

Avoiding Evictions, Homelessness and Viral Spread: What the Courts and Bar Can Do

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By, John Elson and Jeffrey Hearne



John Elson, left, and Jeffrey M. Hearne, right.

The national eviction deluge predicted for this summer from missed rent payments due to the economic shutdown will likely be worse in Miami-Dade, where affordable housing is scarce, where tenants devote among the highest percentage of income to rent and where the backlog in unemployment compensation claims is among the country's highest. The federal CARES Act provides protection from evictions for some, but not all, tenants through August. In Florida, the governor suspended nonpayment evictions due to COVID-19, but that ends on May 17, and many landlords will start filing eviction lawsuits soon thereafter. Under both the CARES Act and the executive order, tenants remain liable for unpaid rent. Without the paychecks they live on from week to week, large numbers of tenants will, if nothing is done, be late and have to live with friends and family, in shelters, or on the streets, worsening Miami's already large homeless population. Avoiding these consequences of mass evictions, as well as the chaos of an overwhelmed court system, would seem a priority for government at any time, but at this time, when social distancing is the best, and perhaps, only way to limit the spread of COVID-19, it is a priority with major life-threatening implications.

Because it seems unlikely that the bulk of unpaid rent will either be waived by many landlords or paid by the government, the courts are the only institution with power to mitigate the predicted eviction tsunami. It would, therefore, seem prudent for the judiciary and bar to begin to plan how eviction cases will be processed and decided until normal employment returns, and the public health is no longer in such peril. To facilitate that planning, Miami-Dade County's chief judge should consider convening an emergency committee of lawyers for all of the stakeholders central to the oncoming eviction crisis, including tenants, landlords, bar associations and the Homeless Trust, to develop a strategy that will do the most to protect the public health while doing the least to harm each group.

This committee's first challenge would be to figure out how to work within Florida's rent deposit law, Florida Statute §83.60, which, if left to function as usual, would preclude the procedural changes that could avoid Miami-Dade's impending mass evictions. This statute requires tenants to deposit all past due rent into the court registry; otherwise, the tenant loses automatically, and the court enters a default eviction judgment without holding a hearing. Even before the economic shutdown, most tenants sued for eviction lost their homes without a hearing for failure to deposit the rent the landlord alleged was due. With so many more tenants now lacking income, even fewer will be able to avoid automatic eviction by making the deposits.

With an opportunity for a hearing, tenants could present defenses that might avoid eviction entirely or might, at least, relieve them from paying some of the rent. Also, if Section 3.60 were no longer a bar to cases being assigned to mediation, that settlement process could facilitate an amicable resolution between the landlord and tenant, much like the courts used mediations during the last foreclosure crisis. Finally, there is no reason to believe that, if Florida judges were not precluded by Section 83.60 from hearing eviction cases on their merits, they would, as judges do in other states, resolve many cases in ways landlords would find equitable while sparing tenants imminent homelessness.

Even in normal times, Section 83.60's fairness has been deemed wanting: it is unique among all States in its severity to tenants; the U.S. Department of Housing and Urban Development found it violated public housing tenants' right to due process of law; and a 2015 Florida Bar Journal article called it the "Landlord's Favorite Law" for its efficiency in evicting families from their homes. Whatever the past justifications for streamlining tenants' road to eviction, they now pale in comparison to the rent deposit statute's impending role in accelerating evictions, homelessness, and viral contagion. □

Several Florida representatives have requested that the governor use his emergency authority to suspend Section 83.60. If that does not happen, courts will be left to their own resources to figure out whether and how the law's conveyor belt to eviction can be avoided. While we don't presume to have the only or best solution, we do suggest that there are a host of serious legal questions about Section 83.60's operation which deserve judicial consideration in light of the impending eviction crisis. Does the law's complete denial of a tenant's opportunity to have a trial without having deposited all the rent deny them due process of law? When a tenant does come up with all of the rent owed, can a trial court use what appellate courts have recognized as its "inherent power to do all things that are reasonably necessary to administer justice" to vacate a default judgment that "would result in an eviction which would be unconscionable inequitable or unjust under the circumstances"? Does the law's revocation of the power judges would otherwise have to schedule mediations for tenants who fail to make the statutorily required rent deposit unconstitutionally intrude on the Supreme Court's power to promulgate its own procedural rules? While Section 83.60 is now the greatest obstacle to the fair treatment of tenants during the pandemic, the proposed chief judge's stakeholders advisory committee should also consider the pandemic's likely effect in accelerating evictions as a result of changes in court procedures that would uniquely burden low-income litigants, such as requiring documents to be filed and hearings to be held through remote technologies and requiring tenants, including the disabled and elderly, to travel to court clerk's offices and stand in lines to deposit their rents.

