

END RENTAL ARREARS TO STOP EVICTIONS (ERASE)

V. POLICY RECOMMENDATIONS

Emergency Rental Assistance:
A Blueprint for a Permanent Program



NOVEMBER 2022

EMERGENCY RENTAL ASSISTANCE: A Blueprint for a Permanent Program

2021-2022 NLIHC ERASE TEAM

- | | | |
|---------------------|-------------------------|------------------|
| ◀ Andrew Aurand | ◀ Kim Johnson | ◀ Lauren Steimle |
| ◀ Sidney Betancourt | ◀ Neetu R. Nair | ◀ Jade Vasquez |
| ◀ Victoria Bourret | ◀ Lena O'Rourke | ◀ Renee Willis |
| ◀ Jen Butler | ◀ Ikra Rafi | ◀ Rebecca Yae |
| ◀ Alayna Calabro | ◀ Sarah Saadian | ◀ Diane Yentel |
| ◀ Emma Foley | ◀ Brooke Schipporeit | |
| ◀ Sarah Gallagher | ◀ Sophie Siebach-Glover | |

Table of Contents

V. POLICY RECOMMENDATIONS	V-1
Establish and Fund a Permanent Emergency Rental Assistance Program	V-2
Explore the Use of Innovative Models like Direct-to-Tenant Payments to Support Renters	V-3
Ensure Long-Term Affordability for the Lowest-Income Renters through Universal Vouchers	V-4
Preserve and Increase the Supply of Housing Affordable to the Lowest-Income Renters	V-5
Enact Tenant Protections at the State, Local, and Federal Levels	V-5

Policy Recommendations

Over the last two years, more than 500 state and local jurisdictions have established U.S. Department of the Treasury (Treasury) emergency rental assistance (ERA) programs using federal dollars, many of them starting from scratch. At the same time, NLIHC's partners have successfully advocated for the passage of more than 150 new federal, state, and local tenant protections since January 2021. ERA program administrators have made over 7 million payments to households since January 2021, with early research suggesting that most state and local programs have served high shares of extremely low-income households and Black households. The unprecedented investment in rental assistance, coupled with new local, state, and federal tenant protections, prevented at least 1.36 million formal evictions in 2021 alone.¹ Given the success of ERA and renter protections in promoting housing stability and preventing evictions, every effort should be made to preserve the newly created ERA infrastructure and new federal funding should be made available to continue this essential component of a full housing safety net.

As federal funding for ERA is depleted, this newly created and critically important ERA infrastructure is increasingly at risk. According to NLIHC projections, most state ERA programs have or will have exhausted their ERA1 and ERA2 funds long before the statutory expenditure deadlines of September 2022 and September 2025, respectively. Further, many states will still have served only a fraction of their low-income renter households in need.

States and localities must act quickly to protect the progress that has been made, address the possible loss of ERA, and invest in long-term housing solutions. State and local governments can use some of the \$350 billion in Coronavirus [State and Local Fiscal Recovery Funds](#) (SLFRF) allocated by the "[American Rescue Plan Act](#)" (ARPA) to extend their emergency rental assistance programs and bridge the gap between Treasury ERA funding and not-yet-determined future funding streams. NLIHC systematically tracked SLFRF investments allocated for affordable housing and homelessness prevention and services in all 50 states and the District of Columbia, Puerto Rico, and 60 localities, including the 10 cities or counties receiving the highest allotments of SLFRF and the largest city or county in every state. As of October 2022, 53% of the jurisdictions in our sample – including 67% of all states and over 44% of the selected cities and counties – have invested approximately \$16.1 billion of SLFRF for housing activities. States and localities have allocated approximately \$4.3 billion to provide short-term aid to households, such as rental and utility assistance, legal aid, and housing stability services.²

However, most communities are grappling with how to sustain ERA programming, infrastructure, and partnerships without federal ERA funding. More action is needed to preserve the gains made in creating an infrastructure to provide emergency assistance and prevent evictions. The recommendations discussed in this section form a policy blueprint for creating a permanent emergency rental assistance program and enacting tenant protections that meet the needs of all low-income renters. The recommendations are meant to ensure that existing ERA infrastructure is sustained and becomes part of

our national housing infrastructure for supporting low-income renters facing sudden financial crises. The recommendations include:

- ◀ Establishing and funding a permanent emergency rental assistance program.
- ◀ Exploring the use of innovative models like direct-to-tenant payments to support renters.

A permanent ERA program is one part of a needed housing safety net to end homelessness and alleviate housing insecurity among the lowest income renters. Congress must also:

- ◀ Ensure long-term affordability for the lowest-income renters through universal vouchers.
- ◀ Preserve and increase the supply of housing affordable to the lowest-income renters.
- ◀ Enact robust and permanent tenant protections at the state, local, and federal levels.

