

Presentation for House General
H. 391 / S. 101
Kathleen Berk



April 11, 2023

House General Comments

Thank you for inviting me before this committee today to discuss H. 391 and proposed amendments to S. 101.

For the record, my name is Kathleen Berk, Executive Director of the Vermont State Housing Authority.

As you know, VSHA administers VERAP and administered the earlier pandemic relief program, The Rental Housing Stabilization Program in 2020.

This committee has received compelling testimony from many professionals (including Judges' Zonay and Toor) regarding the effectiveness of having flexible funds available (such as VERAP), that can be quickly deployed, to prevent non-payment evictions.

My testimony today will not focus on educating this committee about the need for a Rent Arrears fund, as I believe you are all convinced. Rather, I am going to use my time to walk through proposed legislation for this committee to consider.

Vermont State Housing Authority met with Vermont Legal Aid to draft proposed language for three complementary programs:

- Office of Rental Housing Stabilization Services (formerly Eviction diversion)

- Tenant Representation Pilot, or Eviction Right to Counsel

Rent Arrears Assistance Fund (formerly Rent Rescue)

My colleague Rachel Seelig will testify on the first two programs later today.

My testimony will focus on the **Rent Arrears Assistance Fund** being proposed.

In drafting our proposed language for the Rent Arrears Assistance Fund, we were mindful of the authorizing legislative provision that resulted in the Rental Housing Stabilization Program in 2020, found at Sec. 11(a)(4) of Act 137 of 2020

Suggested amendments to H. 391 and S. 100

Sect. XX Rent Arrears Assistance Fund (RAAF)

- (a) Purpose. The purpose of the Rent Arrears Assistance Fund is to provide funds to prevent eviction in cases involving nonpayment of rent from residential rental units 9 V.S.A 4451 et seq and mobile home lot rentals 10 V.S.A.6201 et seq
- (b) Appropriation. It is the intent of the General Assembly to appropriate \$2,500,000 to Vermont State Housing Authority for the creation of a fund to prevent non-payment eviction by making funds available for rent arrears where such funds would preserve the tenancy.
- (c) Tenant Eligibility. Vermont State Housing Authority shall establish eligibility guidelines for receipt of Rental Rescue Fund that consider:
 - a. Service of Summons and Complaint
 - i. The Vermont State Housing Authority's guidelines may set criteria for application upon tenant receipt of Notice to Quit
 - b. Financial eligibility criteria that considers Area Median Income, rent burden, and ratio of household expenses to income up to 100% of Area Median Income for the current federal fiscal year.
 - c. Sustainability. Standards for assessing whether the tenancy is sustainable while retaining a simple and straightforward application.
 - d. Subsidy Application. If the tenancy is not sustainable the parties will be referred to the ORHSS for assistance in exploring other resources or services, and to apply for a Housing Choice Voucher.

Commented [KB1]: VSHA has never received a direct appropriation of funds from the legislature. Suggest "It is the intent of the General Assembly to appropriate \$2,500,000 to OEO/AOA subgranted to VSHA for the..."

Commented [WM2]: Who applies?

(d) Funds available. The rental rescue fund will disburse only the amount necessary to cure the tenant's -rent arrears, if necessary, court costs, and attorney's fees capped at an amount set by Vermont State Housing Authority. Rent Arrears Assistance Fund shall be available on a first-come, first-served basis to eligible tenants until the Fund is exhausted.

(e) Application.

- a. The Vermont State Housing Authority shall create a plain language form to collect only information necessary to assess eligibility and provides clear instructions to help tenants and landlords apply.
- b. The tenant must certify all information on the application.
- c. Vermont State Housing Authority will provide either directly or through referral to Vermont Legal Aid assistance in completing the application.
- d. Vermont State Housing Authority shall implement a process that ensures equitable approval of applications, according to the guidelines established by Vermont State Housing Authority, notice of grant decisions within 10 days, and decisions on appeals within in 10 days.

(f) Status of Eviction Pending Application.

- a. The tenant or the landlord shall notify the court when an application for Rent Arrears Assistance Fund assistance is pending.
- b. Upon the court's receipt of notification that an application for rental rescue funds is pending, the eviction case shall not proceed to a merits hearing.
- c. While the application is pending, the landlord shall not issue a new notice to quit or file or serve a new summons and complaint.

(g) Disbursement. Rent Arrears Assistance Fund will be disbursed directly to the landlord who has filed the summons & complaint.

(h) Conditions for disbursement of funds. Vermont State Housing Authority shall establish guidelines for ensuring habitability, limitation on rent increases, documentation for direct deposit, and dismissal of cases.

- a. Identify violations of the Rental Housing Health Code and certify that necessary repairs to remediate the violations will be completed within 30 days.

Commented [WM3]: Is this limited to when LL notifies? Seems we'd want T or T's counsel or VSHA to be able to notify and then not have case proceed

Commented [RS4]: Is this an amendment to something already in Title 9 or ejection?

Commented [WM5R4]: Shouldn't there be some parameters? E.g. as long as, or until

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- b. Documentation for Direct Deposit. The landlord shall provide the Vermont State Housing Authority, on a form provided by the Vermont State Housing Authority, necessary banking information to enable direct deposit of Rent Arrears Assistance Fund.
- c. Dismissal. The landlord must certify that all nonpayment and no cause evictions pending against the tenant shall be dismissed upon receipt of Rent Arrears Assistance Fund. If the landlord does not provide a copy of the dismissal within 7 days of receipt of funds, Vermont State Housing Authority shall notify the court.

Commented [RS6]: Is this an amendment to RRAA?

Commented [KB7R6]: do we want to require a Stipulation to Dismiss be executed by the parties?

.....
Based on our analysis, we believe an appropriation of 2.5 million dollars would prevent approximately 383 no payment of rent evictions.
.....

In drafting the proposed language **there were several items we wanted to avoid:**

False documents and Fraud

Landlords who undertake court processes ensures a higher level of integrity.

The submission of lots of documents to prove tenancy and income.

Use forms filed with the court for documentation of income.

Rent Arrears Assistance Fund acting as an ongoing subsidy for low-income people with unaffordable rent; perpetually returning tenants.

Tenants who need subsidies should be encouraged / required to apply for a S8 Housing Choice Voucher (so a sustainability analysis)

In drafting the proposed language **there were several provisions we want to assure are included:**

Landlord participation

No direct payments to tenants – because this is an arrears program.

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No restriction on Landlord that acceptance of funds prohibits future eviction for a defined period of time – but, does require landlord to drop all current NTQ and eviction case for any reason.

No dollar or time limits for arrears or returning requests – the objective is to preserve tenancies.

Ensure tenancy sustainability by using the program to influence landlords to participate in the Section 8 Housing Choice Voucher Program.

We believe that creation of these three programs, coupled with the ongoing Mediation Assistance (administered by the Vermont Landlords Association) and HELP (legal help to tenants administered by Vermont Legal Aid), can prevent hundreds of evictions in State

Thank you,

Kathleen R, Berk
Executive Director
Vermont State Housing Authority