National studies are clear that without counsel the great majority of indigent tenants will be evicted. In Florida, tenants' need for counsel is even greater because of Section 83.60's unique conveyor belt to eviction. Here, counsel's role is especially critical not only in helping tenants navigate Section 83.60's procedural complexities, but also in negotiating fair settlements with their landlords. In light of the impending eviction crisis, the courts and the bar will need to improve the currently ineffective process for informing tenants of the need for and availability of civil legal aid as well as increasing the private bar's participation in pro bono eviction defense programs. Attorneys interested in representing families facing eviction can contact Legal Services of Greater Miami's Pro Bono Advocacy Director, Jayme Cassidy at jcassidy@legalservicesmiami.org.

A major strength of our judiciary and our common law system is their capacity to evolve with the exigencies of the times. To avoid the potential catastrophe of mass homelessness in a time of pandemic, the times now, more than ever, call for such evolution.

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NLIHC RESEARCH NOTE:

STATE AND LOCAL RENTAL ASSISTANCE PROGRAMS: FINDING SOLUTIONS FOR A GROWING CRISIS

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INTRODUCTION

The coronavirus pandemic is a national public health crisis that requires families to safely shelter at home at a time when millions of low-wage workers have lost their jobs or have seen a decline in incomes, threatening their livelihoods and housing stability ([Gould, 2020](#); [Dey & Lowenstein, 2020](#)). Federal, state, and local eviction moratoriums are rapidly expiring and the CARES Act supplemental unemployment benefits will end soon; at that time, millions of low-income renters will be at risk of losing their homes. [At least \\$100 billion in emergency rental assistance](#) is needed to keep low-income renters stably housed during and after the pandemic.

In response to the enormous needs generated by COVID-19, Congress passed the “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” which makes tens of billions of dollars available to state, local, tribal, and territorial governments. Some CARES Act funding, allocated through a variety of programs, may be used for emergency rental assistance. New Community Development Block Grants for coronavirus response ([CDBG-CV](#)), for example, may be used to provide up to three months of emergency housing assistance for households’ rent, mortgage, or utility costs. New Emergency Solutions Grants (ESG-CV) funding for homelessness response may be used for non-congregate shelter for those living in homeless shelters or in encampments, rapid re-housing, and eviction prevention. Flexible Coronavirus Relief Fund ([CRE](#)) allocations to states may be used for a wide variety of purposes, including emergency rental assistance to help move families into non-congregate shelters and permanent housing, or to provide direct assistance to the lowest-income households at risk of eviction and housing instability.

