

HOUSING PROVISIONS IN EMERGENCY COVID-19 RELIEF PACKAGE

Congressional leaders have reached a deal on an emergency COVID-19 relief bill that **includes \$25 billion in emergency rental assistance and an extension of the CDC's federal eviction moratorium through January 31!**

The relief bill will provide essential and desperately needed protections for renters, tens of millions of whom would otherwise be at risk of losing their homes this winter. This achievement was made possible by the extraordinary advocacy of NLIHC's members, partners and allies throughout the country, and the leadership and tenacity of congressional champions Senator Sherrod Brown (D-OH), Representatives Maxine Waters (D-CA) and Denny Heck (D-WA), bipartisan negotiators Senators Mark Warner (D-VA), Susan Collins (R-ME), Joe Manchin (D-WV), and Rob Portman (R-OH), Senate Minority Leader Chuck Schumer (D-NY), and House Speaker Nancy Pelosi (D-CA).

EMERGENCY RENTAL ASSISTANCE

Under the bipartisan proposal, \$25 billion for emergency rental assistance would be funded through the Coronavirus Relief Fund (CRF) and administered by the U.S. Department of the Treasury.

Allocation

Of the total amount of rental assistance, \$400 million would be allocated to U.S. territories and \$800 million to tribal communities. The remaining funds would be distributed within 30 days to states and cities with populations of 200,000 or more. Each state would receive a minimum of \$200 million. See NLIHC's estimate of state allocations [here](#).

Uses of Funds

At least 90% of the funds must be used to provide financial assistance, including back and forward rent and utility payments, and other housing expenses. Assistance can be provided for 12 months. States and localities can provide an additional 3 months of assistance "if necessary to ensure housing stability for a household."

When providing forward rent, assistance can only be given for 3 months, though households can subsequently reapply for additional assistance. To the extent that households have back rent, states and localities may not make commitments for forward rent payments unless they have also provided assistance to reduce an eligible household's rental arrears.

Recipients would be able to use the remainder of funds (up to 10%) to provide case management and other services related to the pandemic, as defined by the Treasury Secretary, intended to help keep households stably housed.

Under the legislation, cities and states can make payments directly to landlords or utility companies on behalf of renters. If a landlord refuses to accept the rental assistance, cities and states can give assistance directly to the renter, who can then make payments to the landlord or utility provider.

Eligibility

Funds must be used for households with incomes below 80% of area median income (AMI), and states and localities must prioritize households below 50% of AMI or those who are unemployed and have been unemployed for 90-days. States and localities can provide additional prioritization of funds.

Income determination would be based on either the household's total income in 2020, or the monthly income the household is receiving at the time of application. If income determinations are made based on the applicant's monthly income, the state or locality must re-determine eligibility after 3 months.

Under the bill, households are eligible for emergency rental assistance funds if one or more individuals: (1) has qualified for unemployment benefits or can attest in writing that he or she has experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the pandemic; (2) can demonstrate a risk of experiencing homelessness or housing instability; and (3) has a household income below 80% AMI.

A household receiving other forms of federal housing assistance is not be eligible to receive emergency rental assistance.

Rental assistance provided through the CRF would not be regarded as income or considered when determining eligibility for federal benefits or federally-assisted programs.

Role for Landlords

The proposed legislation allows landlords and property owners to aid tenants in applying for assistance or applying on the renter's behalf. If a landlord applies for assistance on behalf of their tenant, the tenant must cosign the application, the landlord must provide the tenant documentation of the application, and the payments must be used to pay the tenant's rental obligations.

Deadlines

Beginning on September 30, 2021, the Treasury Secretary is required to recapture excess funds not obligated by a state or locality and to reallocate and repay these dollars to eligible grantees who, at the time of such reallocation, have obligated at least 65 percent of the amount originally allocated and have met other criteria. The amount of any such reallocation shall be determined based on demonstrated need within a grantee's jurisdiction, as determined by the Secretary.

Funds are available through December 31, 2021. States and localities can request to the Treasury Secretary a 90-day extension for any funds reallocated to grantees.

Any unspent funds will be reverted back to the Treasury Department.

