STATE OF NEW YORK

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IN ASSEMBLY

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Introduced by M. of A. ABINANTI, PAULIN, GALEF, MAGNARELLI, THIELE, FAHY, McDONALD, WOERNER, BUTTENSCHON, GRIFFIN, JACOBSON, McMAHON -- read once and referred to the Committee on Housing

AN ACT enacting the COVID-19 supplemental emergency rental assistance program of 2021; 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:

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

§ 2. Definitions. For the purposes of this act:

1. "Commissioner" means the commissioner of the state office of temporary and disability assistance.

2. "Supplemental COVID-19 emergency rental assistance program" or "program" means the rental assistance program established by the commissioner pursuant to section three of this act and funded by emergency rental assistance funding issued pursuant to section 501 of the Consolidated Appropriations Act of 2021, Pub L. 116-260 § 501, and section 3201 of the American Rescue Plan Act of 2021, Pub.L. 117-2 § 3201, as well as any other federal funds made available for the purposes defined in this act.

3. "Occupant" shall have the same meaning as defined in section 235-f of the real property law.

4. "Office" means the state office of temporary and disability assistance.

5. "Rent" shall have the same meaning as defined in section 702 of the real property actions and proceedings law.

6. "Rental arrears" shall mean unpaid rent owed to the landlord that accrued on or after March 13, 2020.

7. "Small landlord" shall mean any person or entity that owns a building of twenty or fewer units.

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

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§ 3. Authority to implement emergency rental assistance. a. The commissioner is hereby authorized and directed to implement, as soon as practicable, but no later than 30 days from the effective date of this act, a program of rental assistance for persons eligible pursuant to section five of this act.

b. The program described in subdivision a of this section shall be funded with any state funds appropriated for such program, including those funds appropriated by that part, entitled "DEPARTMENT OF FAMILY ASSISTANCE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE", of section 1 of chapter 53 of the laws of 2021, enacting the "Aid to Localities Budget", designated for supplemental costs associated with an emergency rental assistance program which shall be spent as specified in this act.

c. The commissioner may delegate the administration of any portions of this program to any state agency, city, county, town, contractor or non-profit organization in accordance with the provisions of this act.

d. Where practicable, the commissioner shall use the same website, portal, application forms and documentation procedures as are utilized for the state COVID Rent Relief Program.

§ 4. Distribution. The commissioner shall work to ensure an equitable distribution of funds throughout the state, excluding administrative funds. For the first 30 days beginning with the first day that the office begins accepting applications, the commissioner shall ensure, to the extent practicable, that the allocation of funds from this program for households and landlords outside the city of New York is no less than 35% of supplemental emergency rental assistance funds available hereunder. After the initial 30-day priority period has ended, all applications shall be processed on a rolling basis.

§ 5. Eligibility. The commissioner shall establish standards for determining eligibility for such program, consistent with the following:

a. (1) A household shall be eligible for supplemental emergency rental assistance, if it is a tenant or occupant obligated to pay rent for their residence in the state of New York, including both tenants and occupants of dwelling units and manufactured home tenants, regardless of immigration status of the landlord or the tenants.

(2) A landlord shall be eligible for supplemental emergency rental assistance, if the landlord has a tenant or occupant obligated to pay rent to the landlord for the tenant's residence or occupancy of property owned by the landlord in the state of New York, including both tenants and occupants of dwelling units and manufactured home tenants, regardless of immigration status of the landlord or the tenants.

(3) A tenant and/or a landlord may seek payment for supplemental emergency rental assistance regardless of the tenant's income.

(4) A landlord may seek payment for supplemental emergency rental assistance for such rental arrears without regard for: (i) the reason that the tenant failed to pay rent; (ii) whether the tenant is still in occupancy of the rented premises or has vacated the premises while owing such rental arrears; or (iii) whether the landlord or tenant, or both, unsuccessfully made application for the COVID Rent Relief Program.

b. Nothing in this act shall preclude a recipient or the landlord of a recipient of public assistance from being eligible for supplemental emergency rental assistance under this program.

c. (1) The commissioner shall establish priority in processing applications and allocating funds under this program.

(2) For the first 30 days, the commissioner shall also grant priority for: (i) small landlords; and (ii) tenants residing in a building or development of twenty or fewer units owned by a small landlord.

