

STATE OF NEW YORK

2742--A

2021-2022 Regular Sessions

IN SENATE

January 25, 2021

Introduced by Sens. KAVANAGH, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BROOKS, GAUGHRAN, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KRUEGER, LIU, MAY, MAYER, MYRIE, PARKER, PERSAUD, RAMOS, RIVERA, SALAZAR, SAVINO, SEPULVEDA, SERRANO, SKOUFIS, STAVISKY, THOMAS -- 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 and the social services law, in relation to establishing a COVID-19 emergency rental assistance program; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "COVID-19 emergency rental assistance program of 2021".

3 § 2. The public housing law is amended by adding a new article 14 to
4 read as follows:

ARTICLE XIV

COVID-19 EMERGENCY RENTAL ASSISTANCE PROGRAM

Section 600. Legislative findings.

6 601. Definitions.

7 602. Authority to implement emergency rental and utility assist-
8 ance.

9 603. Allocation among the city of New York and the respective
10 counties of the state.

11 604. Eligibility.

12 605. Application.

13 606. Documentation.

14 607. Restrictions on eviction.

15 608. Payments.

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

LBD06457-04-1

- 1 609. No repayment and assistance not considered income.
2 610. Notice to tenants in eviction proceedings.
3 611. Notice to tenants receiving rent demands.
4 612. Notice to applicants for assistance under the emergency
5 rent relief act of 2020.
6 613. Outreach.
7 614. Fair housing obligations.
8 615. Reports by the commissioner.

9 § 600. Legislative findings. The legislature finds that it is in the
10 public interest to ensure that New Yorkers are not rendered homeless or
11 severely financially burdened because of an inability to pay the cost of
12 housing and other necessities due to loss of income, increased necessary
13 out-of-pocket expenses, or difficulty in securing alternative housing
14 related to the widespread outbreak of the coronavirus commonly known as
15 COVID-19. The legislature further finds that providing funding for
16 households to pay rent and utility costs that they would otherwise have
17 difficulty paying will promote the stability and proper maintenance of
18 the rental housing stock and assist communities in recovering from the
19 adverse social and economic effects of the COVID-19 outbreak.

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

21 1. "Commissioner" shall mean the state commissioner of social services
22 as defined in section two of the social services law.

23 2. "E-payment application transaction" shall mean a financial trans-
24 action conducted on an online payment application. Such applications
25 include but are not limited to: Zelle, Cash App, Paypal, Venmo, Xoom,
26 Circle Pay, Google Pay, Facebook Messenger, Apple Pay, WeChat Pay,
27 AliPay, and KakaoPay.

28 3. "Fair market rent" shall mean the fair market rent for each rental
29 area as promulgated annually by the United States department of housing
30 and urban development's office of policy development and research pursu-
31 ant to 42 USC 1437f.

32 4. "Federal emergency rental assistance program" shall mean the emer-
33 gency rental assistance funding issued pursuant to section 501 of the
34 Consolidated Appropriations Act of 2021, Pub L. No. 116-260 §501, 888-97
35 (2021).

36 5. "Income" shall mean income from all sources of each member of the
37 household, including all wages, tips, overtime, salary, recurring gifts,
38 returns on investments, welfare assistance, social security payments,
39 child support payments, unemployment benefits, any benefit, payment or
40 cash grant whose purpose is to assist with rental payments, any payments
41 whose purpose is to replace lost income, and any other government bene-
42 fit or cash grant. The term "income" shall not include: employment
43 income from children under eighteen years of age, employment income from
44 children eighteen years of age or older who are full-time students,
45 foster care payments, sporadic gifts, groceries provided by persons not
46 living in the household, supplemental nutrition assistance program bene-
47 fits, or the earned income tax credit.

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

50 7. "Occupant" shall have the same meaning as defined in section two
51 hundred thirty-five-f of the real property law.

52 8. "Rent" shall mean rent as defined by section seven hundred two of
53 the real property actions and proceedings law and subject to proceedings
54 under article seven of the real property actions and proceedings law,
55 including statutory rents and maintenance fees paid pursuant to a
56 proprietary lease on a co-operative dwelling unit.

