

STATE OF NEW YORK

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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, KENNEDY, KRUEGER, LIU, MAY, MAYER, MYRIE, PARKER, PERSAUD, RAMOS, REICHLIN-MELNICK, RIVERA, RYAN, 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 -- 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.

601. Definitions.

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

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

604. Eligibility.

605. Application.

606. Documentation.

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

LBD06457-06-1

1 607. Restrictions on eviction.

2 608. Payments.

3 609. No repayment and assistance not considered income.

4 610. Notice to tenants in eviction proceedings.

5 611. Notice to tenants receiving rent demands.

6 612. Notice to applicants for assistance under the emergency
7 rent relief act of 2020.

8 613. Outreach.

9 614. Fair housing obligations.

10 615. Reports by the commissioner.

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

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

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

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

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

34 4. "Federal emergency rental assistance program" shall mean the emer-
35 gency rental assistance funding issued pursuant to section 501 of the
36 Consolidated Appropriations Act of 2021, Pub L. No. 116-260 §501, 888-97
37 (2021).

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

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

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

55 8. "Rent" shall mean rent as defined by section seven hundred two of
56 the real property actions and proceedings law and subject to proceedings

1 under article seven of the real property actions and proceedings law,
2 including statutory rents and maintenance fees paid pursuant to a
3 proprietary lease on a co-operative dwelling unit.

4 9. "Rental arrears" shall mean unpaid rent owed to the landlord that
5 accrued on or after March thirteenth, two thousand twenty, the date of
6 the emergency declaration pursuant to section 501(b) of the Robert T.
7 Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.
8 5191(b).

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

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

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

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

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

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

39 5. The commissioner may delegate the administration of any portions of
40 this program to any state agency, city, county, town, or non-profit
41 organization in accordance with the provisions of this article.

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

52 § 604. Eligibility. The commissioner shall promulgate standards for
53 determining eligibility for this program.

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

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

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

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

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

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

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

15 (b) the household's current monthly income at the time of applica-
16 tion for such assistance. If a household is applying for assistance using
17 current monthly income, the household shall only be eligible for assist-
18 ance for the months during which they meet the criteria in subdivision
19 one of this section.

20 3. In addition to the eligibility criteria in subdivision one of this
21 section, the commissioner may promulgate limits on assets as part of any
22 determination of eligibility for this program. The commissioner shall
23 exclude from any calculation of assets made pursuant to this section
24 assets held in a tax-deferred or comparable retirement savings account
25 or any vehicle used regularly by a member of the household.

26 4. The commissioner shall establish preferences in processing applica-
27 tions and allocating funds under this program. Such preferences shall at
28 a minimum prioritize each of the following:

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

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

34 5. The commissioner may also grant preferences for households who:

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

37 (b) include one or more individuals who are victims of domestic
38 violence;

39 (c) apply jointly with their landlord; or

40 (d) have eviction cases that are pending on or before February first,
41 two thousand twenty-one; provided that among households granted a pref-
42 erence because they apply jointly with their landlord, the commissioner
43 may grant an additional preference for households whose landlord is a
44 non-profit provider of affordable housing; provided further that any
45 preference granted pursuant to this subdivision shall not supersede
46 either of the preferences granted pursuant to subdivision four of this
47 section.

48 6. A household may apply for utility assistance, rental assistance, or
49 both.

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

52 8. No rental assistance provided pursuant to this article shall be
53 duplicative of assistance for rent or rental arrears previously received
54 by the household.

1 9. Any ambiguity in eligibility criteria promulgated by the commis-
2 sioner shall be resolved in favor of the applicant when determining
3 eligibility.

4 10. Any information collected about a household in the process of
5 determining eligibility shall solely be used for the purposes of deter-
6 mining eligibility and shall not be shared with any other governmental
7 agency.

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

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

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

19 § 605. Application. 1. As soon as practicable and no later than four-
20 teen days after the effective date of this article, the commissioner
21 shall make an application for the program available on its website. The
22 application shall be available online in English, Spanish, Chinese,
23 Russian, Yiddish, Haitian (French Creole), Bengali, and Italian. The
24 commissioner shall enable applications to be accepted via telephone. The
25 application period shall remain open for a minimum of one hundred eighty
26 days unless all available funding has been allocated prior to the expi-
27 ration of one hundred eighty days.