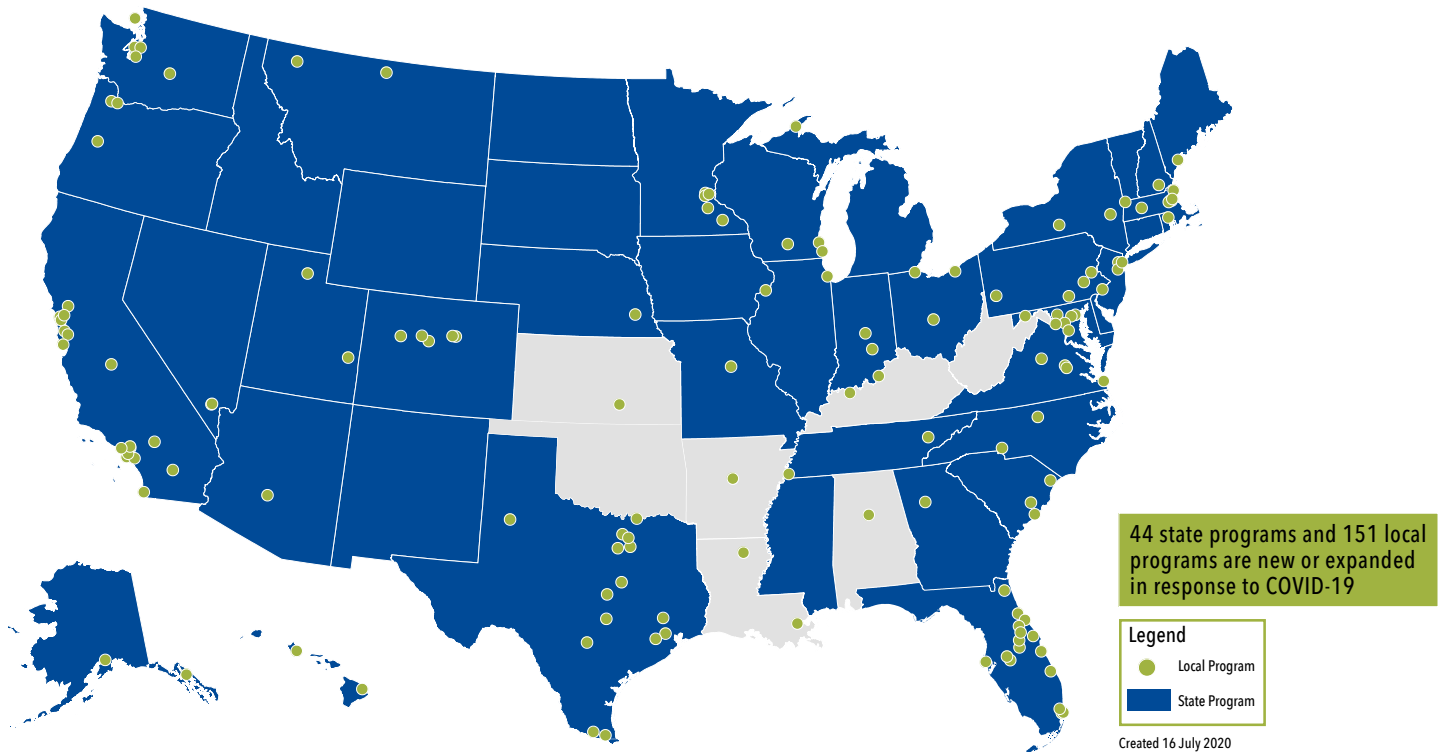
Before the pandemic, many states and several large cities were already funding and operating rental assistance programs. In a review of rental housing programs across all 50 states, the District of Columbia, and 72 of the largest U.S. cities, NLIHC identified [88 state and 22 local pre-existing rental assistance programs](#) - all funded at least in part with state or local dollars. These jurisdictions have a demonstrated capacity for operating rental assistance programs, so they may be particularly well positioned to make effective use of CARES Act and other additional funding for this purpose. They may also provide valuable information and lessons learned for jurisdictions without such experience looking to implement new rental assistance programs.

In response to the pandemic, many jurisdictions have created or expanded emergency rental assistance programs, funded through a range of federal (e.g., CARES Act), state, and local resources. As of mid-July, NLIHC had identified [44 state programs and 151 local programs](#) that have been created or expanded in response to COVID-19 and its economic fallout. These numbers do not include proposed programs that have not yet been enacted by state or local legislatures.

As of mid-July, NLIHC had identified 44 state and 151 local rental assistance programs that have been created or expanded in response to COVID-19 and its economic fallout.

Figure 1 identifies the states and local jurisdictions with rental assistance programs existing prior to the pandemic and created in response to COVID-19.

Figure 1: State and Local Rental Assistance Programs



Few existing state or local rental assistance programs specifically target extremely low-income renters, those with the clearest and the greatest needs.

The pre-existing rental assistance programs vary by eligibility requirements, amounts and durations of assistance, funding sources, and other key elements. Examining these programs can help identify choices jurisdictions make when implementing a rental assistance program.

The programs implemented in response to COVID-19 are more likely to provide emergency rental assistance on a short-term basis of one to three months, but considerable variation exists among them as well. They have varying eligibility requirements, sources of funding, and means of distributing limited resources. Despite high degrees of variability and limited data, several themes have emerged, each offering lessons on how to better design emergency rental assistance programs at the federal, state and local levels.

Few existing state or local rental assistance programs specifically target extremely low-income renters, those with the clearest and the greatest needs. Many programs require significant documentation from applicants, which can be barriers to assistance. Many programs also require landlord participation, which further complicates renters' ability to access assistance if the landlord refuses. Lastly, the need for assistance has greatly outpaced the available funding, as evidenced by the closure of three out of ten of emergency rental assistance programs and the necessity of lottery or first-come first-served disbursement systems

in at least half of all programs. These limitations leave many low-income renters struggling to stay safely and stably housed.