Reporting Requirements

The bill requires the Treasury Department, in consultation with the Secretary of the U.S. Department of Housing and Urban Development, to report quarterly on how each state, local, tribal, and territorial government is using emergency rental assistance funds. Each report must include the number of households served, the acceptance rate for applicants, the types of assistance provided to each eligible household, the average amount of funding provided per household, the average number of monthly payments covered by the assistance, and income levels. The data collected must be disaggregated by the gender, race, and ethnicity of the primary applicant in the household. Under the bill, the Treasury Secretary can make full, unredacted data available for statistical research.

EVICTION MORATORIUM

The proposal extends for one month through January 31 the CDC eviction moratorium for nonpayment of rent to keep renters in their homes while state and local governments work quickly to distribute aid to households in need. For more information on the CDC moratorium, see NLIHC and the National Housing Law Project's [Overview](#) and [FAQ](#), and NLIHC's [website](#).

EXTENSION OF THE CORONAVIRUS RELIEF FUND (CRF)

The bill extends the deadline from December 30, 2020 to December 31, 2021 for funds provided by Congress in the CARES Act through the Coronavirus Relief Fund (CRF). Many states and localities have used CRF resources to provide emergency rental assistance during the pandemic.

LOW INCOME HOUSING TAX CREDITS (LIHTC)

The relief bill establishes a permanent floor for the 4% credit in the Low Income Housing Tax Credit (LIHTC) program. This change will make it easier to secure the financing needed for affordable housing projects and will assist in restarting stalled LIHTC projects throughout the country. Advocates estimate that the creation of a 4% floor could create as much as 126,000 rental homes in the next 10 years.

The bill also provides an additional allocation of \$1.1 billion in LIHTC for states impacted by disasters.

For more information, contact NLIHC Vice President Sarah Saadian at ssaadian@nlihc.org



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FREQUENTLY ASKED QUESTIONS: EMERGENCY RENTAL ASSISTANCE

DECEMBER 22, 2020

Congress on December 21 passed an emergency [COVID-19 relief package](#) that includes \$25 billion in emergency rental assistance and an extension of the federal eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) through January 31, 2021. The legislation also extends the deadline for funds provided by Congress in the “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act) through the Coronavirus Relief Fund (CRF) from December 30, 2020 to December 31, 2021. Many states and localities have used CRF resources to provide emergency rental assistance during the pandemic. The relief legislation will provide essential and desperately needed protections for renters, tens of millions of whom would otherwise be at risk of losing their homes this winter.

NLIHC released a [fact sheet](#) on the housing provisions in the COVID-19 relief package. This Frequently Asked Questions (FAQ) document provides additional guidance on the \$25 billion in emergency rental assistance funded through the Coronavirus Relief Fund (CRF) and administered by the U.S. Department of Treasury.

HOW WILL THE DEPARTMENT OF TREASURY DISTRIBUTE THE FUNDING?

Of the total amount of rental assistance, \$400 million will be allocated to U.S. territories and \$800 million to tribal communities. The remaining funds will be distributed within 30 days to states and localities with populations of 200,000 or more. This marks a change from the CRF provision in the CARES Act, in which localities with populations over 500,000 could request to receive a direct CRF allocation from Treasury. Under the program, the District of Columbia is treated as a state.

CAN STATES DECIDE HOW TO ALLOCATE FUNDS TO LOCALITIES?

The CRF enacted in the CARES Act provided states and eligible units of local governments, territories, and tribal governments with the authority to decide how to spend CRF funds. This flexibility allowed entities to allocate funds to local governments that did not qualify for a direct allocation. Since the \$25 billion in emergency rental assistance will be funded through the CRF, it is assumed states will have similar flexibility in how they allocate funds.

WHAT TYPES OF ASSISTANCE CAN ELIGIBLE HOUSEHOLDS RECEIVE?

At least 90% of the funds must be used to provide financial assistance, including back and forward rent and utility payments and other housing expenses that were incurred due, directly or indirectly, to the pandemic. Assistance can be provided for 12 months. States and localities can provide an additional 3 months of assistance “if necessary to ensure housing stability for a household.”

When providing forward rent, assistance can only be given for 3 months, though households can subsequently reapply for additional assistance. To the extent that households have back rent, states and localities may not make commitments for forward rent payments unless they have also provided assistance to reduce an eligible household’s rental arrears.