(3) After the initial 30-day priority period has ended, all applications shall be processed on a rolling basis.

d. To the extent feasible, no rental assistance provided pursuant to this act shall be duplicative of assistance for rent or rental arrears previously received or currently being received by the household or a landlord for a specific housing unit.

e. Any documentation or information provided to the office, its employees, agents, contractors and/or officers by an applicant as part of the application for benefits under the program shall be released only upon the consent of the applicant.

§ 6. Application. a. As soon as practicable, the commissioner shall make an application for the program available on the office of temporary and disability assistance's website. The application shall be available online in English, Spanish, Chinese, Russian, Korean, Yiddish, Haitian (French Creole), Bengali, and, to the extent practicable, other commonly used languages. The commissioner shall enable application assistance to be offered via telephone and make accommodations for those who are hearing or visually impaired, with referral to a community-based organization as deemed necessary.

b. Each municipal corporation shall designate not-for-profit organizations or local government staff that shall assist households and landlords in applying for assistance through the program. Such organizations and staff shall be permitted to file applications on behalf of such households and such landlords.

c. Any party, including the tenant or the landlord or owner, or their designee, that may be eligible to receive funds under this program may initiate an application for benefits available through the program. Regardless of whether a landlord, owner, tenant or occupant initiates an application, such landlord or owner shall be required to:

(1) use any payments received pursuant to this act solely to satisfy the tenant's full rental obligations to the landlord or owner for the time period covered by the payment;

(2) provide the office of temporary and disability assistance with necessary information and documentation to facilitate payments; and

(3) keep confidential any information or documentation from or information about the tenant or occupant acquired pursuant to this application process.

d. (1) Documentation of the immigration status of the tenant or occupant or the landlord shall not be requested as part of the COVID-19 supplemental emergency rental assistance program.

(2) Any documentation or information provided to the statewide application website, eligibility worker, hotline or obtained in the course of administering the emergency rental assistance program or any other assistance program shall be kept confidential and shall only be used for the purposes of determining eligibility, for program administration, avoiding duplication of assistance, and uses consistent with state and federal law.

(3) Any portion of any record retained by the commissioner in relation to an application pursuant to this section that contains the photo image or identifies the social security number, telephone number, place of birth, country of origin, place of employment, school or educational institution attended, source of income, status as a recipient of public benefits, the customer identification number associated with a public utilities account, medical information or disability information of the holder of, or applicant for, is not a public record and shall not be disclosed in response to any request for records except: (i) to the

person who is the subject of such records; or (ii) where necessary to comply with state and federal law.

e. Upon receipt of an application and to the extent practicable, the commissioner shall make available a means by which an application submitted by a tenant, a landlord, or both jointly can be tracked by both the tenant and the landlord, regardless of who submitted such application.

f. Self-attestation shall be considered to be acceptable documentation to the extent permissible by state law and relevant regulations; provided that attestation of a person with knowledge of the household's circumstances and/or the amount of rent due the landlord shall be considered to be acceptable documentation to the extent permissible by state law and relevant regulations.

§ 7. Documentation. The commissioner shall establish procedures that are appropriate and necessary to assure that information and documentation necessary to determine eligibility for benefits under the program provided by households and/or landlords applying for or receiving assistance under this act is complete and accurate. Additionally, the commissioner shall establish procedures to ensure flexibility when determining acceptable documentation.

§ 8. Restrictions on eviction. Eviction proceedings for non-payment of rent or supplemental rent that would be eligible for coverage under this program shall be stayed against a household who has in good faith applied for this program or who, subsequent to commencement of the proceeding, applies for benefits under this program unless or until a determination of ineligibility is made. Evidence of a payment received pursuant to the program may be presented in such proceeding and create a presumption that the tenant's or occupant's rent or supplemental rent obligation for the time period covered by the payment has been fully satisfied.

§ 9. Payments. a. Payments from the program shall be made for rental payments or rental and supplemental rent arrears accrued on or after March 13, 2020. The amount of rental assistance paid under the program shall not exceed the amount a tenant owes in rental arrears. 3 months of prospective rental assistance may be paid on behalf of any eligible household.

b. (1) The rental assistance shall be paid directly to the landlord of the dwelling unit or manufactured home park occupied by the household for the total amount of qualified rental arrears and prospective rental assistance pursuant to subdivision a of this section.