The Emergency Rental Assistance and Rental Market Stabilization Act, introduced in the House and Senate, would provide \$100 billion for emergency rental assistance to assist households affected by the COVID-19 crisis and would address and prevent many of the shortcomings in existing state and local rental assistance programs. The Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act and the Emergency Housing Protections and Relief Act, both passed in the House of Representatives, include this urgently needed legislation.

Methodology

The research note draws on two distinct sources of data. Information about pre-pandemic rental assistance programs is drawn from NLIHC's Rental Housing Programs Database. In the fall of 2019, NLIHC started updating this database, which catalogs rental assistance and affordable rental production programs at least partly funded with state and local resources. The data set shared here only reflects part of the database; the full database will be available online when the project is completed near the end of 2020.

The Rental Housing Programs Database is largely based on a survey sent to officials, program administrators, and housing department staff in all 50 states, the District of Columbia, and 72 cities (the 50 largest cities by renter population and the largest city of each state). This survey asks officials to identify and describe rental housing programs in their jurisdictions that are at least partly funded with state or local dollars - that is, programs that are not simply redistributing federal funds. We supplemented the survey with information drawn from a review of annual reports, public budgets, department websites, and other publications. Though it is not a comprehensive picture of all local programs, it captures a broad swath of programs serving a large number of renters across the country.

"Rental assistance" refers to programs that provide direct rent subsidy payments or operating assistance from the state or local governments to renters, landlords, or nonprofit intermediary organizations. For the purposes of this report, they do not include tax relief programs and programs that provide capital funds for the production or preservation of affordable housing. States with capital and production programs, but not rental assistance, are not represented here.

Tenant-based rental assistance programs provide assistance to individuals who can then choose a rental home in the private market. Alternatively, project-based rental assistance programs support rental contracts with specific landlords to offer subsidized units. The [data set of pre-pandemic rental assistance](#) consists of 86 tenant-based programs, 20 project-based programs, and four that provide both types of assistance. The accompanying data set contains the program name, its location, and a brief program description. Where the information was available, we also include the level and duration of assistance, the sources of funding for the program, the most recent level of funding, and eligibility requirements for program participation.

The second data set, which contains information on [195 rental assistance programs created or expanded](#) in the wake of the pandemic, was compiled in a different fashion. NLIHC staff are tracking through the news and social media rental assistance programs proposed in response to the pandemic. We collect additional information on these programs from public documents released by the relevant jurisdictions. We supplemented our current data with information from the National Council of State Housing Agencies and NLIHC members and partners. Unlike the pre-pandemic programs in the Rental Housing Programs Database, our list of new and expanded programs is not restricted to states and the largest cities. Likewise, it is not restricted to programs that are at least partly funded with state or local dollars. It includes many programs made possible by CARES Act funding or other federal resources. Some of the programs more broadly address housing assistance, including mortgage or utility assistance in addition to rental assistance. Circumstances continue to change on a daily basis, and this research note is based on information we had collected as of July 15, 2020. NLIHC will continue to track programs and update the online data set regularly.

General Characteristics of Rental Assistance Programs Established Prior to COVID-19

**TABLE 1:
KEY ELEMENTS OF RENTAL ASSISTANCE PROGRAMS**

Purpose	Is the program aimed at preventing evictions caused by one-time or short-term emergency needs, or reducing the persistent housing cost-burden of low-income households?
Eligibility	<p>How is eligibility for rental assistance determined (e.g., by recent economic hardship or by income or a combination)?</p> <p>What kind of documentation is necessary?</p> <p>Does this program serve the general public or does it serve specific populations (e.g., senior households, youth, people with mental illness, people with disabilities)? Is priority given to specific populations?</p>
Duration	Is rental assistance offered as short-term emergency assistance (one-off payment or a few months of assistance), as a series of rent payments for a transitional period, or on a long-term basis?
Amount of Support	<p>How much support is offered? Is there a ceiling on payments? Is the amount of rental assistance conditioned on household income, local fair market rents, or other factors?</p> <p>Can assistance be used for related housing expenses such as security deposits, moving costs, or arrears?</p>
Administration	<p>Which agency or agencies administer rental assistance? Does the administering agency have experience providing aid and housing counseling, or reaching out to affected communities?</p> <p>How do applicants apply and how are applications processed (e.g., online, by mail, or in-person)?</p> <p>How is assistance delivered--are payments made directly to renters or to landlords?</p> <p>Does the agency support applicants' housing searches, communicate with landlords, or provide other services?</p>
Funding	<p>Is the program funded by annual appropriations or a dedicated source of revenue?</p> <p>Does it blend federal funding with state or local funding? Does it rely on philanthropic sources?</p> <p>Are appropriated funds dedicated solely to rental assistance, or is rental assistance one possible use among others (e.g., utility payments, food aid)?</p>

