

Proposal of Vermont Landlords Association and Vermont Legal Aid for Use of Coronavirus Relief Fund Monies for Rental Housing Stabilization

May 29, 2020

Primary Goal: During the public health emergency, Keep Vermonters Housed – Allow Vermonters to keep their rented homes and avoid homelessness. Avert termination of tenancy and court eviction by granting back rent funds.

Secondary Goal: Compensate landlords for some of their losses due to CARES Act moratorium, Judicial Emergency, and stay of eviction proceedings.

Program designed to maximize the number of households who remain housed during COVID-19¹

The proposal assumes a single statewide administrator to ensure consistency and uniform expediency.

This program was designed in consultation with the Vermont State Housing Authority, as an experienced housing services provider which could provide insight as to important considerations and possible approaches.

Overview of Program

A. Who is eligible to apply

1. Both tenants and landlords can apply if unit is occupied (see tenant groups below)
2. Homeless person or household

B. Grant money can be used for

1. Past due rent, including past due mobile home lot rent
2. First and last month's rent and security deposit to secure affordable unit for tenant in Group 3
3. First and last month's rent, security deposit, and full rent to the end of 2020 for households currently experiencing homelessness

C. Simple application process (certifications under penalty of perjury)

1. Certification (a) of past due rent by LL by month (simple form similar to shelter expense form or rent ledger) and (b) that if the unit is out of compliance with the Rental Housing Health Code or any health and safety order, the LL will bring the unit into compliance within 30 days of obtaining access to the unit.

¹ The requirements for use of the Coronavirus Relief Fund: "USE OF FUNDS.—A State, ... shall use the funds provided under a payment made under this section to cover only those costs of the State, ...that: (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);(2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020." Section 5001(d) of the CARES Act.

2. Certification by T (a) of all household members covered by grant, and (b) that if there are detailed health and safety violations, T will allow LL access to make repairs.

D. Allow successive certifications that rent is past due – payment as long as Rental Housing Stabilization Fund lasts.

E. Calculation and conditions of grant

1. Grounds for termination of tenancy and/or nonpayment existed as of March 1, 2020, or subsequent to that date.
2. Grant pursuant to initial application will cover rent owed to date of disbursement, but see Group 4. Receipt of rental arrears funding (e.g. HOP) that did not fully resolve the nonpayment does not preclude eligibility.
3. Grants limited to Vermont State Housing Authority (VSHA) payment standard² for the county, or what is unpaid, whichever is less, times the number of months unpaid.
4. LL must waive any late fees and any rent in excess of VSHA Payment Standards for the months of the grant unless T in Group 4, though LL may resume contract rent for months not covered by grant.
5. LL must agree to drop current eviction and past cause for eviction, and must agree not to evict for non-payment of rent if T's application for rent arrears grant is pending or for a specific period of time depending on the applicable tenant group.
6. LL must agree not to increase contract rent amount before January 1, 2021.

F. Decisions and Appeals.

1. All decisions will be made within 10 working days of submission of certification from landlord and tenant.
2. All decisions must be in writing and conveyed to the T and LL; email is acceptable form if the Administrator has email addresses.
3. The Administrator will have an expedited appeals process by which a hearing will be held with anyone designated by the Administrator who was not the original decision-maker or that person's subordinate, and a decision is made within 10 days of the request for an appeal.

G. Program Enhancements

1. Any monies previously designated for the Re-Housing Recovery Fund that have not been awarded by September 1, 2020, are automatically transferred to this Rental Housing Stabilization Fund.
2. Program to be reviewed in September and November. This will allow better prediction of what the need is and whether program should be enhanced and/or rules modified to maximize number of households which retain or obtain housing. This review should be coordinated with a review of other Coronavirus Relief Fund programs, such as the Re-Housing Recovery Fund, to determine whether the money remaining to be spent by December 30, 2020, should be shifted between programs to ensure as much is spent as possible.