Recipients can use up to 10% of funds to provide case management and other services related to the pandemic, as defined by the Treasury Secretary, intended to help keep households stably housed.

WHO IS ELIGIBLE TO RECEIVE EMERGENCY RENTAL ASSISTANCE?

Households are eligible for emergency rental assistance funds if one or more individuals: (1) has qualified for unemployment benefits or can attest in writing that he or she has experienced a reduction in household

income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the pandemic; (2) can demonstrate a risk of experiencing homelessness or housing instability; and (3) has a household income below 80% AMI.

Income determination will be based on either the household's total income in 2020, or the monthly income the household is receiving at the time of application. If income determinations are made based on the applicant's monthly income, the state or locality must re-determine eligibility after 3 months.

Funds must be used for households with incomes below 80% of area median income (AMI), and states and localities must prioritize households below 50% of AMI or those who are unemployed and have been unemployed for 90-days. States and localities can provide additional prioritization of funds.

ARE THERE RESTRICTIONS BASED ON IMMIGRATION STATUS FOR THE EMERGENCY RENTAL ASSISTANCE?

Since emergency rental assistance will be funded through the CRF - which does not specify any restrictions based on immigration status - there should be no immigration status eligibility requirements for the rental assistance. The legislation did not include language that would alter this. Disaster assistance is not weighed in a public charge determination.

WILL RENTERS BE REQUIRED TO SUBMIT DOCUMENTATION DEMONSTRATING THAT THEIR NEED FOR RENTAL ASSISTANCE RESULTS DIRECTLY FROM THE PANDEMIC?

In terms of documentation, the legislation states that applicants must qualify for unemployment benefits or attest in writing that they have experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, *directly or indirectly*, to the pandemic. Additionally, applicants must demonstrate a risk of experiencing homelessness or housing instability. This risk can be demonstrated through a past due utility or rent notice or eviction notice; unsafe or unhealthy living conditions; or any other evidence of such risk, as determined by the eligible grantee involved.

WHO WILL ADMINISTER THE RENTAL ASSISTANCE? HOW WILL RENTERS OR LANDLORDS APPLY FOR OR RECEIVE ASSISTANCE?

Renters will apply for assistance with entities that state and local grantees select to administer the program. States and localities can make payments directly to landlords or utility companies on behalf of renters. If a landlord refuses to accept the rental assistance, the administering entity can provide assistance directly to the renter, who can then make payments to the landlord or utility provider. Landlords can directly apply for rental assistance under the program but are required to notify the tenant that assistance is being provided on their behalf and obtain the tenant's consent.

HOW WILL THE EMERGENCY RENTAL ASSISTANCE PROGRAM WORK WITH "DUPLICATION OF BENEFITS?"

The legislation states that grantees should ensure that any rental assistance provided to an eligible household is not duplicative of other federally-funded rental assistance. Our interpretation is that emergency rental assistance through the CRF cannot pay for the same obligation that is being assisted by other funding. Households that have received CARES Act funds for rental assistance this year but are no longer receiving that assistance and still need help in the future should be able to receive CRF funds. Additionally, this should have no impact on people receiving other types of federal housing assistance, such as Housing Choice Vouchers.

IS LEGAL AID AN ELIGIBLE "HOUSING STABILITY SERVICE?"

The legislation states that eligible grantees can spend up to 10% of funds to provide case management

and other services related to the pandemic, *as defined by the Secretary*, to keep households stably housed.

DID THE COVID-19 RELIEF PACKAGE INCLUDE RESOURCES FOR FORECLOSURE PREVENTION?

No.

THE COVID-19 RELIEF PACKAGE PROVIDED A ONE-MONTH EXTENSION OF THE CDC EVICTION MORATORIUM, BUT DID IT STRENGTHEN THE PROTECTIONS?

The emergency COVID-19 relief package extends the federal eviction moratorium through January 31, providing essential and immediate protection for millions of renters on the verge of losing their homes. Extending the moratorium through January provides time for emergency rental assistance to be distributed, and for President-elect Biden to [improve and further extend the moratorium](#) immediately after being sworn into office.