We identified 34 states with state-funded rental assistance programs established prior to the coronavirus pandemic. Most of these states reported no more than two state-funded programs, but Illinois, Massachusetts, and Minnesota reported five or more programs to meet the needs of different populations.

Fourteen of the 72 cities we surveyed in Fall 2019 funded their own rental assistance programs prior to the pandemic. These programs are partly supported by city taxes, documentary fees, or other local sources. Perhaps unsurprisingly, a number of cities that support their rental assistance programs with local dollars have persistently high housing costs—including San Francisco, Miami, and New York City. Most of the fourteen cities reported one program, but the largest cities tended to have more programs, serving different populations. New York City, for example, reported eight locally funded rental assistance programs, aiding low-income households, senior citizens, people with disabilities, people living with AIDS, and others. Some smaller cities not included in the survey also had locally funded rental assistance programs before the pandemic.

These established state- and locally funded programs vary along a number of dimensions (Table 1). Some rental assistance programs, for example, are designed to prevent evictions

among households that are normally able to afford their housing but face a temporary financial crisis, while others are designed to provide longer-term assistance to low-income families who face ongoing affordability challenges. Some programs provide a one-time payment, while others provide monthly support. The amount of support can range from a few hundred dollars to thousands, and it can be a flat amount or vary based on a recipient's income.

Rental assistance programs target a wide variety of populations. Fifty-five of the 110 rental assistance programs we identified prior to the pandemic serve households currently experiencing homelessness or at imminent risk of becoming homeless (with evidence they will soon lose their housing and lack the means to obtain another home). Some aim to serve senior households, people with disabilities, youth leaving foster care, migrants, or victims of domestic violence. While programs with special targeted populations are generally smaller than general-purpose rental assistance programs, their administrators have experience locating housing for their clients, anticipating a variety of special needs and connecting participants with other services. We identified at least 28 programs that are designed to serve persons with mental illness or

people transitioning out of institutional care settings. Most of these programs work to place clients in specific units that offer supportive services, and they are usually operated by departments of mental health.

Another important characteristic is the duration of assistance. We categorized rental-assistance programs into three categories based on the duration of assistance offered. "Short-term" assistance ranges from one-time payments to temporary assistance for up to two months. "Transitional" assistance ranges from more than two months to two years. "Long-term" assistance can provide aid for longer than two years. Among the states and largest cities, we identified 35 short-term, 28 transitional, and 47 long-term rental-assistance pre-existing programs (Table 2). Programs that had components of variable duration were given the longest duration. The duration of assistance is partly dependent on the available budget, but programs of different durations also respond to different needs.

Short-term assistance, which offers one-time payments or at most a few months of rental assistance, is best suited to prevent homelessness among households facing an unexpected crisis, who could normally afford their rent. The exceptional circumstances of the COVID-19 crisis, for instance, might temporarily threaten the housing stability of households who could not work during mandated shutdowns and may not fully return to work until the economy recovers. The 35 short-term programs offer a variety of forms of assistance, from one-time rent payments for households facing eviction, to one-time grants that help unhoused households pay initial moving costs and security deposits.

**TABLE 2:
SUMMARY STATISTICS OF STATE-
AND LOCAL-FUNDED RENTAL ASSIS-
TANCE PROGRAMS**

Total number of programs	110
Programs with state funding	99
Programs with city funding	25
Programs with private funding	5
Tenant-based assistance	86
Project-based assistance	24
Short-term rental assistance programs	35
Average amount of assistance offered*	\$1,290 per household
Range of maximum amount of assistance*	\$500-\$5,000
Transitional rental assistance programs	28
Average maximum length of assistance*	13 months
Range of maximum length of assistance*	4 months - 24 months
Long-term rental assistance programs	47
Average amount of assistance offered*	\$581 per month

**Not all respondents supplied this information. Summary based on the subset that provided an answer.*

SHORT-TERM ASSISTANCE IS BEST SUITED TO PREVENT HOMELESSNESS AMONG HOUSEHOLDS FACING AN UNEXPECTED CRISIS, WHO COULD NORMALLY AFFORD THEIR RENT.