In what follows, we discuss in detail each recommendation included in this policy blueprint, as well as legislation that, if enacted, would build on the blueprint to create a permanent emergency rental assistance program.

ESTABLISH AND FUND A PERMANENT EMERGENCY RENTAL ASSISTANCE PROGRAM

While the pandemic and its resulting economic fallout have underscored the inextricable link between housing and health, the nation's eviction crisis originated long before the pandemic. Limited public resources, combined with a [severe lack of housing stock affordable and available to households with the lowest incomes](#), led to an increasing number of evictions, higher rates of homelessness, and worsening housing instability, especially for renters with extremely low incomes.

The pandemic exacerbated these pre-existing trends, threatening to transform the housing crisis into a housing catastrophe.

People of color, and particularly Black, Latino, and Indigenous people, as well as people with disabilities and households headed by women, were [disproportionately impacted by the pandemic](#). Black households were twice as likely to report being behind on rent than white households during the economic crisis that followed the arrival of COVID-19, and [Black women were – and still are – more likely to face eviction](#) than any other group.

Preventing evictions is essential in ensuring the well-being of extremely low-income renter households. Improving housing stability not only keeps people in their homes but provides them with the foundation needed for success. Stable, affordable housing is linked to better [educational](#) and [health](#) outcomes across a person's lifespan, and stably housed families with children report [greater food security and financial stability](#) than families in housing they cannot reasonably afford.

The more than \$46 billion allocated by Congress for emergency rental assistance in response to the pandemic was thus a vital lifeline for households experiencing a decline in income and at risk of eviction. Emergency rental assistance has helped stabilize households experiencing economic shocks before they face instability and homelessness, which have traumatic consequences and require more prolonged, extensive, and expensive assistance. Tenant protections have offered another lifeline.

Prior to the pandemic, NLIHC's *Opportunity Starts at Home* multi-sector affordable housing campaign worked to build bipartisan support for and introduce legislation to establish a pilot emergency rental assistance program. The *Opportunity Starts at Home* campaign worked closely with a bipartisan group of senators – Michael Bennet (D-CO), Rob Portman (R-OH), Sherrod Brown (D-OH), and Todd Young (R-IN) – to craft the provision establishing the Emergency

Assistance Fund proposed in the "[Eviction Crisis Act](#)" (S.2182) that was introduced in 2019 and reintroduced in 2021. The Eviction Crisis Act and the "Stable Families Act" (H.R.8327), the House companion bill introduced by Representative Ritchie Torres (D-NY), would establish a new, national Emergency Assistance Fund to help ensure that extremely low-income renters have access to emergency assistance to cover the gap between income and housing costs in the event of a financial crisis. Since its first introduction in 2019 and after Congress approved \$46 billion in ERA during the pandemic, congressional sponsors have strengthened the legislation by redesigning it as a permanent program rather than a pilot program. They have also incorporated lessons learned and best practices from the Treasury ERA program.

Building on the infrastructure and best practices for emergency rental assistance distribution pioneered during the pandemic, the Emergency Rental Assistance Fund envisioned by these bills would be designed to test, evaluate, and expand proven interventions to help low-income families facing sudden economic shocks remain stably housed.³ Run as a grant program through the U.S. Department of Housing and Urban Development (HUD), the program would distribute funding to state, local, tribal, and territorial governments, and funds would be used to provide direct financial assistance to help households overcome short-term financial crises impacting their housing stability. Assistance would be targeted to extremely low-income households, who are most at risk of eviction and homelessness following economic shocks. The program would be funded at \$3 billion annually and would incorporate best practices developed during the pandemic.

EXPLORE THE USE OF INNOVATIVE MODELS LIKE DIRECT-TO-TENANT PAYMENTS TO SUPPORT RENTERS

Despite Congress providing ERA, many renters faced difficulties accessing assistance. Some renters were not aware of the availability of emergency rental assistance, while others had to navigate overly burdensome documentation requirements or try to work around their landlord's refusal to accept emergency assistance funds.

Providing funding directly to tenants helped decrease these barriers and sped up the delivery of assistance to the lowest-income households, while modeling a new way of delivering assistance not typically seen in other housing assistance programs. Future iterations of emergency rental assistance, including the Emergency Assistance Fund proposed in the "Eviction Crisis Act" and "Stable Families Act," should provide such direct-to-tenant assistance to ensure the fast and equitable distribution of funding.

