



CONNECTICUT ADVISORY COUNCIL ON HOUSING MATTERS



Reply to: 16 Main St., 2nd floor
New Britain, CT. 06051
(860) 616-4472

Minutes of the Meeting of January 14, 2021

Council members present: Michael Clinton, Kathy Flaherty, Jane Kelleher, Houston Putnam Lowry, Carl Lupinacci, Stephanie Ma, Sam Neves, Raphael Podolsky, J.L. Pottenger, Dave Purvis, Margaret Suib, Richard Tenenbaum, John Wirzbicki

Council members absent: Loo Dahlke, Richard DeParle, Venoal Fountain

Members of the public present: Nancy Hronek, Greg Kirschner, Judith Rothschild, John Souza, Shelley White

1. Preliminary matters

a. Call to order: The meeting was held by Zoom. The meeting was called to order by the chairperson, Raphael Podolsky, at 4:08 pm.

b. Approval of the agenda: The agenda was approved unanimously after amendment (motion by Loo Dahlke, second by Houston Putnam Lowry).

c. Zoom meeting procedures: The chairperson advised that only members of the Advisory Council can vote but that others will be allowed to speak and participate in the meeting unless that becomes a practical problem for management of the meeting.

d. Approval of the minutes: The minutes of the December 9, 2020, meeting were approved unanimously (motion by Houston Putnam Lowry, second by Sam Neves)

e. Follow-up to the biennial report: The Judicial Branch has submitted a written response to the Advisory Council's biennial report. It is attached as Appendix A. Houston Putnam Lowry and Michael Clinton offered to serve on a subcommittee to meet with Judicial for follow-up. Additional members will be designated by the chairperson.

f. 2021 legislative session: The chairperson reviewed the expectations for the 2021 legislative session. It is likely to be conducted primarily virtually because of the pandemic.

2. Matters related to the state's emergency rental assistance program

Participants in the meeting conducted a wide-ranging discussion of the new federal program of pandemic-related rental assistance contained in the federal Consolidated Appropriations Act of 2021. Approximately \$237 million dollars is expected to be allocated to Connecticut, of which at least 90% must be used for actual rental assistance in the form of direct payments to landlords whose tenants are in arrears in the rent. Prior to the meeting, the chairperson had prepared and distributed a memorandum entitled "2021 federal Coronavirus relief package – issues for CACHM," which is attached as Appendix B to these minutes. Also distributed was a summary of the same legislation from the National Housing Law Project, which is attached as Appendix C. The discussion was informational, and no votes were taken on any issue. Subjects reviewed were primarily the topics listed in Appendix B.

3. Adjournment

A motion to adjourn was adopted unanimously (motion by Houston Putnam Lowry, second by Sam Neves). The meeting adjourned at 5:50 pm.

Respectfully submitted,
Kathy Flaherty, Secretary

APPENDIX A

Judicial Branch Comments on the 2021 Report of the Connecticut Advisory Council on Housing Matters To the General Assembly Dated January 6, 2021

The Judicial Branch submits the following comments to the Connecticut Advisory Council on Housing Matters regarding its 2021 Report to the General Assembly dated January 6, 2021.

Report Overview:

Page 1 ¶ 2: Without question, the public health crisis brought on by COVID-19 caused the Judicial Branch to significantly alter the way court business is conducted in order to protect the health and safety of the public, court staff, and judges alike. However, it is simply inaccurate to say that the entire civil court system was substantially shut down in mid-March 2020, that courthouses were largely closed to anything other than Priority 1 cases, and that since September, courts have incrementally followed a process of reopening.

Effective March 19, 2020, the Governor issued Executive Order 7G which suspended all non-critical court operations and associated court requirements due to the pandemic. In response thereto, in-person court proceedings were limited temporarily to identified Priority 1 business functions. However, beginning in April, 2020, civil court business was expanded from Priority 1 matters because of the ability of judges and court staff to review and process civil matters remotely. Civil short calendar motions marked “take papers” were ruled on by judges on the papers and processed remotely by clerks. Remote civil pretrials, status conferences, trial management conferences, and judicial mediations were being scheduled and held. Although physical access to the courts was restricted early on to certain matters, lock boxes were placed in the lobbies of all open courthouses to allow parties to submit court filings. The ability to e-file civil court pleadings and documents was never restricted in any district, nor was the ability to file on paper by mail or fax at the locations designated on the judicial website. Additional civil short calendars resumed in September and October, and by early December, all civil short calendars had resumed.