Rental assistance programs can also be offered on a transitional basis—providing assistance to households for a defined period of time, long enough to exit homelessness, re-establish long-term tenancy, and find sources of income that will sustain the household after assistance ends. The 28 transitional programs described here typically offer a mix of rental assistance, supportive services, and counseling to help households maintain housing stability after assistance ends. Transitional assistance operates on the assumption that households can find affordable housing in the private market, after being given enough time to find appropriate employment.

Long-term assistance recognizes that the market does not provide an adequate supply of affordable housing for extremely and very low-income households. Long-term rental assistance programs, in the form of subsidy payments that the recipient can use in the private market or in the form of operating subsidies to landlords that manage affordable projects, can bring greater stability to households who participate in the program and prevent homelessness during a prolonged economic downturn. Since there is a persistent shortage of affordable and available housing for the lowest-income households, there is a persistent need for assistance.

The amount of assistance provided by rental assistance programs varies. The most generous programs are modeled on the federal Housing Choice Voucher program, in which voucher holders pay 30% of their income toward rent, while the program makes up the difference up to a certain payment standard. The Local Rent Supplement Program in the District of Columbia, for example, was explicitly modeled on the Housing Choice Voucher program. The level of assistance in such programs is tied to the recipient's income, which means that the program may eliminate participants' cost burdens.

Some programs have ceilings on the amount of assistance households may receive. Some long-term rental-assistance programs, for instance, will provide up to a maximum of \$500 or \$600 per month. Short-term assistance programs sometimes specify the maximum amount that a household can ever receive or that they can receive in a year. Programs that provide deep assistance determined by the recipients' incomes give greater aid to the lowest-income households, whereas programs with shallower maximums may be able to serve a greater number of households.

Finally, there is considerable variety in how these programs are funded. Many state-level programs are funded annually by legislative allocations. Several of California's programs are funded by housing bonds approved by voters. Other programs, such as Rhode Island's State Rental Assistance Program, have permanent sources of funding through real estate transfer taxes or development impact fees. Dedicated revenue streams are important for housing stability—programs that wax and wane in funding due to the annual appropriations process cannot reliably meet long-standing needs.

Because the scale of the need often dwarfs available resources, many programs blend together multiple funding sources. The Emergency Assistance Program in the city of Phoenix, Arizona, for example, is funded by a mix of federal (ESG, Health and Human Services' CSBG) and municipal sources. Nearly a million dollars are contributed each year from the city's annual budget. The city of Charlotte, North Carolina, operates a short-term rental assistance program that combines funding from the city, Mecklenburg County, and private philanthropic contributions. Some programs that draw on federal resources pair those resources with state or local dollars to meet matching requirements. In order to fulfill the federal requirement to match ESG funds with supplementary contributions, for instance, the Nebraska Health and Human Services' Homeless Assistance Program pairs ESG with money from the Nebraska Homeless Shelter Assistance Trust Fund.

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**TABLE 3:
SUMMARY OF RENTAL ASSISTANCE
PROGRAMS IN RESPONSE TO COVID-19**

Total number of programs created or expanded	195
State-level	44
Local-level	151
Open programs	138
Closed programs	57
Source of Funding¹	
Non-CARES Act	56%
CARES Act	57%
Eligibility Requirements²	
Demonstrated COVID hardship	83%
Income targeting	83%
60% AMI or below ³	30%
60% AMI to 80% AMI ³	56%
Proof of residency	70%
Landlord participation	66%
Duration of Assistance⁴	
Three months or less, including one-time payments	82%
Six months or less	98%

Note: AMI = Area median income. The number of programs and information about them will continue to evolve. Percentages are based on number of programs for which information was available. Note that the analysis does not include proposed programs and is only up-to-date as of July 15, 2020.

1. N=176

2. N=178

3. N=133. The base number of programs excludes cases where eligibility is based on the percentage of federal poverty level.