28 2. The commissioner shall designate non-for-profit organizations that
29 shall be permitted to assist households in applying for assistance and
30 such organizations shall be permitted to file applications on behalf of
31 such households.

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

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

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

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

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

43 4. Upon receipt of an application, the commissioner shall make avail-
44 able a tracking number by which both the applicant household and land-
45 lord of the applicant household may track the status of the application.

46 § 606. Documentation. The commissioner shall establish procedures that
47 are appropriate and necessary to assure that information necessary to
48 determine eligibility provided by households applying for or receiving
49 assistance under this article is complete and accurate. Documentation
50 may include but is not limited to: a signed lease, paycheck stubs, earn-
51 ing statements, bank statements, tax records, W-2 or 1099 forms, e-pay-
52 ment application transaction history, written statements from a former
53 or current employer, telephone or in-person contact with a former or
54 current employer, self-attestation by the applicant, or other methods
55 approved by the commissioner. When self-attestation is used as documen-

1 tation, the applicant shall also attest that the applicant has no other
2 documentation available.

3 § 607. Restrictions on eviction. Eviction proceedings for non-payment
4 of rent that would be eligible for coverage under this program shall not
5 be commenced against a household who has applied for this program unless
6 or until a determination of ineligibility is made. If eviction
7 proceedings are commenced against a household who subsequently applies
8 for benefits under this program, all proceedings for missed rent
9 payments during the covered period shall be stayed until a determination
10 of ineligibility has been made.

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

18 2. If all eligible households whose applications are received within
19 sixty days of the start of the application period receive assistance,
20 the commissioner may pay an additional three months of rental and/or
21 utility assistance for rental or utility arrears accrued after the date
22 of application or prospective rent. No household may receive more than
23 fifteen months of total rental and/or utility assistance. Eligibility
24 for assistance shall be reassessed for each household before rental
25 assistance is issued pursuant to this subdivision.

26 3. Payments for rental arrears or prospective rent shall be the lesser
27 of the monthly rent for the household or one hundred fifty percent of
28 the fair market rent for the dwelling unit. The rental assistance shall
29 be paid directly to the landlord of the dwelling unit or manufactured
30 home park occupied by the household for the total amount of qualified
31 rental arrears and prospective rental assistance pursuant to subdivision
32 one of this section. Utility assistance shall be paid directly to the
33 utility. The commissioner shall make reasonable efforts to obtain the
34 cooperation of landlords and utility providers to accept payments from
35 this program. Outreach shall be considered complete if a request for
36 participation is sent in writing, by certified mail, to the landlord or
37 utility provider, and the addressee does not respond to the request
38 within twenty-one calendar days after mailing; or, if at least three
39 attempts have been made by phone or email over a twenty-one calendar-day
40 period to request the landlord or utility provider's participation. All
41 such outreach efforts shall be documented.

42 4. If the landlord or utility provider is uncooperative or unrespon-
43 sive after outreach efforts are made pursuant to subdivision three of
44 this section, the commissioner may make payments directly to the eligi-
45 ble household for the purpose of enabling the household to make payments
46 to the landlord or utility provider. The commissioner may require
47 documentation from any households receiving such payments that monies
48 received were used in compliance with this program.

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

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

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

1 (c) not to evict for reason of expired lease or holdover tenancy any
2 household on behalf of whom rental assistance is received for one year
3 after the first rental assistance payment is received. Where the dwell-
4 ing unit that is the subject of the lease or rental agreement is located
5 in a building that contains four or fewer units, the landlord may
6 decline to extend the lease or tenancy if the landlord intends to imme-
7 diately occupy the unit for the landlord's personal use as a primary
8 residence or the use of an immediate family member as a primary resi-
9 dence.