1 9. "Rental arrears" shall mean unpaid rent owed to the landlord that
2 accrued on or after March thirteenth, two thousand twenty, the date of
3 the emergency declaration pursuant to section 501(b) of the Robert T.
4 Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.
5 5191(b).

6 10. "Utility arrears" shall mean unpaid payments to providers of util-
7 ity services accrued on or after March thirteenth, two thousand twenty,
8 the date of the emergency declaration pursuant to section 501(b) of the
9 Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42
10 U.S.C. 5191(b), for separately-stated electricity, gas, water, sewer,
11 trash removal and energy costs, such as fuel oil.

12 § 602. Authority to implement emergency rental and utility assistance.

13 1. The commissioner is hereby authorized and directed to implement, as
14 soon as practicable, a program of rental and utility assistance for
15 those eligible pursuant to section six hundred four of this article.

16 2. Such program shall be funded with: (a) all funds received by the
17 state from the federal Emergency Assistance Program; (b) any funds
18 remaining that were allocated from the federal Coronavirus Aid, Relief,
19 and Economic Security (CARES) Act of 2020 (P.L. 116-136) for the Emer-
20 gency Rent Relief Act of 2020, pursuant to chapter one hundred twenty-
21 five of the laws of two thousand twenty, such that the sum of such funds
22 actually expended pursuant to such chapter and that such funds reallo-
23 cated and expended pursuant to this article shall equal one hundred
24 million dollars; and (c) any additional funds allocated by the federal
25 government to the state of New York for emergency rental or utility
26 assistance related to the COVID-19 pandemic.

27 3. The commissioner shall work with localities throughout the state
28 that have received funds directly from the federal Emergency Rental
29 Assistance Program so that one central point of application shall be
30 made available for any and all federal Emergency Rental Assistance
31 Program funds in the state of New York.

32 4. The commissioner shall adopt, on an emergency basis pursuant to
33 subdivision six of section two hundred two of the state administrative
34 procedure act, any rules necessary to carry out the provisions of this
35 article.

36 § 603. Allocation among the city of New York and the respective coun-
37 ties of the state. The commissioner and each locality in receipt of
38 funds from the federal Emergency Rental Assistance Program shall work
39 jointly to ensure that, in total, the allocation of funds from this
40 program for households within the city of New York or within each county
41 outside the city of New York, whether granted to the state or directly
42 to such localities is no less than ninety percent of the proportional
43 share of all renter households in the state that reside in such city or
44 county, and no more than one hundred ten percent of such proportional
45 share.

46 § 604. Eligibility. The commissioner shall promulgate standards for
47 determining eligibility for this program.

48 1. All households, regardless of immigration status, shall be eligible
49 for rental assistance, utility assistance, or both if the household:

50 (a) is a tenant or occupant in their primary residence in the state of
51 New York, including both tenants and occupants of dwelling units and
52 manufactured home tenants;

53 (b) includes an individual who qualifies for unemployment or experi-
54 enced a reduction in household income, incurred significant costs, or
55 experienced other financial hardship due, directly or indirectly, to the
56 COVID-19 outbreak;

1 (c) demonstrate a risk of experiencing homelessness or housing insta-
2 bility; and

3 (d) has a household income at or below eighty percent of the area
4 median, adjusted for household size.

5 2. For the purposes of this program, income may be considered:

6 (a) the household's total income for calendar year two thousand twen-
7 ty; or

8 (b) the household's current monthly income at the time of application
9 for such assistance. If a household is applying for assistance using
10 current monthly income, the household shall only be eligible for assist-
11 ance for the months during which they meet the criteria in subdivision
12 one of this section.

13 3. In addition to the eligibility criteria in subdivision one of this
14 section, the commissioner may promulgate limits on assets as part of any
15 determination of eligibility for this program. The commissioner shall
16 exclude at least one vehicle up to fifteen thousand dollars in value
17 from any calculation made pursuant to this section.

