will be available to meet the needs of  
29 the family.

30 (b) Each family shall identify the individuals to be included in the  
31 family at the time of application, and shall update this information if  
32 the family's composition changes.

33 (c) The commissioner shall have the discretion to determine if any  
34 other group of persons qualifies as a family.

35 9. "Income" shall mean income from all sources of each member of the  
36 household, including all wages, tips, over-time, salary, recurring  
37 gifts, returns on investments, welfare assistance, social security  
38 payments, child support payments, unemployment benefits, and any other  
39 government benefit or cash grant. The term "income" shall not include:  
40 employment income from children under eighteen years of age, employment  
41 income from children eighteen years of age or older who are full-time  
42 students, foster care payments, sporadic gifts, groceries provided by  
43 persons not living in the household, supplemental nutrition assistance  
44 program (SNAP) (food stamp) benefits, earned income disregard (EID), or  
45 the earned income tax credit.

46 10. "Individual" shall mean a single person.

47 11. "Manufactured home tenant" shall have the same meaning as defined  
48 by section two hundred thirty-three of the real property law.

49 12. "Owner" shall mean any private person or any entity, including a  
50 cooperative, an agency of the federal government, or a public housing  
51 agency, having the legal right to lease or sublease dwelling units.

52 13. "Public housing agency" shall mean any county, municipality, or  
53 other governmental entity or public body that is authorized to adminis-  
54 ter any public housing program, or an agency or instrumentality of such  
55 an entity, and any other public or private non-profit entity that admin-  
56 isters any other public housing program or assistance.

1 14. "Voucher" shall mean a document issued by the housing trust fund  
2 corporation pursuant to this article to an individual or family selected  
3 for admission to this program, which describes the program and the  
4 procedures for approval of rental assistance for the individual or fami-  
5 ly and states the obligations of the individual or family under the  
6 program.

7 § 602. Authority to implement emergency rental assistance. The commis-  
8 sioner, as soon as practicable and subject to the appropriation of funds  
9 for this purpose, shall implement a program of rental assistance in the  
10 form of emergency vouchers for those eligible pursuant to section six  
11 hundred three of this article. The housing trust fund corporation shall  
12 issue vouchers pursuant to this article, subject to appropriation of  
13 funds for this purpose, and may contract with the division of housing  
14 and community renewal to administer any aspect of this program in  
15 accordance with the provisions of this article. The commissioner may  
16 delegate administration of a portion of this program to the department  
17 of labor for those applying for or receiving unemployment benefits. The  
18 commissioner may also delegate the administration of portions of this  
19 program to any county, city, town, or public housing agency in accord-  
20 ance with the provisions of this article.

21 § 603. Eligibility. The commissioner shall promulgate standards for  
22 determining eligibility for this program.

23 1. An individual or family shall be eligible for this program if,  
24 because of the outbreak of COVID-19:

25 (a) the individual or family has suffered a substantial loss of income  
26 as defined by the commissioner; and

27 (b) the individual or family rents their primary residence in the  
28 state of New York, including both tenants of dwelling units and manufac-  
29 tured home tenants; and

30 (c) the individual or family's monthly rent obligation is greater than  
31 thirty percent of their current monthly adjusted income.

32 2. In addition to the eligibility criteria in subdivision one of this  
33 section, the commissioner may promulgate limits on assets as part of any  
34 determination of eligibility for this program.

35 3. An individual or family in receipt of rental assistance under this  
36 program shall no longer be financially eligible for assistance when:

37 (a) the individual or family's monthly income has been restored to an  
38 amount equal to or greater than the individual's or family's income  
39 prior to the eligible loss suffered in paragraph (a) of subdivision one  
40 of this section; or

41 (b) the individual or family's monthly rent obligation is no longer  
42 greater than thirty percent of their monthly adjusted income.

43 4. An individual or family shall no longer be eligible for this  
44 program after three months of rental assistance is paid, unless extended  
45 at the discretion of the commissioner.

46 5. An individual full-time college student or family consisting exclu-  
47 sively of full-time college students is ineligible for this program  
48 unless each individual in the household satisfies the following condi-  
49 tions:

50 (a) the individual shall have established a household separate from  
51 his or her parents or legal guardians for at least one year prior to  
52 application for admission or shall meet the United States department of  
53 education's definition of independent student; and

54 (b) the individual shall not be claimed as a dependent by his or her  
55 parents or legal guardians pursuant to Internal Revenue Service (IRS)  
56 regulations.

1 6. Rental assistance shall be terminated when the recipient individual  
2 or family becomes ineligible for this program for rent due after the  
3 date the recipient becomes ineligible.

4 7. Pursuant to 8 U.S.C. 1621(d), the commissioner may use state funds  
5 allocated for this program to provide benefits to individuals or fami-  
6 lies who, but for 8 U.S.C. 1621(a), would otherwise be eligible for  
7 benefits.