With regard to housing matters, Executive Order 7X, effective April 10, 2020, restricted the filing of all new residential summary process cases except those alleging serious nuisance. Subsequent Executive Orders carved out additional exceptions from the suspension beginning in June, 2020, allowing additional summary process case types to be filed and heard. With regard to pending cases, Housing judges began conducting remote pretrials and status conferences in early July to determine which cases were ready for trial. Housing mediations resumed in September using a remote process, initially in commercial and serious nuisance cases followed by cases that were on cancelled March and April housing dockets. To date, over 2,000 remote housing mediations have been scheduled.

It is misleading to state that summary process executions are being “issued and carried out” without also acknowledging the procedural protections proactively put in place by the Branch as of September 14, 2020 to ensure that no tenant is removed from their residence in violation of the Centers for Disease Control’s September 4 order (“CDC Order”). To date, more than 1,000

remote hearings have been held in residential eviction cases, other than those based on serious nuisance, where a summary process execution was filed. Hearings provide a forum for the parties to be heard and for the court to make findings whether the clerk can issue the execution under the CDC Order.

The pandemic and its impact

Page 1 ¶ 3: Reference to “the shutdown of court operations” is inaccurate for the reasons previously stated.

Page 1 ¶ 4: The Branch recognizes the large number of self-represented tenants in housing summary process cases. However, the Report inaccurately indicates that “According to Judicial Branch data, more than 90% of summary process defendants...are self-represented.” The data provided by the Branch to Council leadership, attached to the Council’s Report as Appendix C-8, indicates that 57% of summary process defendants are self-represented, 7 % are represented, and 37% are non-appearing.

Page 2 ¶ 1: It is inaccurate to state that most [Judicial Branch staff] could not effectively work from home. In order to protect their health and safety, staff were provided with the means to remotely access their work computers allowing them to process civil matters remotely, and many were provisioned with Microsoft Teams platforms allowing them to schedule a wide range of civil matters remotely.

The Judicial Branch recognizes the digital divide and is in the process of setting up remote rooms in each open courthouse with specialized equipment that will allow parties without electronic access to participate in remote court proceedings across the disciplines. The remote rooms are scheduled to roll out in mid-February, 2021. Currently, parties in housing matters are also permitted to participate in remote court proceedings by phone if they don’t have access to a computer, tablet or smartphone.

Involvement of the Advisory Council

Page 2 ¶ 4: The Judicial Branch will continue to consider, and if appropriate implement, any recommendations made by the Council pursuant to section 47a-72 of the General Statutes.

Recognition of the special needs of the housing system

Page 3 ¶ 1: The Judicial Branch recognizes that most summary process defendants are self-represented parties, some of which may need accommodations in order to participate effectively in remote proceedings. In addition to the creation of remote rooms for on-site participation, parties are advised in the scheduling notice (JDNO) to contact the clerk in the event they are not able to participate remotely by video or phone so accommodations can be made. Housing clerks currently are attempting to call non-appearing parties by telephone before a hearing proceeds.

Virtual vs. in-person hearings

Page 3 ¶ 2: At this time, there has been no consideration given to eliminating in-person hearings and trials in housing matters in the long term.

Page 3 ¶ 3: The Judicial Branch recognizes the digital divide and is in the process of setting up remote rooms in each open courthouse with specialized equipment that will allow the parties to participate in court proceedings on and off the record via videoconference.

Access to the courthouse

Page 4 ¶ 1: The public is able to access open courthouses, including clerks' offices and court service centers, but must be in compliance with the requirement to wear a mask. Where access issues have been reported, staff, including judicial marshals, have been reminded of directives regarding access.

Procedural Improvements

Page 4 ¶ 2: In the future, virtual hearings may continue to be held in appropriate cases. It may not be appropriate to limit remote scheduling to cases with attorneys on both sides as the Council recommends, particularly if self-represented parties prefer to participate remotely and have the ability to do so.