18 4. The commissioner shall establish preferences in processing applica-
19 tions and allocating funds under this program. Such preferences shall at
20 a minimum prioritize:

21 (a) households whose income does not exceed fifty percent of the area
22 median income adjusted for household size; and

23 (b) households within which one or more individuals are unemployed as
24 of the date of the application for assistance and have not been employed
25 for the ninety days preceding such date.

26 5. The commissioner may also grant preferences for households who meet
27 one of the criteria in subdivision four of this section and:

28 (a) are tenants of mobile homes or mobile home parks whose arrears
29 have accrued for the land on which the mobile home is located;

30 (b) include one or more individuals who are victims of domestic
31 violence;

32 (c) apply jointly with their landlord; or

33 (d) have eviction cases that are pending on or before February first,
34 two thousand twenty-one.

35 6. A household may apply for utility assistance, rental assistance, or
36 both.

37 7. Nothing in this article shall be construed to disqualify applica-
38 tions from tenants of state-funded public housing agencies.

39 8. No rental assistance provided pursuant to this article shall be
40 duplicative of assistance for rent or rental arrears previously received
41 by the household.

42 9. Any ambiguity in eligibility criteria promulgated by the commis-
43 sioner shall be resolved in favor of the applicant when determining
44 eligibility.

45 10. Any information collected about a household in the process of
46 determining eligibility shall solely be used for the purposes of deter-
47 mining eligibility and shall not be shared with any other governmental
48 agency.

49 11. An individual full-time college student or a household consisting
50 exclusively of full-time college students is ineligible for this program
51 unless each individual in the household satisfies the following condi-
52 tions:

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

1 (b) the individual shall not be claimed as a dependent by his or her
2 parents or legal guardians pursuant to internal revenue service (IRS)
3 regulations.

4 § 605. Application. 1. As soon as practicable and no later than March
5 first, two thousand twenty-one, the commissioner shall make an applica-
6 tion for the program available on its website. The application shall be
7 available online in English, Spanish, Chinese, Russian, Yiddish, Haitian
8 (French Creole), Bengali, and Italian. The commissioner shall enable
9 applications to be accepted via telephone. The application period shall
10 remain open for a minimum of one hundred eighty days unless all avail-
11 able funding has been allocated prior to the expiration of one hundred
12 eighty days.

13 2. The commissioner shall designate non-for-profit organizations that
14 shall be permitted to assist households in applying for assistance and
15 such organizations shall be permitted to file applications on behalf of
16 such households.

17 3. The commissioner shall provide for procedures under which a land-
18 lord or owner of a residential dwelling shall be permitted to submit an
19 application for assistance on behalf of a tenant or occupant of such
20 dwelling. Such landlord or owner shall be required to:

21 (a) obtain the signature of the tenant on such application, which may
22 be documented electronically;

23 (b) provide the tenant with documentation of such application;

24 (c) use any payments received pursuant to this article solely to
25 satisfy the tenant's rental obligations to the landlord or owner; and

26 (d) keep confidential any information or documentation from or about
27 the tenant acquired pursuant to this application process.

28 § 606. Documentation. The commissioner shall establish procedures that
29 are appropriate and necessary to assure that information necessary to
30 determine eligibility provided by households applying for or receiving
31 assistance under this article is complete and accurate. Documentation
32 may include but is not limited to: a signed lease, paycheck stubs, earn-
33 ing statements, bank statements, tax records, W-2 or 1099 forms, e-pay-
34 ment application transaction history, written statements from a former
35 or current employer, telephone or in-person contact with a former or
36 current employer, self-attestation by the applicant, or other methods
37 approved by the commissioner. When self-attestation is used as documen-
38 tation, the applicant shall also attest that the applicant has no other
39 documentation available.

40 § 607. Restrictions on eviction. Eviction proceedings for rental
41 arrears that would be eligible for coverage under this program shall not
42 be commenced against a household who has applied for this program unless
43 or until a determination of ineligibility is made. If eviction
44 proceedings are commenced against a household who subsequently applies
45 for benefits under this program, all proceedings for missed rent
46 payments during the covered period shall be stayed until a determination
47 of ineligibility has been made.