10 § 609. No repayment and assistance not considered income. Eligible
11 households shall not be expected or required to repay any assistance
12 granted through this program. Assistance granted through this program
13 shall not be considered income for purposes of eligibility for public
14 benefits or other public assistance, but shall be considered a "source
15 of income" for purposes of the protections against housing discrimi-
16 nation provided under section two hundred ninety-six of the human rights
17 law. There shall be no requirement for applicants to seek assistance
18 from other sources, including charitable contributions, in order to be
19 eligible for assistance under this program.

20 § 610. Notice to tenants in eviction proceedings. In any eviction
21 proceeding pending as of the effective date of this article and any
22 eviction proceeding filed while applications are being accepted for
23 assistance pursuant to this article, the court shall promptly mail the
24 respondent information regarding how the respondent may apply for such
25 assistance in English, and, to the extent practicable, in the respond-
26 ent's primary language, if other than English.

27 § 611. Notice to tenants receiving rent demands. With every written
28 demand for rent made pursuant to subdivision two of section seven
29 hundred eleven of the real property actions and proceedings law, with
30 any other written notice required by the lease or tenancy agreement, law
31 or rule to be provided prior to the commencement of an eviction proceed-
32 ing, and with every notice of petition served on a tenant after the
33 effective date of this article and while applications are being accepted
34 for assistance pursuant to this article, the landlord shall provide
35 information regarding how a tenant may apply for such assistance, in a
36 form approved by the commissioner or the office of court administration,
37 in English, and, to the extent practicable, in the tenant's primary
38 language, if other than English.

39 § 612. Notice to applicants for assistance under the emergency rent
40 relief act of 2020. The commissioner, in consultation with the commis-
41 sioner of the division of housing and community development, shall
42 provide notice of how to apply for assistance pursuant to this article
43 to each tenant who applied for assistance under the emergency rent
44 relief act of 2020, pursuant to chapter one hundred twenty-five of the
45 laws of two thousand twenty. Such notice shall be provided in English,
46 and, to the extent practicable, in the tenant's primary language, if
47 other than English.

48 § 613. Outreach. The commissioner shall ensure that extensive outreach
49 is conducted to increase awareness of this program among tenants and
50 landlords. The commissioner shall prioritize for outreach communities
51 where the median income of residents is less than eighty percent of the
52 area median income for the region, communities with the highest unem-
53 ployment rates, and communities that experienced the highest rates of
54 COVID-19 infections during the pandemic, and to the extent practicable,
55 communities with high rates of ownership of rental housing by small
56 landlords. The commissioner shall ensure that such outreach is conducted

1 with materials written in the languages listed in subdivision one of
2 section six hundred five of this article, and to the extent practicable
3 in other languages commonly spoken by residents of those communities
4 required to be prioritized pursuant to this section, as per the most
5 recent American Community Survey from the United States Census Bureau.

6 § 614. Fair housing obligations. Nothing in this article shall lessen
7 or abridge any fair housing obligations promulgated by the federal
8 government, state, municipalities, localities, or any other applicable
9 jurisdiction.

10 § 615. Reports by the commissioner. The commissioner shall, on or
11 before the twentieth day of each month for the duration of the program,
12 submit and make publicly available on its website a report to the gover-
13 nor, the temporary president of the senate, and the speaker of the
14 assembly, indicating the number of households that have applied for
15 rental assistance only, the number of households that have applied for
16 utility assistance only, the number of households that have applied for
17 both rental and utility assistance, the number of applications for each
18 type of assistance approved, the number of applications for each type of
19 assistance rejected, the status of any pending applications, and the
20 monthly expenditures made pursuant to this article for each type of
21 assistance. Each number required to be included in the report shall be
22 reported as a statewide total from the start of the program though the
23 end of the preceding calendar month and as a subtotal for each county,
24 based on the location of the premises for which the applicant has sought
25 assistance.

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

28 § 131-bb. Proof of eligibility for rental assistance. Under no circum-
29 stances shall a local social services district require proof that a
30 court proceeding has been initiated against a tenant as a condition of
31 eligibility for a rent arrears grant or ongoing rental assistance
32 including rental assistance provided pursuant to this article.