Page 4 ¶ 4-5: The Judicial Call Center has direct access to the clerk's offices, who in turn have direct access to the courtroom. Litigants have called the Call Center with log in issues, and the clerks have forwarded links, phone in information, and have contacted the courtroom clerk when necessary. Additionally, Call Center staff are forwarding self-represented parties' contact information to the clerks when they receive calls from self-represented parties. The Branch believes that the current system has been responsive to litigants' needs.

Page 4 ¶ 6: The Judicial Branch recognizes the difficulties that some parties may have in accessing and/or remaining in a remote hearing and has made accommodations. For example, if a party fails to appear for a scheduled mediation, a second mediation is scheduled. If a party fails to appear for a hearing after attempting to make contact and then files a motion or calls the court, the court reschedules the matter to give the non-appearing party another opportunity to be heard.

Page 5 ¶ 2: As previously indicated, remote rooms within all open courthouses are being set up with specialized equipment with auto answer technology. The Branch anticipates that the remote rooms will be available in mid-February, 2021 and will allow parties without remote access to participate in virtual court proceedings both on and off the record.

Page 5 ¶ 3: In housing and small claims matters, parties with e-filing access have the option to submit exhibits electronically using the new procedure for electronic exhibits. Parties without e-filing access can continue to submit exhibits on paper and the clerk will upload them as electronic exhibits. Unlike pleadings which are e-filed, electronic exhibits that are uploaded in the case are not viewable by the public until they are accepted by the court as ID or FULL exhibits.

Pursuant to Practice Book section 4-7 (c), the responsibility for redacting personal identifying information rests solely with the person filing the document. The court or clerk of the court is not required to review any filed documents for compliance with section 4-7. When self-represented parties have submitted proposed exhibits in person over the counter or inquired over the phone, clerks have informed parties that personally identifying information should be

redacted before filing. In instances where the personal identifying information is necessary for the Judicial Authority to consider, the party can ask that the court seal the electronic exhibit from public view in real time.

Page 5 ¶ 5: Not all matters are mediated by the housing mediators. The mediators' primary responsibility is to mediate cases that have the pleadings closed and are ready for a trial in order to determine if the parties can reach a settlement (either in a summary process or civil housing matter). The mediators also regularly mediate first time down Housing Code Enforcement cases before they are heard by the court. In all other situations, mediation is ordered at the discretion of the Presiding Judge.

Summary process execution hearings currently are being scheduled in light of the CDC Order staying evictions of tenants covered by the Order. The purpose of the hearing is for the court to make specific findings as to whether the CDC Declaration has been provided to the landlord and whether the execution should be stayed pursuant to the CDC Order or for other reasons. Only the Court can make these findings after hearing.

Page 5 ¶ 6: Housing mediators are already aware of rental assistance programs, including DOC's TRHAP and HPP programs, as well as the scope of the CDC Order, all which are discussed with the parties in mediation. Through the Department of Housing, mediators have been provided with the points of contact in the regions where the program has been rolled out. Having a single point of contact allows the mediators to determine the status of HPP assistance for parties who have submitted applications and have been found eligible. This is consistent with foreclosure mediators having a point of contact at the Connecticut Housing Finance Agency for determining the status of a homeowner's application for EMAP assistance.

Page 6 ¶ 4: Teams links to public court proceedings cannot be shared due to security concerns. Members of the public may come into the courthouse to observe the remote proceeding. The Branch currently is looking at ways to provide live streaming of events to the public.

Page 6 ¶ 5: The Teams software does have limitations, but the Branch understands that improvements are being added by Microsoft, including the availability of breakout rooms to allow parties to have private discussions and mediators to caucus with parties in mediation.

Page 7 ¶ 3: Clerks have been directed to provide at least 14 days' notice of a remote court proceeding to allow the parties time to receive the notice by mail, to submit their contact information to the court, and to receive instructions on how to access the remote court proceeding by video or phone. The Branch was made aware of a number of foreclosure hearings in two court locations where inadequate notice was provided to the parties. Clerks and caseflow have been reminded of the scheduling timeframes that must be adhered to. The Branch is exploring additional ways to access remote proceedings in an effort to streamline the ability of parties to connect to Teams.