48 § 608. Payments. 1. Payments shall be made for rental and/or utility
49 arrears accrued on or after March thirteenth, two thousand twenty. No
50 more than twelve months of rental and/or utility assistance, both
51 arrears or prospective, may be paid on behalf of or to any household. No
52 prospective rent may be paid unless or until all rental arrears payments
53 have been made to or on behalf of households who are eligible for this
54 program pursuant to section six hundred four of this article.

55 2. If all eligible households whose applications are received within
56 sixty days of the start of the application period receive assistance,

1 the commissioner may pay an additional three months of rental and/or
2 utility assistance for rental or utility arrears accrued after the date
3 of application or prospective rent. No household may receive more than
4 fifteen months of total rental and/or utility assistance. Eligibility
5 for assistance shall be reassessed for each household before rental
6 assistance is issued pursuant to this subdivision.

7 3. Payments for rental arrears or prospective rent shall be the lesser
8 of the monthly rent for the household or one hundred fifty percent of
9 the fair market rent for the dwelling unit. The rental assistance shall
10 be paid directly to the landlord of the dwelling unit or manufactured
11 home park occupied by the household for the total amount of qualified
12 rental arrears and prospective rental assistance pursuant to subdivision
13 one of this section. Utility assistance shall be paid directly to the
14 utility. The commissioner shall make reasonable efforts to obtain the
15 cooperation of landlords and utility providers to accept payments from
16 this program. Outreach shall be considered complete if a request for
17 participation is sent in writing, by certified mail, to the landlord or
18 utility provider, and the addressee does not respond to the request
19 within twenty-one calendar days after mailing; or, if at least three
20 attempts have been made by phone or email over a twenty-one calendar-day
21 period to request the landlord or utility provider's participation. All
22 such outreach efforts shall be documented.

23 4. If the landlord or utility provider is uncooperative or unrespon-
24 sive after outreach efforts are made pursuant to subdivision three of
25 this section, the commissioner may make payments directly to the eligi-
26 ble household for the purpose of enabling the household to make payments
27 to the landlord or utility provider. The commissioner may require
28 documentation from any households receiving such payments that monies
29 received were used in compliance with this program.

30 5. Acceptance of payment for rental arrears from this program shall
31 constitute agreement by the recipient landlord or property owner:

32 (a) to waive any late fees due on any rental arrears;

33 (b) to keep constant the monthly rent due for the dwelling unit such
34 that it shall remain the same as the amount that was due at the time of
35 application to the program for any and all months for which rental
36 assistance is received and for one year after the first rental assist-
37 ance payment is received; and

38 (c) not to evict for reason of expired lease or holdover tenancy any
39 household on behalf of whom rental assistance is received for one year
40 after the first rental assistance payment is received. Where the dwell-
41 ing unit that is the subject of the lease or rental agreement is located
42 in a building that contains four or fewer units, the landlord may
43 decline to extend the lease or tenancy if the landlord intends to imme-
44 diately occupy the unit for the landlord's personal use as a primary
45 residence or the use of an immediate family member as a primary resi-
46 dence.

47 § 609. No repayment and assistance not considered income. Eligible
48 households shall not be expected or required to repay any assistance
49 granted through this program. Assistance granted through this program
50 shall not be considered income for purposes of eligibility for public
51 benefits or other public assistance, but shall be considered a "source
52 of income" for purposes of the protections against housing discrimi-
53 nation provided under section two hundred ninety-six of the human rights
54 law. There shall be no requirement for applicants to seek assistance
55 from other sources, including charitable contributions, in order to be
56 eligible for assistance under this program.

1 § 610. Notice to tenants in eviction proceedings. In any eviction
2 proceeding pending as of the effective date of this article and any
3 eviction proceeding filed while applications are being accepted for
4 assistance pursuant to this article, the court shall promptly mail the
5 respondent information regarding how the respondent may apply for such
6 assistance in English, and, to the extent practicable, in the respond-
7 ent's primary language, if other than English.