4. N=134

State and local governments may face important tradeoffs between the number of people who can be served, the depth of assistance that can be offered to each participant, and the duration of assistance. Our data indicate that short-term programs are often able to assist more households each year. One of NLIHC's concerns is whether the assistance is adequate in both duration and amount to ensure recipients' housing stability. Short-term assistance may be adequate for families in temporary crisis, but it is ultimately inadequate for extremely low-income renters who face a systemic shortage of affordable housing. Longer-term rental assistance, however, can be more costly in the long-run and require continual commitment of public resources. The benefits of long-term housing stability through greater well-being of recipients' families, however, justifies these costs, and housing justice requires them. Ultimately, expanded Housing Choice Vouchers, funded by the federal government, are needed to meet the long-term housing needs of extremely low-income renters.

Preliminary Characteristics of Rental Assistance Programs Established In Response to COVID-19

In response to COVID-19, states and cities have proposed and established new emergency rental-assistance programs or increased funding for existing assistance programs. In the past four months, we have identified 195 rental assistance programs (44 state and 151 local programs) that have been created or expanded as a response to the pandemic (Table 3). Our analysis focuses strictly on approved programs. Some of them have already disbursed all of their funding, while others are in the planning stage. These programs range in size from \$15,000 to \$100 million for local programs and from \$400,000 to \$150 million for state programs.

Over half (56%) of the new or expanded rental assistance programs were funded with non-CARES Act resources, which came from a reallocation of existing budgeted funds, emergency funds, housing funds, or other sources for rent relief. Some programs also

received significant philanthropic donations. Over half (57%) of the new or expanded programs received CARES Act funding through either CDBG-CV, CRF, ESG-CV, or CSBG. At least 23 programs received money from both CARES Act and non-CARES Act sources. Earlier programs tended to be funded solely through non-CARES Act sources and ranged in size from \$18,000 to \$11.3 million. In contrast, more recently implemented programs tended to be supported with CARES Act money, tended to be larger, and ranged in size from \$75,000 to \$150 million; 32 of these programs devoted over \$10 million to rental assistance.

In a number of cases, jurisdictions infused new funding into an existing rental assistance infrastructure. Some administering agencies have years of experience operating rental assistance programs, and they are more likely to have the capacity and experience to manage additional resources during a crisis. Some of these jurisdictions tied the new funding to changes in eligibility requirements, like asking applicants to document how their loss of income is related to COVID-19.

The City of Louisville, Kentucky, for example, reallocated \$500,000 from elsewhere in its budget to its Financial Assistance Program for rental assistance. Louisville's Office of Resilience and Community Services has operated a Temporary and Extended Emergency Financial Assistance Program for a number of years, so they already had a network of "Neighborhood Place" centers established that could accept applications for their One Louisville COVID-19 Response Fund, which is specifically targeted to households with a verifiable loss of income directly related to COVID-19. The State of New Hampshire increased funding for its existing Emergency Housing Program by \$200,000 in response to the pandemic earlier on and, more recently, created an entirely new emergency rental assistance program with \$35 million from CRF to meet broader needs. The new program uses the infrastructure and capacity from its existing program, operating and distributing resources through the state's network of Community Action Agencies. The Delaware State Housing Authority, which operates a State Rental Assistance Program, set up a special Delaware Housing Assistance Program (DE HAP). The DE HAP program received \$5 million in funding to provide assistance to low-income households whose employment was affected by the coronavirus.

Approximately 82% of rental assistance programs created or expanded in response to COVID-19 are designed for short-term relief, ranging from one-time payments of \$500 to \$5,000 to monthly recurring payments of \$500 to \$2,500 for up to three months. Most of the remainder of the programs provide assistance for up to six months; only three programs indicate the possibility of rental assistance beyond six months. Many of these programs fully cover rent; some require households to contribute 30% of their income toward rent and the assistance covers the remaining rental needs.

The most common eligibility criterion requires demonstrated COVID-related hardship. In 83% of all programs, renters are asked to provide documentation to prove hardship due to COVID-19, typically involving proof of income before COVID-19 and proof of (loss of) income during COVID-19. More than eight in ten programs also have specific income eligibility criteria. Of programs which base income eligibility on area median income (AMI), over half (56%) set their eligibility thresholds between 60 to 80% of AMI. Another 30% set their eligibility thresholds at or below 60% of AMI. The remaining programs have eligibility thresholds up to 120% of AMI. In some cases, the income targeting may reflect the requirements of the funding utilized. Some programs, for example, use CARES Act supplemental funding for Community Services Block Grants (CSBG) to support rental assistance, which results in eligibility thresholds of 125 to 200% of

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federal poverty levels. CDBG-CV sets eligibility thresholds at 80% AMI or below. Some programs specifically target households whose incomes were low before COVID-19.