Page 7 ¶ 6: We have identified issues with the Remote Justice page and are making appropriate changes on the Judicial website to make it more accessible, so that parties can easily access the guides and other helpful information about remote court proceedings.

Page 8 ¶ 1: Housing court clerks, Judicial District clerks, and mediators have always provided self-represented litigants with referrals to Legal Aid and other programs for assistance and will

continue to do so.

Page 8 ¶ 2: Emails sent to litigants with links to remote proceedings contain the scheduler's name followed by @jud.ct.gov. There is not a way to use "Housing Court" in the body of the email since these emails must be sent by individuals with Teams scheduling licenses. As previously indicated, the Branch is exploring additional ways to access remote proceedings in an effort to streamline the ability of parties to connect to Teams without having to receive the Teams invitation from the scheduler. When a self-represented party notifies the clerk that they do not have email access, the clerk will call the party to provide the call in information to participate by phone. Judicial staff are also available via phone if a party needs to obtain information to access their Teams' event. When remote rooms become available later this month, clerks will advise parties without remote access of their availability.

Page 9 ¶ 2: There currently is a "Lawyer for a Day" program in the New Haven Housing Session to assist self-represented parties. It is run by the Yale Law School Law Clinic in conjunction with New Haven Legal Assistance. The Branch was provided with spring, 2020 dates, and the program was to be held on March 5, March 26, and April 7. The program only went forward on March 5 due to the pandemic. In March, 2019 and again in June, 2019, members of the Council expressed an interest in expanding the "lawyer for a day" program held in the New Haven Housing Session to other Housing Session courts. The Branch is receptive to such proposals and has asked on at least two prior occasions for proposals to be submitted to the Deputy Director for Civil Matters. To date, no proposals have been submitted for consideration. The Branch will implement any legislation that authorizes the creation of a Civil Gideon program for housing matters as it did previously for restraining orders. The Branch also encourages Legal Aid attorneys to enter Appearances or Limited Appearances in housing matters to further expand access to counsel in housing cases.

Page 9 ¶ 8: In the New Britain and Waterbury Housing Sessions, and in Judicial Districts without Housing Sessions, the Chief Clerk of the court is responsible for designating staff whose primary responsibility is supervising housing matters. In the New Britain and Waterbury Housing Sessions, they are a Court Officer and Assistant Clerk, respectively. Both have substantial knowledge of housing matters.

Page 10 ¶ 2: The Council should continue to reach out to the Director of Performance Management, Quality Assurance and Judicial Branch Statistics for all data inquiries, including what data can be retrieved from existing systems. All housing cases can be identified by the "H" case type. Housing small claims cases can be identified as "H11" (Return of Security Deposit) or "H13" (Rent and/or Damages) case types. See JD-CL-134 for a list of all civil case type codes.

Page 10 ¶ 3: Time to disposition in summary process cases is impacted by a variety of factors, including the volume of cases heard in the Housing Session or Judicial District, the case posture/pleading status, whether the defendant is represented, and whether the court has ordered further intervention (e.g. mediation) or referral to outside resources prior to disposition.

Page 10 ¶ 5-6: The Council's forms subcommittee was created in mid-June 2019 for the purpose of reviewing and making recommended changes to existing Judicial Branch housing forms. The Branch looks forward to receiving input from the Council, and remains willing to consider any recommended revisions to these forms when submitted. As of the date of the Council's report

small claims matters, including housing small claims, are heard by judges, not magistrates.

Page 11 ¶ 2: On June 27, 2019, and again on November 22, 2019, members of the Council met with the Deputy Chief Court Administrator and Court Operations staff. Among the topics discussed was the Council's recommendation that the Branch include a website disclaimer on the housing case look up page indicating that the website should not be used for tenant screening. The Deputy Chief Court Administrator approved that recommendation and the website was updated with the disclaimer in February, 2020 with notice to the Council.