8 § 611. Notice to tenants receiving rent demands. With every written
9 demand for rent made pursuant to subdivision two of section seven
10 hundred eleven of the real property actions and proceedings law, with
11 any other written notice required by the lease or tenancy agreement, law
12 or rule to be provided prior to the commencement of an eviction proceed-
13 ing, and with every notice of petition served on a tenant after the
14 effective date of this article and while applications are being accepted
15 for assistance pursuant to this article, the landlord shall provide
16 information regarding how a tenant may apply for such assistance, in a
17 form approved by the commissioner or the office of court administration,
18 in English, and, to the extent practicable, in the tenant's primary
19 language, if other than English.

20 § 612. Notice to applicants for assistance under the emergency rent
21 relief act of 2020. The commissioner, in consultation with the commis-
22 sioner of the division of housing and community development, shall
23 provide notice of how to apply for assistance pursuant to this article
24 to each tenant who applied for assistance under the emergency rent
25 relief act of 2020, pursuant to chapter one hundred twenty-five of the
26 laws of two thousand twenty. Such notice shall be provided in English,
27 and, to the extent practicable, in the tenant's primary language, if
28 other than English.

29 § 613. Outreach. The commissioner shall ensure that extensive outreach
30 is conducted to increase awareness of this program among tenants and
31 landlords. The commissioner shall prioritize for outreach communities
32 where the median income of residents is less than eighty percent of the
33 area median income for the region, communities with the highest unem-
34 ployment rates, and communities that experienced the highest rates of
35 COVID-19 infections during the pandemic, and to the extent practicable,
36 communities with high rates of ownership of rental housing by small
37 landlords. The commissioner shall ensure that such outreach is conducted
38 with materials written in the languages listed in subdivision one of
39 section six hundred five of this article, and to the extent practicable
40 in other languages commonly spoken by residents of those communities
41 required to be prioritized pursuant to this section, as per the most
42 recent American Community Survey from the United States Census Bureau.

43 § 614. Fair housing obligations. Nothing in this article shall lessen
44 or abridge any fair housing obligations promulgated by the federal
45 government, state, municipalities, localities, or any other applicable
46 jurisdiction.

47 § 615. Reports by the commissioner. The commissioner shall, on or
48 before April twentieth, two thousand twenty-one, and on or before the
49 twentieth of each month thereafter for the duration of the program,
50 submit and make publicly available on its website a report to the gover-
51 nor, the temporary president of the senate, and the speaker of the
52 assembly, indicating the number of households that have applied for
53 rental assistance only, the number of households that have applied for
54 utility assistance only, the number of households that have applied for
55 both rental and utility assistance, the number of applications for each
56 type of assistance approved, the number of applications for each type of

1 assistance rejected, the status of any pending applications, and the
 2 monthly expenditures made pursuant to this article for each type of
 3 assistance. Each number required to be included in the report shall be
 4 reported as a statewide total from the start of the program through the
 5 end of the preceding calendar month and as a subtotal for each county,
 6 based on the location of the premises for which the applicant has sought
 7 assistance.

8 § 3. The social services law is amended by adding a new section 131-bb
 9 to read as follows:

10 § 131-bb. Proof of eligibility for rental assistance. Under no circum-
 11 stances shall a local social services district require proof that a
 12 court proceeding has been initiated against a tenant as a condition of
 13 eligibility for a rent arrears grant or ongoing rental assistance
 14 including rental assistance provided pursuant to this article.