H. Specific Rules Depending on Circumstances of Tenant

² Using a county-specific payment standard provides fair rents across counties, with no landlord are getting a windfall or a shortfall. The VSHA payment standard is similar to the HUD fair market rent for the county but reflects the actual rents by county slightly more accurately (i.e. Franklin County rents are not combined with Chittenden County rents).

Group 1: LL and T have agreed on repayment agreement or LL offered temporary reduction in rent and tenant agreed. Grant = unpaid or postponed contract rent. LL must agree to not evict for non-payment for the same number of months that were covered by the original and any subsequent grant.

Group 2: T is behind in rent. Grant = under rules above. LL must agree to not evict for non-payment for number of months covered by the original and any subsequent grant.

Group 3: Tenancy is not sustainable. Grant = the number of months covered by grant with unpaid contract rent not to exceed VSHA Payment Standard + up to the number of months covered by grant³; LL agrees not to evict for the same number of months that were covered by the grant. T would have to assert this claim and agree to accept navigation and support services to assist in move to sustainable housing; T may be granted first and last month's rent and security deposit to get into more affordable housing. T would have to reapply for grant while seeking permanent housing.

Group 4: LL applies, claims T has money to pay rent but is not paying (the "recalcitrant T"). Grant = payment of half of past due rent; LL can evict T and sue for eviction and money judgment once stay lifted; LL and/or Administrator of program must send T notice of LL's application and provide T opportunity to indicate reasons not paying rent (and will allow LL access if reason is health and safety violation) or to prove actually in Group 2 or 3.

Group 5: Applicant is Currently Homeless. Grant = full rent payment to end of 2020, plus last months' rent and security deposit; applicant must agree to accept navigation and support services.⁴

Administration of Program

Vermont Legal Aid and the Vermont Landlords Association understand that ACCD will select the housing service provider(s) which will disburse the grants, and offer the following thoughts:

- We recommend that only one entity be charged with administering this fund. One entity will speed up creation of the program, ensure similar access and decisions statewide, and reduce the duplication of training, supervision, systems and form development, and similar administrative services.
- No later than August 10, 2020, and thereafter upon request from a legislative committee, the Administrator should issue a report to the legislature detailing the

³ This group is the one most likely to become homeless and may need many months of support in order to obtain appropriate housing. Thus, for a tenant who is 6 months behind in rent, the amount of the grant would be the 6 months of past due rent and the possibility of another 6 months to move to appropriate housing. The State avoids the higher cost of motel stays and emergency services and the landlord benefits from this arrangement because the landlord will be paid for all the months the tenant is in the housing (up to VSHA payment standard) and avoids the strong likelihood that the tenant would never have paid any rent arrearage had an eviction proceeded.

⁴ We appreciate that many homeless individuals and families may need rental assistance and support services beyond 2020. We hope the State and legislature will find the resources to keep people housed rather than let their situations revert to homelessness and ultimately greater expenditures for motels, emergency health care, etc. At a minimum, persons in Group 5 who are placed in housing should not become ineligible for rehousing; current rehousing rules require actual homelessness before benefits can be awarded.

number and amount of grants awarded, in each category, by county, as well as any other data the legislature desires.

- The Administrator should be able to immediately use direct deposit and issue 1099s to landlords, should have an annual audit, and have established relationships with case management service providers statewide.
- The Administrator could be a housing provider, and have previous or current relationships with any grantee under this program and so must assure that decisions in this program are made in accordance with the rules of this program, and without regard to any previous information or decisions known to the administrator, and that no tenant or other landlord will be benefited or harmed by the previous knowledge or decisions.
- We recommend that ACCD seriously consider an application by Vermont State Housing Authority to administer these funds. VSHA has experienced, knowledgeable staff, has worked with landlords statewide, has an existing system for direct deposits of monies into landlords' bank accounts, has an annual audit which would help ensure appropriate use of these monies according to state and federal standards, and has the capacity to capture the data regarding program expenditure that the legislature desires. It would also be able to transition some applicants to vouchers, were that appropriate.