Some programs require proof of timely payment of rent before COVID-19, preventing households that were already struggling before the pandemic from accessing this assistance. Other programs require evidence of past due rent or notice of eviction, which can delay assistance. Other requirements varied and, in some cases, included an official lease, Social Security numbers and other forms of identification, verification of limited liquid assets for paying rent, and/or documentation for children.

In addition to tenant-based eligibility criteria, approximately two-thirds of the programs require landlord participation in some form. Most programs that pay landlords directly require landlords to agree to participate in the program and to complete W-9 forms. Some programs also require certification of suitable rental quality, registration, and/or up-to-date property tax payments. Local jurisdictions may prefer this approach for several reasons, including ease of administration and documentation, guarantee of homes meeting health and safety codes, and verification of property registration and timely payment of property taxes. However, many of these eligibility criteria can exclude low-income renters who need assistance, including renters working in the informal economy, renters without U.S. citizenship, renters who don't meet the required rental payment history, and renters whose landlords refuse to participate or meet program requirements.

Many rental assistance programs lack adequate resources to meet the need. Over four out of ten (42%) of the new and expanded programs distribute assistance on a first-come, first-served basis, while at least 27 use a lottery system. A lottery-based method of distribution provides aid to families in a random fashion, while first-come first-served may exclude marginalized populations from assistance. First-come first-served distribution may better serve populations that are more connected to certain social systems, speak the language(s) in which applications are written, have access to the internet, and receive community outreach. An investigation into the first distribution of the City of Dallas's rental assistance, for example, shows that households in wealthier neighborhoods benefited more from the program, whereas some lower-income neighborhoods did not benefit ([Young, 2020](#)). Future federal funds provided for rental assistance must be sufficient to mitigate these challenges and ensure that funds reach the lowest-income people most in need.

More Help is Needed

The significant rise in unemployment and lost wages, combined with the need for housing stability during this pandemic, make assistance imperative for renters. Yet the need for assistance far outstrips the resources currently available. Of the 195 rental assistance programs created or expanded since the COVID-19 crisis began, 57 programs (nearly three in ten) are already closed. Twenty programs

accepted applications for only seven days or less before closing, an alarming indicator of the desperate and urgent need for rent relief.

Current funding from the CARES Act is wholly insufficient to meet the need, especially as the supplemental unemployment benefit of \$600 per week stops at the end of July. NLIHC estimates that \$9.9 billion per month in rental assistance could eliminate housing cost-burdens for impacted renters (NLIHC, 2020).

The Emergency Rental Assistance and Rental Market Stabilization Act, introduced in the House and the Senate with over 200 cosponsors, and passed through the US House of Representatives as part of two larger spending bills, includes critical measures to build on the successes of state and local rental assistance programs and to address and prevent many of the shortcomings.

THE EMERGENCY RENTAL ASSISTANCE AND RENTAL MARKET STABILIZATION ACT INCLUDES CRITICAL MEASURES TO BUILD ON THE SUCCESSES OF STATE AND LOCAL RENTAL ASSISTANCE PROGRAMS AND TO ADDRESS AND PREVENT MANY OF THE SHORTCOMINGS.

The legislation would provide \$100 billion in emergency rental assistance and require deep income targeting, ensuring that resources are focused on households most at risk of evictions and homelessness. Forty percent of funds must be used for households with incomes below 30% of AMI, and 70% of the funds would be for households with incomes below 50% AMI. Because income eligibility is based on the day a household applies for assistance, the bill addresses the needs of households that have experienced a sudden job loss or loss of wages without imposing burdensome documentation requirements that can result in the exclusion of low-income renters from needed assistance. The bill would ensure adequate funding to keep all low-income renters safely and stably housed for a year, rather than forcing programs to select renters for assistance through lottery or first-come first-served disbursement systems and leaving far too many households without the necessary assistance to remain in their homes.

The speed and severity of the public health and economic crisis has spurred many jurisdictions to introduce or expand rental assistance programs. NLIHC continues to collect information about state and local rental assistance programs, especially those created or expanded during the coronavirus pandemic. If you are aware of such a program, please tell us at research@nlihc.org.

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