15 § 4. Section 131-w of the social services law, as added by chapter 41
 16 of the laws of 1992, is amended to read as follows:

17 § 131-w. Limitations in the payment of rent arrears. 1. Districts
 18 shall not provide assistance to pay rent arrears, property taxes or
 19 mortgage arrears for persons not eligible for home relief, aid to
 20 dependent children, emergency assistance to needy families with children
 21 or emergency assistance for aged, blind and disabled persons, except to
 22 persons who are without income or resources immediately available to
 23 meet the emergency need, whose gross household income does not exceed
 24 one hundred twenty-five percent of the federal income official poverty
 25 line and who sign a repayment agreement agreeing to repay the assistance
 26 in a period not to exceed twelve months. The districts shall enforce
 27 the repayment agreements by any legal method available to a creditor, in
 28 addition to any rights it has pursuant to this chapter. The department
 29 shall promulgate regulations to implement this section which shall,
 30 among other things, establish standards for the contents of repayment
 31 agreements and establish standards to ensure that assistance is provided
 32 only in emergency circumstances.

33 2. Notwithstanding the provisions of subdivision one of this section,
 34 no repayment agreement shall be required for assistance provided between
 35 March seventh, two thousand twenty until the later of December thirty-
 36 first, two thousand twenty-one or the date on which none of the
 37 provisions that closed or otherwise restricted public or private busi-
 38 nesses or places of public accommodation, or required postponement or
 39 cancellation of all non-essential gatherings of individuals of any size
 40 for any reason in executive order numbers 202.3, 202.4, 202.5, 202.6,
 41 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14 of two thousand twenty,
 42 as extended by executive order numbers 202.28 and 202.31 of two thousand
 43 twenty and as further extended by any future executive order, issued in
 44 response to the COVID-19 pandemic continue to apply in the service
 45 district. Any payment due and owing under this section shall be
 46 suspended until the later of December thirty-first, two thousand twen-
 47 ty-one or the date on which none of the provisions that closed or other-
 48 wise restricted public or private businesses or places of public accom-
 49 modation, or required postponement or cancellation of all non-essential
 50 gatherings of individuals of any size for any reason in executive order
 51 numbers 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13
 52 or 202.14 of two thousand twenty, as extended by executive order numbers
 53 202.28 and 202.31 of two thousand twenty and as further extended by any
 54 future executive order, issued in response to the COVID-19 pandemic
 55 continue to apply to the service district.

1 § 5. Subdivision 1 of section 131-s of the social services law, as
2 amended by chapter 318 of the laws of 2009, is amended to read as
3 follows:

4 1. (a) In the case of a person applying for public assistance, supple-
5 mental security income benefits or additional state payments pursuant to
6 this chapter, the social services official of the social services
7 district in which such person resides shall, unless alternative payment
8 or living arrangements can be made, make a payment to a gas corporation,
9 electric corporation or municipality for services provided to such
10 person during a period of up to, but not exceeding, four months imme-
11 diately preceding the month of application for such assistance or bene-
12 fits if such payment is needed to prevent shut-off or to restore
13 service. Persons whose gross household income exceeds the public assist-
14 ance standard of need for the same size household must sign a repayment
15 agreement to repay the assistance within two years of the date of
16 payment as a condition of receiving assistance, in accordance with regu-
17 lations established by the department. Such repayment agreement may be
18 enforced in any manner available to a creditor, in addition to any
19 rights the district may have pursuant to this chapter.

20 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
21 sion, no repayment agreement shall be required for assistance provided
22 between March seventh, two thousand twenty until the later of December
23 thirty-first, two thousand twenty-one or the date on which none of the
24 provisions that closed or otherwise restricted public or private busi-
25 nesses or places of public accommodation, or required postponement or
26 cancellation of all non-essential gatherings of individuals of any size
27 for any reason in executive order numbers 202.3, 202.4, 202.5, 202.6,
28 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14 of two thousand twenty,
29 as extended by executive order numbers 202.28 and 202.31 of two thousand
30 twenty and as further extended by any future executive order, issued in
31 response to the COVID-19 pandemic continue to apply in the service
32 district.