The availability of summary process files on the Judicial website was also discussed. Case information is generally displayed on the Judicial website for a period of one to ten years after the disposition date unless the Court Rules provide for a shorter period of time. The retention of court files is governed by sections 7-10 and 7-11 of the Connecticut Practice Book. Pursuant to Rule 7-11 (d), summary process files are retained (and thus are displayed) for three years from the date of judgment. Pursuant to Rule 7-10, summary process files in which a withdrawal has been filed or a dismissal has been entered before final judgment on the issues may be destroyed after one year from the date of withdrawal or dismissal. Cases are automatically removed from the website by the case management system one month before the end of the period found in the Court Rules. If a motion is filed in a case after its disposition date, the time a case is displayed may be extended for 11 more months.

The Judicial Branch is not responsible for how third parties use public information on its website or for the use and/or retention of data purchased by third parties from the Judicial Branch.

Note: The Report provided by Council to the Branch ends on page 11, and the List of Appendices begins on page 14. The Branch would appreciate clarification as to whether there are additional pages 12-13 with content to review.

APPENDIX B

2021 federal Coronavirus relief package – issues for CACHM

January 14, 2021

The federal Consolidated Appropriations Act of 2021 is expected to provide approximately \$237 million to Connecticut for rental assistance. Ninety per cent of that amount (about \$213 million) must be used for “financial assistance to eligible households.” The other 10% must be used for “housing stability services,” defined as “case management and other services...intended to keep households stably housed.” Funds can be used for utility payments as well as rent. The act permits landlords to apply for and submit documentation on behalf of tenants, as long as the tenant signs the application. For tenants to be eligible, their income must be less than 80% of area median income, they must claim “a risk of experiencing homelessness or housing instability,” and at least one member of the household must either be qualified for unemployment compensation or attest to having “experienced other financial hardship due, directly or indirectly,” to the Coronavirus outbreak. Priority must be given to households with income below 50% of area median income and to households with an occupant who has been unemployed for more than 90 days. Payments can cover a time period of up to 12 months, plus up to three extra months “if necessary to ensure housing stability.” Payments can be applied to prospective rent (not just rent arrearages), as long as the assistance is also applied “to reduce an eligible household’s rental arrears.” The initial inclusion of prospective rent is limited to three months, but the tenant can apply for additional prospective rent payments as long as the 15-month per household maximum is not exceeded. All rental assistance payments must be made directly to the landlord, unless the landlord refuses to accept them, in which case the tenant can receive the payment directly “for the purpose of making payments to the lessor.”

Within this statutory framework, each state can shape its own program. Questions that the Advisory Council might want to consider include:

- Should there be a per household dollar maximum? If so, what should it be? The current maximum is \$4,000 per household and \$1,000 per month.
- Should there be a time limit on how far back an arrearage can cover?
- What should be the balance between arrearage payments and prospective payments?
- Should undocumented immigrants be excluded from the program?
- Should landlords be expected to waive or forgive portions of the arrearage in return for a substantial arrearage payment?
 - How should any uncovered arrearages be handled?
- How can the application system be made more efficient?
 - How should a landlord portal work?
 - How much documentation should be required?
 - How can such documentation be submitted?
 - What should be expected of the housing counselors who staff the program?
- What eviction protection should a tenant have going forward?
- To what extent should the program coordinate with evictions that may be pending in the housing courts?
 - Should there be a difference between evictions based on serious non-payment of rent and serious nuisance?
- Should the program have priorities beyond those that are federally mandated? system have?
 - For tenants – under 30% of area median? Unemployed for more than six months?
 - For landlords – owner-occupied buildings? Buildings with fewer than four units?

APPENDIX C

Covid Relief Package and Final FY21 Spending Bill

National Housing Law Project

December 23, 2020

See next page for full text.

To: Housing Justice Network Advocates
From: NHLP Staff
Re: Covid Relief Package and Final FY21 Spending Bill
Date: December 23, 2020

On December 21, Congress reached an agreement on a Covid relief package. Congress also released a final FY21 spending bill that included funding for HUD and affordable housing programs. Below is a summary and analysis of the key components of both bills with respect to affordable housing and tenants' rights. NHLP will provide additional guidance to advocates in the coming weeks.

COVID RELIEF PACKAGE

There are several important housing provisions in the emergency Covid relief package. The bill provides essential funding for emergency rental assistance, extends the CDC eviction moratorium for one month, extends the deadline for the use of CRF funds, establishes a permanent floor for 4% tax credits, and creates a new tax credit for disaster allocation.

