

STATE OF NEW YORK

8140

IN SENATE

March 29, 2020

Introduced by Sens. KAVANAGH, BAILEY, BIAGGI, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, LIU, MAYER, MYRIE, PARKER, PERSAUD, RIVERA, SALAZAR, SAVINO, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

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:

Section 1. The public housing law is amended by adding a new article 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.

§ 600. Legislative findings. The legislature finds that it is in the public interest and an obligation of government to ensure that individuals and families are not rendered homeless or severely financially burdened because of an inability to pay the cost of housing and other necessities due to loss of income related to the widespread outbreak of the coronavirus commonly known as COVID-19. The legislature further finds that providing funding for individuals and families to pay rent that they would otherwise have difficulty paying will promote the stability and proper maintenance of the housing stock and assist communities in recovering from the adverse social and economic effects of the COVID-19 outbreak.

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

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

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

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

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

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

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

16 (e) child support payments paid by the individual or member of the
17 family.

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

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

24 4. "Disability" shall mean:

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

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

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

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

37 (ii) substantially impedes his or her ability to live independently;
38 and

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

41 (d) a developmental disability that is a severe, chronic disability of
42 an individual that:

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

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

46 (iii) is likely to continue indefinitely;

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

49 (A) self-care;

50 (B) receptive and expressive language;

51 (C) learning;

52 (D) mobility;

53 (E) self-direction;

54 (F) capacity for independent living;

55 (G) economic self-sufficiency; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 602. Authority to implement emergency rental assistance. The commissioner, as soon as practicable and subject to the appropriation of funds for this purpose, shall implement a program of rental assistance in the form of emergency vouchers for those eligible pursuant to section six hundred three of this article. The housing trust fund corporation shall issue vouchers pursuant to this article, subject to appropriation of funds for this purpose, and may contract with the division of housing and community renewal to administer any aspect of this program in accordance with the provisions of this article. The commissioner may delegate administration of a portion of this program to the department of labor for those applying for or receiving unemployment benefits. The commissioner may also delegate the administration of portions of this program to any county, city, town, or public housing agency in accordance with the provisions of this article.

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

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

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

(b) the individual or family rents their primary residence in the state of New York, including both tenants of dwelling units and manufactured home tenants; and

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

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

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

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

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

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

5. An individual full-time college student or family consisting exclusively of full-time college students is ineligible for this program unless each individual in the household satisfies the following conditions:

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

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

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

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

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

29 2. Notwithstanding subdivision one of this section, if the rent for
30 the individual or family, including any amount allowed for tenant-paid
31 utilities, exceeds two hundred fifty percent of fair market rent for the
32 rental area, the monthly assistance payment for the individual or family
33 shall be the difference between the rental obligation established in
34 section six hundred five of this article and two hundred fifty percent
35 of the fair market rent for the rental area.

36 § 607. Verification of income and assets. The commissioner shall
37 establish procedures which are appropriate and necessary to assure that
38 data regarding income, and assets to the extent necessary to determine
39 eligibility, provided by individuals and families applying for or
40 receiving assistance under this article is complete and accurate. In
41 establishing such procedures, the commissioner shall randomly select a
42 sample of individuals and families to authorize the commissioner to
43 obtain information on these individuals and families for the purpose of
44 income and asset verification, or to allow those individuals and fami-
45 lies to provide such information themselves. Such information may
46 include, but is not limited to, data concerning unemployment compen-
47 sation and federal income taxation and data relating to benefits made
48 available under the Social Security Act, 42 U.S.C. 301 et seq., the Food
49 and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., or title 38 of the
50 United States code. Any such information received pursuant to this
51 section shall remain confidential and shall be used only for the purpose
52 of verifying incomes, and assets if applicable, in order to determine
53 eligibility of individuals and families for benefits, and the amount of
54 such benefits if any, under this section.

55 § 608. Division of a recipient family. 1. In those instances where a
56 family assisted under this article becomes divided into two otherwise

1 eligible individuals or families due to divorce, legal separation or the
2 division of the family, where the new units cannot agree as to which new
3 unit should continue to receive the assistance, and where there is no
4 determination by a court, the commissioner shall consider the following
5 factors to determine which of the individuals or families will continue
6 to be assisted:

7 (a) which of the two new units has custody of dependent children;

8 (b) which family member was the head of household when the voucher was
9 initially issued (listed on the initial application);

10 (c) the composition of the new units and which unit includes elderly
11 or disabled members;

12 (d) whether domestic violence was involved in the breakup;

13 (e) which family members remain in the unit; and

14 (f) recommendations of social service professionals.

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

19 3. Any individual or family who loses benefits pursuant to this
20 section may submit a new application for benefits under this program as
21 a separate individual or family.

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

25 § 2. This act shall take effect immediately.