(2) Prior to making a determination of eligibility for benefits under the program, the commissioner or the commissioner's designee shall undertake reasonable efforts to obtain the cooperation of tenants and landlords to apply for and accept payments from the program. Such outreach may be considered complete if: (i) a request for participation has been sent in writing, by mail, to the tenant and/or landlord and the addressee has not responded to the request within 14 calendar days after mailing; or (ii) at least 3 attempts by phone, text, or e-mail have been made over a 10 calendar day period to request the tenant's and/or landlord's participation; or (iii) a tenant and/or landlord confirms in writing that the tenant and/or landlord does not wish to participate in the program. The outreach attempts or notices to the tenant and/or landlord shall be documented and shall be made available to the tenant and/or landlord. When possible, both landlord or owner and tenant shall be notified of the provisional determination of eligibility and the tenant and landlord or owner shall have a final opportunity to partic-

ipate. If the tenant does not participate, the commissioner may approve a landlord's application. If the landlord does not participate, the tenant may use such provisional determination as an affirmative defense in any proceeding seeking a monetary judgment or eviction brought by a landlord for the non-payment of rent accrued during the same time period covered by the provisional payment. If the landlord has accepted such payment, the landlord shall be deemed to have waived the amount of rent covered by such provisional payment, and shall be prevented from initiating a monetary action or proceeding, or collecting a judgment premised on the non-payment of the amount of rent covered by the payment.

(3) Acceptance of a payment for rent or rental arrears from this program shall constitute agreement by the recipient landlord or property owner: (i) that the arrears covered by this payment are satisfied and will not be used as the basis for a non-payment eviction of the tenant; (ii) to waive any late fees due on any rental arrears paid pursuant to this program; (iii) to not increase the monthly rent due for the dwelling unit such that it shall not be greater than the amount that was due at the time of application to the program for any and all months for which rental assistance is received and for one year after the first rental assistance payment is received for that tenant; (iv) to not evict for reason of expired lease holdover tenancy any household on behalf of whom rental assistance is received for 12 months after the first rental assistance payment is received, unless the dwelling unit that is the subject of the lease or rental agreement is located in a building that contains 4 or fewer units, in which case the landlord may decline to extend the lease or tenancy if the landlord intends to immediately occupy the unit for the landlord's personal use as a primary residence or the use of an immediate family member as a primary residence; and (v) to notify the tenant of the protections established under this subdivision.

§ 10. Repayment and assistance not considered income. Eligible households shall not be expected or required to repay any assistance granted through the program, except in instances of fraud perpetrated by such household. Landlords shall not be expected or required to repay any funds paid through the program except in instances of duplicate payments or fraud perpetrated by the landlord. Assistance granted through the program shall not be considered income for purposes of eligibility for public benefits or other public assistance to the extent allowed by law but shall be considered a "source of income" for purposes of the protections against housing discrimination provided under section 296 of the human rights law. There shall be no requirement for applicants to seek assistance from other sources, including charitable contributions, in order to be eligible for assistance under the program.

§ 11. Notice to tenants in eviction proceedings. In any eviction proceeding pending as of the effective date of this act and any eviction proceeding filed while applications are being accepted for assistance pursuant to this act, the court shall promptly make available to the respondent information regarding how the respondent may apply for such assistance in English, and, to the extent practicable, in the respondent's primary language, if other than English.

§ 12. Outreach. The commissioner shall ensure that extensive outreach is conducted to increase awareness of the program among tenants and landlords or owners. The commissioner shall require each municipal corporation to target for outreach communities for the purpose of increasing such awareness. The commissioner shall, to the extent practicable, partner with municipal corporations in an effort to provide outreach materials in the languages commonly spoken by residents of New

York state as per the American Community Survey from the United States Census Bureau. Municipal recipients shall contract with community-based organizations to supplement the state's outreach program, providing additional application assistance and outreach activities specific to their geographic location. Such community-based organizations shall deliver their services in multiple languages and in a culturally competent manner to vulnerable and/or low-income populations, including populations prioritized by the program pursuant to section five of this act.

§ 13. Fair housing obligations. Nothing in this act shall lessen or abridge any fair housing obligations promulgated by the federal government, state, municipalities, localities, or any other applicable jurisdiction.

§ 14. Reports by the commissioner. The office shall be required to report and post information on their website and update such information at least monthly beginning 30 days from when the commissioner makes an application for the program available. Such information shall include but not be limited to:

a. the number of municipal recipients that choose to participate in the statewide program;

b. the number of eligible households that received assistance under this act, including the particular category of assistance which was provided;

c. the average amount of funding provided per eligible household receiving assistance; and

d. the number of households that applied for assistance.

§ 15. This act shall take effect immediately and shall expire and be deemed repealed September 30, 2025.