Emergency Rental Assistance

The relief package includes \$25 billion for emergency rental assistance, funded through the Coronavirus Relief Fund (CRF) and administered through the Department of Treasury. The assistance will cover a small fraction of the vast need for rental assistance throughout the country. However, Congress made some improvements to CRF since the CARES Act, including adding a requirement that 90% of the funds be used towards rental assistance, which may include current rent, prospective rent, and rental arrears, as well as utility payments, utility arrears, and other potential housing costs incurred due to the Covid-19 pandemic. In addition, CRF funds must now be distributed to renter households with incomes at or below 80% of the Area Median Income, with a priority for households at or below 50% AMI, or households that include at least one person who has been unemployed for 90 days at the time they apply for rental assistance. Up to 10% of CRF funds may also be used for housing stability services, which the Act defines as "case management and other services related to the novel coronavirus disease (COVID-19) outbreak, as defined by the Secretary, intended to help keep households stably housed." Legal aid may qualify as "housing stability services" but ultimately the Treasury will interpret what activities are authorized with the funds. A full outline of the emergency rental assistance provisions in the relief package is below.

Advocates must start working immediately with state and local policymakers to ensure that rental assistance funds are fairly and equitably distributed to the tenants most at risk of housing instability and homelessness. Rental Assistance programs should include further targeting and prioritization guidelines, along with strong tenant protections, such as eviction protections, rent forgiveness, and other measures to ensure that tenants remain housed until the Covid-19 pandemic is contained.

Extension of the CDC Eviction Moratorium

The relief package extends the CDC Eviction moratorium for one month, to January 31, 2021. No other changes were made to the eviction moratorium.

Extension on Deadline for Use of CRF Funds

The bill extends the deadline for the use of CARES Act Coronavirus Relief Funds (CRF) from December 30, 2020 to December 31, 2021. This is important because advocates throughout the country reported that many jurisdictions faced challenges in spending their allocations by the end of the year.

SPENDING BILL

The spending bill renews or slightly increases funding for most HUD and USDA housing programs. It funds these programs at levels above what both the President and Senate requested but below the House request. In other words, Congress rejected any attempt at drastic budget cuts. For more on the spending bill, see the National Low Income Housing Coalition's [bill summary](#).

New Funding for Legal Representation for Evictions

The bill (similar to one that was introduced in the House as the "Legal Assistance to Prevent Evictions Act of 2020") provides \$20 million for legal housing assistance. The funding is made available through HUD's Housing Counseling account and will be awarded through a competitive grant process to nonprofit or government entities providing free legal services to low income tenants at risk of eviction. HUD must ensure that tenants living in rural areas are served with the funds. The funds are available until December 30, 2023. NHLP will provide additional information about the use of the funds as we learn more and will continue to advocate that funds support existing eviction defense programs and services.

Floor for 4% Tax Credits

The Appropriations bill establishes a floor for 4% tax credits in the LIHTC program, which, by replacing the prior method of establishing the applicable percentage, will increase the amount of tax credit equity that can be raised for such projects. The Consolidated Appropriations Act of 2021 amends 26 U.S.C. §42(b) to provide that the applicable percentage shall not be less than 4% for 4% tax credit projects. The new rule applies to new or existing buildings that are put in service after 12-31-2020. (A floor of 9% for 9% tax credit projects was established in 2013).

Unlike the 9% tax credit, the 4% credit is often used to finance acquisition and/or rehabilitation of existing federally subsidized developments, providing a critical preservation tool. The 4% floor should incentivize investment in 4% tax credit projects and thus advance subsidized housing preservation efforts and expand the supply of other LIHTC units.

New Tax Credits for Disaster recovery

The bill authorizes the IRS to allocate additional tax credits to the 11 states that experienced non-COVID-19 major disasters in 2020 that qualified for FEMA assistance. These additional tax credits will apparently be allocated based on each state's disaster area population. California will receive the lion's share of these credits with a disaster area population of over 23 million, which translates into an additional credit allocation of over \$80 million.