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

35 § 131-w. Limitations in the payment of rent arrears. 1. Districts
36 shall not provide assistance to pay rent arrears, property taxes or
37 mortgage arrears for persons not eligible for home relief, aid to
38 dependent children, emergency assistance to needy families with children
39 or emergency assistance for aged, blind and disabled persons, except to
40 persons who are without income or resources immediately available to
41 meet the emergency need, whose gross household income does not exceed
42 one hundred twenty-five percent of the federal income official poverty
43 line and who sign a repayment agreement agreeing to repay the assistance
44 in a period not to exceed twelve months. The districts shall enforce
45 the repayment agreements by any legal method available to a creditor, in
46 addition to any rights it has pursuant to this chapter. The department
47 shall promulgate regulations to implement this section which shall,
48 among other things, establish standards for the contents of repayment
49 agreements and establish standards to ensure that assistance is provided
50 only in emergency circumstances.

51 2. Notwithstanding the provisions of subdivision one of this section,
52 no repayment agreement shall be required for assistance provided between
53 March seventh, two thousand twenty until the later of December thirty-
54 first, two thousand twenty-one or the date on which none of the
55 provisions that closed or otherwise restricted public or private busi-
56 nesses or places of public accommodation, or required postponement or

1 cancellation of all non-essential gatherings of individuals of any size
2 for any reason in executive order numbers 202.3, 202.4, 202.5, 202.6,
3 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14 of two thousand twenty,
4 as extended by executive order numbers 202.28 and 202.31 of two thousand
5 twenty and as further extended by any future executive order, issued in
6 response to the COVID-19 pandemic continue to apply in the service
7 district. Any payment due and owing under this section shall be
8 suspended until the later of December thirty-first, two thousand twen-
9 ty-one or the date on which none of the provisions that closed or other-
10 wise restricted public or private businesses or places of public accom-
11 modation, or required postponement or cancellation of all non-essential
12 gatherings of individuals of any size for any reason in executive order
13 numbers 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13
14 or 202.14 of two thousand twenty, as extended by executive order numbers
15 202.28 and 202.31 of two thousand twenty and as further extended by any
16 future executive order, issued in response to the COVID-19 pandemic
17 continue to apply to the service district.

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

21 1. (a) In the case of a person applying for public assistance, supple-
22 mental security income benefits or additional state payments pursuant to
23 this chapter, the social services official of the social services
24 district in which such person resides shall, unless alternative payment
25 or living arrangements can be made, make a payment to a gas corporation,
26 electric corporation or municipality for services provided to such
27 person during a period of up to, but not exceeding, four months imme-
28 diately preceding the month of application for such assistance or bene-
29 fits if such payment is needed to prevent shut-off or to restore
30 service. Persons whose gross household income exceeds the public assist-
31 ance standard of need for the same size household must sign a repayment
32 agreement to repay the assistance within two years of the date of
33 payment as a condition of receiving assistance, in accordance with regu-
34 lations established by the department. Such repayment agreement may be
35 enforced in any manner available to a creditor, in addition to any
36 rights the district may have pursuant to this chapter.

37 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
38 sion, no repayment agreement shall be required for assistance provided
39 between March seventh, two thousand twenty until the later of December
40 thirty-first, two thousand twenty-one or the date on which none of the
41 provisions that closed or otherwise restricted public or private busi-
42 nesses or places of public accommodation, or required postponement or
43 cancellation of all non-essential gatherings of individuals of any size
44 for any reason in executive order numbers 202.3, 202.4, 202.5, 202.6,
45 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14 of two thousand twenty,
46 as extended by executive order numbers 202.28 and 202.31 of two thousand
47 twenty and as further extended by any future executive order, issued in
48 response to the COVID-19 pandemic continue to apply in the service
49 district.