8 § 604. Payment of emergency vouchers. The emergency voucher shall be  
9 paid directly to the owner of the dwelling unit or manufactured home  
10 park occupied by the voucher recipient by the housing trust fund corpo-  
11 ration for rent due from the voucher recipient and any rental arrears  
12 owed that were not paid as a result of the loss of income described in  
13 paragraph (a) of subdivision one of section six hundred three of this  
14 article. Any rental arrears payment shall be equal to the amount for  
15 which the tenant would have been eligible as determined by section six  
16 hundred six of this article, plus any late fees incurred due to such  
17 nonpayment, up to the legal maximum as prescribed by section two hundred  
18 thirty-eight-a of the real property law.

19 § 605. Rental obligation. 1. Each recipient of housing assistance  
20 under this section's monthly rental obligation shall be thirty percent  
21 of the monthly adjusted income of the family or individual.

22 2. If an individual or family shares a dwelling or manufactured home  
23 with one or more individuals who are not part of their family as defined  
24 by this article, the monthly rental obligation of the individual or  
25 family shall be calculated using the portion of the individual or fami-  
26 ly's rent for which they are responsible rather than the entire rent for  
27 the shared dwelling unit or manufactured home.

28 § 606. Assistance payment. 1. The amount of the monthly rental assist-  
29 ance payment with respect to any dwelling unit or manufactured home  
30 shall be the difference between the monthly rent the owner is to receive  
31 for the unit or home and the monthly rent the family or individual is  
32 required to pay under section six hundred five of this article.

33 2. Notwithstanding subdivision one of this section, if the rent for  
34 the individual or family exceeds two hundred fifty percent of fair  
35 market rent for the rental area, the monthly assistance payment for the  
36 individual or family shall be the difference between the rental obli-  
37 gation established in section six hundred five of this article and two  
38 hundred fifty percent of the fair market rent for the rental area.

39 3. In addition to any rental assistance payments, the commissioner  
40 shall also authorize the full payment of utilities for any recipient  
41 individual or family for the time period during which the individual or  
42 family qualifies for rental assistance pursuant to section six hundred  
43 three of this article. Any such payments shall be paid directly to the  
44 utility.

45 § 607. Verification of income and assets. The commissioner shall  
46 establish procedures which are appropriate and necessary to assure that  
47 data regarding income, and assets to the extent necessary to determine  
48 eligibility, provided by individuals and families applying for or  
49 receiving assistance under this article is complete and accurate. In  
50 establishing such procedures, the commissioner shall randomly select a  
51 sample of individuals and families to authorize the commissioner to  
52 obtain information on these individuals and families for the purpose of  
53 income and asset verification, or to allow those individuals and fami-  
54 lies to provide such information themselves. Such information may  
55 include, but is not limited to, data concerning unemployment compen-  
56 sation and federal income taxation and data relating to benefits made

1 available under the Social Security Act, 42 U.S.C. 301 et seq., the Food  
2 and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., or title 38 of the  
3 United States code. Any such information received pursuant to this  
4 section shall remain confidential and shall be used only for the purpose  
5 of verifying incomes, and assets if applicable, in order to determine  
6 eligibility of individuals and families for benefits, and the amount of  
7 such benefits if any, under this section.

8 § 608. Division of a recipient family. 1. In those instances where a  
9 family assisted under this article becomes divided into two otherwise  
10 eligible individuals or families due to divorce, legal separation or the  
11 division of the family, where the new units cannot agree as to which new  
12 unit should continue to receive the assistance, and where there is no  
13 determination by a court, the commissioner shall consider the following  
14 factors to determine which of the individuals or families will continue  
15 to be assisted:

- 16 (a) which of the two new units has custody of dependent children;
- 17 (b) which family member was the head of household when the voucher was
- 18 initially issued (listed on the initial application);
- 19 (c) the composition of the new units and which unit includes elderly
- 20 or disabled members;
- 21 (d) whether domestic violence was involved in the breakup;
- 22 (e) which family members remain in the unit; and
- 23 (f) recommendations of social service professionals.

24 2. Documentation of these factors shall be the responsibility of the  
25 requesting parties. If documentation is not provided, the commissioner  
26 shall terminate assistance on the basis of failure to provide informa-  
27 tion necessary for a recertification.

28 3. Any individual or family who loses benefits pursuant to this  
29 section may submit a new application for benefits under this program as  
30 a separate individual or family.

31 § 609. Fair housing obligations. Nothing in this section shall lessen  
32 or abridge any fair housing obligations promulgated by municipalities,  
33 localities, or any other applicable jurisdiction.

34 § 2. This act shall take effect immediately.