New Requirement for All Federally Assisted Units to Have Working CO Detector

The package includes the “Carbon Monoxide Alarms Leading every Resident to Safety Act (CO Alerts Act). The Act protects people in federally assisted housing from carbon monoxide exposure by (1) requiring CO alarms or detectors in housing that receives public funding including both project and tenant-based assistance and rural housing, (2) requiring that CO alarms comply with widely-adopted international Fire Code standards which includes installation in any dwelling unit containing a fuel-burning appliance, fireplace, furnace, or enclosed garage and (3) authorizing appropriations necessary to carry out the act. Housing providers will have two years to comply with the law. Carbon monoxide is a toxic gas that cannot be seen, smelled, or tasted and exposure can cause headaches, nausea, seizures, brain damage, and death. Until now, housing inspectors were not required to inspect for working CO detectors in most federally assisted housing.

Outline of Rental Assistance Provisions in Relief Package

Consolidated Appropriations Act 2021 – 12/21/20
Rental Assistance Summary

TITLE V—BANKING; Subtitle A—Emergency Rental Assistance; Section 501 EMERGENCY RENTAL ASSISTANCE.

- **Appropriation**
 - \$25bn of total rental assistance, including:
 - \$400m to Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands, and American Samoa
 - \$800m to tribal communities
 - \$15m for administrative expenses of the Secretary of Treasury, including for technical assistance to grantees
 - Remaining \$25bn after above allocations goes to states, the District of Columbia, and eligible units of local government
 - The term “unit of local government” means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level with a population that exceeds 200,000.
- **Distribution**
 - CRF funds must be distributed to states, tribal governments, territories, and eligible units of local government within 30 days of the enactment of the law
 - Funding is distributed according to relative population of the state for the 50 states plus District of Columbia, with a minimum payment of \$200m to all 50 states plus the District of Columbia
 - There is a separate formula for tribal communities and U.S. territories
- **Use of Funds**
 - This round of CRF funding must be used “to provide financial assistance and housing stability services to eligible households.” Title V, Section 501(c)(1).
 - **Financial Assistance**

- At least **90%** of funds must be used to provide financial assistance to eligible households
- Financial assistance includes:
 - Rent
 - Rental arrears
 - Utilities and home energy costs
 - Utilities and home energy costs arrears; and
 - Other expenses related to housing incurred due, directly or indirectly, to the Covid-19 outbreak, as defined by the Secretary of Treasury
- Maximum period of assistance
 - Financial assistance may be provided to an eligible household for a maximum period of 12 months, with an additional 3 month allowable extension if it's necessary to ensure housing stability for the household. The 3 month extension is also subject to availability of funds. The maximum period of assistance is 15 months.
- Prospective rent payments
 - Eligible households may not receive financial assistance for prospective rent payments for more than 3 months, subject to the below exceptions.
 - Exception: Eligible households can receive *more* than 3 months of prospective rent payments if:
 - Funds are available
 - Household reapplies for financial assistance, provided that the household doesn't exceed the 15 month cap on assistance.
 - Further limitation on prospective rent payments:
 - If rental assistance applicants have rental arrears, grantees can't make commitments for prospective rent payments unless they have also provided assistance to reduce the household's rental arrears
- Distribution of financial assistance
 - Payments must be made directly to landlord or utility provider on behalf of the tenant, *except* that:
 - If landlord or utility provider does not agree to accept the payment, then tenants can receive the payment directly.
- Documentation
 - If grantee makes a payment to a landlord or utility provider on behalf of an eligible household, the grantee must provide documentation of such payments to the tenant household
- **Housing Stability Services**
 - **10%** of funds received may be used for housing stability services
 - Housing stability services are defined in the Act as "case management and other services related to the novel coronavirus disease (COVID-19)

outbreak, as defined by the Secretary, intended to help keep households stably housed.” Title V, 501(c)(3).