50 § 6. Section 106-b of the social services law, as amended by chapter
51 81 of the laws of 1995, is amended to read as follows:

52 § 106-b. Adjustment for incorrect payments. 1. Any inconsistent
53 provision of law notwithstanding, a social services official shall, in
54 accordance with the regulations of the department and consistent with
55 federal law and regulations, take all necessary steps to correct any
56 overpayment or underpayment to a public assistance recipient; provided,

1 however, that a social services official may waive recovery of a past
2 overpayment, in the case of an individual who is not currently a recipi-
3 ent of public assistance, where the cost of recovery is greater than the
4 cost of collections as determined in accordance with department regu-
5 lations consistent with federal law and regulations. For purposes of
6 this section, overpayment shall include payments made to an eligible
7 person in excess of his needs as defined in this chapter and payments
8 made to ineligible persons (including payments made to such persons
9 pending a fair hearings decision). The commissioner shall promulgate
10 regulations to implement procedures for correcting overpayments and
11 underpayments. The procedures for correcting overpayments shall be
12 designed to minimize adverse impact on the recipient, and to the extent
13 possible avoid undue hardship. Notwithstanding any other provision of
14 law to the contrary, no underpayment shall be corrected with respect to
15 a person who is currently not eligible for or in receipt of home relief
16 or aid to dependent children, except that corrective payments may be
17 made with respect to persons formerly eligible for or in receipt of aid
18 to dependent children to the extent that federal law and regulations
19 require.

20 2. Notwithstanding the provisions of subdivision one of this section,
21 no collection of overpayments shall be conducted, regardless of when the
22 overpayment accrued, until the later of December thirty-first, two thou-
23 sand twenty-one or the date on which none of the provisions that closed
24 or otherwise restricted public or private businesses or places of public
25 accommodation, or required postponement or cancellation of all non-es-
26 sential gatherings of individuals of any size for any reason in execu-
27 tive order numbers 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10,
28 202.11, 202.13 or 202.14 of two thousand twenty, as extended by execu-
29 tive order numbers 202.28 and 202.31 of two thousand twenty-one and as
30 further extended by any future executive order, issued in response to
31 the COVID-19 pandemic continue to apply in the service district.

32 § 7. Severability clause. If any clause, sentence, paragraph, subdivi-
33 sion, section or part of this act shall be adjudged by any court of
34 competent jurisdiction to be invalid, such judgment shall not affect,
35 impair, or invalidate the remainder of this act, but shall be confined
36 in its operation to the clause, sentence, paragraph, subdivision,
37 section or part of this act directly involved in the controversy in
38 which such judgment shall have been rendered. It is hereby declared to
39 be the intent of the legislature that this act would have been enacted
40 even if such invalid clause, sentence, paragraph, subdivision, section
41 or part had not been included herein.

42 § 8. This act shall take effect immediately and shall expire on the
43 later of December 31, 2021 or the date on which none of the provisions
44 that closed or otherwise restricted public or private businesses or
45 places of public accommodation, or required postponement or cancellation
46 of all non-essential gatherings of individuals of any size for any
47 reason in executive order numbers 202.3, 202.4, 202.5, 202.6, 202.7,
48 202.8, 202.10, 202.11, 202.13 or 202.14 of two thousand twenty, as
49 extended by executive order numbers 202.28 and 202.31 of two thousand
50 twenty and as further extended by any future executive order, issued in
51 response to the COVID-19 pandemic continue to apply anywhere in the
52 state, when upon such date the provisions of this act shall be deemed
53 repealed; provided that the state commissioner of social services shall
54 notify the legislative bill drafting commission upon the date on which
55 none of the provisions that closed or otherwise restricted public or
56 private businesses or places of public accommodation, or required post-

1 ponement or cancellation of all non-essential gatherings of individuals
2 of any size for any reason in executive order numbers 202.3, 202.4,
3 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14 of two
4 thousand twenty, as extended by executive order numbers 202.28 and
5 202.31 of two thousand twenty and as further extended by any future
6 executive order, issued in response to the COVID-19 pandemic continue to
7 apply anywhere in the state, in order that the commission may maintain
8 an accurate and timely effective data base of the official text of the
9 laws of the state of New York in furtherance of effectuating the
10 provisions of section 44 of the legislative law and section 70-b of the
11 public officers law.