33 § 6. Section 106-b of the social services law, as amended by chapter
34 81 of the laws of 1995, is amended to read as follows:

35 § 106-b. Adjustment for incorrect payments. 1. Any inconsistent
36 provision of law notwithstanding, a social services official shall, in
37 accordance with the regulations of the department and consistent with
38 federal law and regulations, take all necessary steps to correct any
39 overpayment or underpayment to a public assistance recipient; provided,
40 however, that a social services official may waive recovery of a past
41 overpayment, in the case of an individual who is not currently a recipi-
42 ent of public assistance, where the cost of recovery is greater than the
43 cost of collections as determined in accordance with department regu-
44 lations consistent with federal law and regulations. For purposes of
45 this section, overpayment shall include payments made to an eligible
46 person in excess of his needs as defined in this chapter and payments
47 made to ineligible persons (including payments made to such persons
48 pending a fair hearings decision). The commissioner shall promulgate
49 regulations to implement procedures for correcting overpayments and
50 underpayments. The procedures for correcting overpayments shall be
51 designed to minimize adverse impact on the recipient, and to the extent
52 possible avoid undue hardship. Notwithstanding any other provision of
53 law to the contrary, no underpayment shall be corrected with respect to
54 a person who is currently not eligible for or in receipt of home relief
55 or aid to dependent children, except that corrective payments may be
56 made with respect to persons formerly eligible for or in receipt of aid

1 to dependent children to the extent that federal law and regulations
2 require.

3 2. Notwithstanding the provisions of subdivision one of this section,
4 no collection of overpayments shall be conducted, regardless of when the
5 overpayment accrued, until the later of December thirty-first, two thou-
6 sand twenty-one or the date on which none of the provisions that closed
7 or otherwise restricted public or private businesses or places of public
8 accommodation, or required postponement or cancellation of all non-es-
9 sential gatherings of individuals of any size for any reason in execu-
10 tive order numbers 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10,
11 202.11, 202.13 or 202.14 of two thousand twenty, as extended by execu-
12 tive order numbers 202.28 and 202.31 of two thousand twenty-one and as
13 further extended by any future executive order, issued in response to
14 the COVID-19 pandemic continue to apply in the service district.

15 § 7. Severability clause. If any clause, sentence, paragraph, subdivi-
16 sion, section or part of this act shall be adjudged by any court of
17 competent jurisdiction to be invalid, such judgment shall not affect,
18 impair, or invalidate the remainder of this act, but shall be confined
19 in its operation to the clause, sentence, paragraph, subdivision,
20 section or part of this act directly involved in the controversy in
21 which such judgment shall have been rendered. It is hereby declared to
22 be the intent of the legislature that this act would have been enacted
23 even if such invalid clause, sentence, paragraph, subdivision, section
24 or part had not been included herein.

25 § 8. This act shall take effect immediately and shall expire on the
26 later of December 31, 2021 or the date on which none of the provisions
27 that closed or otherwise restricted public or private businesses or
28 places of public accommodation, or required postponement or cancellation
29 of all non-essential gatherings of individuals of any size for any
30 reason in executive order numbers 202.3, 202.4, 202.5, 202.6, 202.7,
31 202.8, 202.10, 202.11, 202.13 or 202.14 of two thousand twenty, as
32 extended by executive order numbers 202.28 and 202.31 of two thousand
33 twenty and as further extended by any future executive order, issued in
34 response to the COVID-19 pandemic continue to apply anywhere in the
35 state, when upon such date the provisions of this act shall be deemed
36 repealed; provided that the state commissioner of social services shall
37 notify the legislative bill drafting commission upon the date on which
38 none of the provisions that closed or otherwise restricted public or
39 private businesses or places of public accommodation, or required post-
40 ponement or cancellation of all non-essential gatherings of individuals
41 of any size for any reason in executive order numbers 202.3, 202.4,
42 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14 of two
43 thousand twenty, as extended by executive order numbers 202.28 and
44 202.31 of two thousand twenty and as further extended by any future
45 executive order, issued in response to the COVID-19 pandemic continue to
46 apply anywhere in the state, in order that the commission may maintain
47 an accurate and timely effective data base of the official text of the
48 laws of the state of New York in furtherance of effectuating the
49 provisions of section 44 of the legislative law and section 70-b of the
50 public officers law.