- Prioritization of assistance
 - In reviewing applications for financial assistance and housing stability services, rental assistance administrators must prioritize consideration of applications that satisfy any of the following conditions:
 - Income of households doesn’t exceed 50% of AMI; or
 - 1 or more of the individuals within the households are unemployed as of the date of the application for assistance and have not been employed for the 90-day period preceding such date
 - Grantees may provide a process for further prioritizing applications for financial assistance and housing stability services
- **Administrative Costs**
 - Not more than **10%** of funds received may be used for administrative costs attributable to providing financial assistance and housing stability services, including for data collection and reporting requirements related to the funds
 - Programs may not use CRF funds for other administrative costs
- **Eligible Households**
 - Households must meet the following three eligibility requirements, as determined by the rental assistance provider:
 - (1) At least 1 member of the household has:
 - Qualified for unemployment benefits; or
 - Experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 outbreak. The applicant must attest this in writing.
 - (2) A member of the household can demonstrate a risk of experiencing homelessness or housing instability, which may include:
 - A past due utility or rent notice or eviction notice;
 - Unsafe or unhealthy living conditions; OR
 - Any other evidence of such risk, as determined by the administering rental assistance program; AND
 - (3) The household income is 80% AMI and below.
 - Income determination
 - A tenant’s income is determined by:
 - (i) The household’s total income for calendar year 2020; OR
 - (ii) Sufficient confirmation (as determined by the Treasury Secretary) of the household’s monthly income at the time of application for assistance
 - If income is determined under option (ii), above, the rental assistance administrator is required to redetermine income after every 3 month period that the household receives CRF rental assistance.
- **Duplication of Benefits**

- *“To the extent feasible,”* rental assistance providers must ensure that rental assistance provided to an eligible household is not duplicative of any other federally funded rental assistance provided to the same household.
- **Treatment of Assistance for Purposes of Other Public Benefits**
 - CRF rental assistance payments under this section shall not be regarded as income and shall not be regarded as a resource for purposes of determining the eligibility of the household or any member of the household for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.
- **Applications for Rental Assistance by Landlords**
 - Nothing in the act prevents a landlord or owner from:
 - Assisting renter to apply for rental assistance
 - Applying for rental assistance on behalf of the renter
 - Requirements for landlord applications submitted on behalf of tenants
 - If a landlord applies for rental assistance on behalf of the renter, the landlord must:
 - Obtain signature of the tenant on the rental assistance application. Signature may be electronic;
 - Provide documentation of the rental assistance application to the tenant; AND
 - Use the payment to satisfy the tenants’ rental obligations to the owner. Title V, Section 501 (f)(2)(C).
- **Reallocation of Unused Funds**
 - Beginning **9/30/2021**, the Secretary shall recapture excess funds that are not obligated by a grantee for rental assistance, housing stability services, or the associated administrative costs
 - Secretary shall reallocate amounts to eligible states and units of local government, who at the time of such reallocation, have obligated at least 65 percent of the original funds. These states and units of local government must use the funds towards the same purpose—financial assistance and housing stability services.
 - Amount of any such reallocation shall be determined based on demonstrated need within the grantees’ jurisdiction, as determined by the Treasury Secretary
- **Deadlines for spending**
 - Funds remain available through **December 31, 2021**
 - Extensions:
 - For funds reallocated to an eligible grantee, an eligible grantee may request a 90-day extension of December 31, 2021 deadline
 - Unspent funds revert back to the Treasury Department.
- **Reporting Requirements**
 - The Treasury Secretary shall provide public reports at least quarterly regarding the use of funds
 - The reports shall contain:

- Number of eligible households that receive assistance from CRF payments
- Acceptance rate of applicants for assistance
- Type or types of assistance provided to each eligible household
- The average amount of funding provided per eligible household receiving assistance
- Household income level, with disaggregated data for households in the following income brackets:
 - Less than 30% AMI
 - 30-50% AMI
 - 50-80% AMI; and
- Average number of monthly rental or utility payments that were covered by the funding amount that the household received
- Additional race, ethnicity and gender reporting requirements:
 - The above information relating to households must also be reported by the gender, race, and ethnicity of the primary application for rental assistance.
- Privacy requirements
 - Each grantee shall establish data privacy and security requirements that:
 - Include appropriate measures to ensure privacy is protected;
 - Provide that information, including any personally identifiable information, is collected and used only for the purposes of submitting reports; and
 - Provide confidentiality protections for data collected about an individuals who are survivors of intimate partner violence, sexual assault, or stalking.

Please contact Mariel Block (mblock@nhlp.org) with questions about emergency rental assistance.