In addition to creating a permanent federal emergency assistance fund that provides direct-to-tenant payments, Congress should explore innovative methods, like the [renters' tax credit](#) proposed in the "[Rent Relief Act of 2022](#)" (H.R. 8357), for expanding the availability of direct-to-tenant housing assistance. The renters' tax credit would help bridge the widening gap between incomes and housing costs by providing a refundable tax credit for housing cost-burdened renters – those paying over 30% of their incomes on rent every month. Such a program would also help overcome administrative barriers that often prevent households from accessing rental assistance by providing relief directly to renters and minimizing landlord involvement.

Several jurisdictions across the country are also exploring basic income support to provide low-income households direct assistance to pay for rent and other expenses. For example, the University of Pennsylvania and Philadelphia’s Housing Development Corporation will jointly operate a pilot program involving 300 rent-burdened households in public housing. The households will receive cash payments for two to three years in the program to bridge the difference between the cost of their rent and 30% of their income.⁴

ENSURE LONG-TERM AFFORDABILITY FOR THE LOWEST-INCOME RENTERS THROUGH UNIVERSAL VOUCHERS

Nationwide, 8 million of the lowest-income renters pay at least half of their income on rent, leaving them without the resources they need to make ends meet. Despite the clear need, only one in four eligible households receive any help, and some households spend years on waitlists due to inadequate funding by Congress.⁵ If universal housing assistance had been in place during the pandemic, more could have been done to protect the lowest-income renters from housing instability, eviction, and homelessness.

Making rental assistance available to all eligible households is central to any successful strategy to solve the housing crisis. As mentioned above, a growing body of research finds that rental assistance can improve health and educational outcomes, increase children’s ability to thrive, and advance racial equity.⁶ To ensure that everyone has a stable, accessible, and affordable home, Congress should expand rental assistance to make it universally available to all households in need.⁷ In particular, Congress should significantly expand and guarantee funding for Housing Choice Vouchers and establish a renters’ tax

credit, as discussed above. Rental assistance is a critical tool for helping the lowest-income people afford decent, stable, accessible housing, and the Housing Choice Voucher program has a proven track record of reducing homelessness and housing poverty.⁸ Congress must ensure that housing resources – like other programs making up our nation’s social safety net – automatically receive full funding each year to cover the needs of all eligible households.

Households receiving rental assistance have tools to help address fluctuations in income, including during a crisis. Households can also recertify their incomes to redetermine the rent contributions owed by tenants. Expanding rental assistance can help reduce the amount of funds needed for emergency rental assistance and ensure greater housing stability.

Congress should enact both the “Ending Homelessness Act” (H.R. 4496) introduced by Representatives Maxine Waters (D-CA), Emanuel Cleaver (D-MO), and Ritchie Torres (D-NY), and the “Family Stability and Opportunity Vouchers Act” (S.1991) introduced by Senators Chris Van Hollen (D-MD) and Todd Young (R-IN). The “Ending Homelessness Act” would ensure universal rental assistance for every eligible household, increase the supply of affordable housing, and enact other critical measures to end homelessness, while the “Family Stability and Opportunity Vouchers Act” would provide 500,000 new housing vouchers and counseling services to help families with children move to communities of their choice.

PRESERVE AND INCREASE THE SUPPLY OF HOUSING AFFORDABLE TO THE LOWEST-INCOME RENTERS

There is currently a national shortage of 7 million homes affordable and available to the lowest-income renters.⁹ For every 10 of the lowest-income renter households, there are fewer than four homes affordable and available to them. The private sector cannot on its own build and maintain homes affordable to the lowest-income renters without federal support. Zoning and land use reforms at the local level are needed to increase the supply of housing generally, and federal investments are needed to build and preserve decent homes affordable to the extremely low-income tenants.

To increase and preserve the supply of affordable rental homes, Congress must expand funding for the national Housing Trust Fund to at least \$40 billion annually to build and preserve homes affordable to people with the lowest incomes; provide at least \$70 billion to preserve and rehabilitate our nation's public housing infrastructure, make energy-efficient upgrades, and guarantee full funding for public housing in the future; and use federal transportation investments to require inclusive zoning and land use reforms to reverse residential segregation and increase the supply of affordable and accessible homes.¹⁰

Congress should also enact the "American Housing and Economic Mobility Act" (S.1368/H.R. 2768) introduced in their respective chambers by Senator Elizabeth Warren (D-MA) and Representative Emanuel Cleaver (D-MO). The bill would address the shortage of affordable rental homes for people with the lowest incomes through a robust investment of nearly \$45 billion annually in the national Housing Trust Fund. The bill also includes resources to repair public housing, build or rehabilitate housing in tribal and

Native Hawaiian communities, and create and preserve affordable homes in rural areas.

The targeted housing investments that were included in the House-passed "Build Back Better Act" would also directly address the severe shortage of rental homes affordable to people with the lowest incomes by preserving the nation's public housing and building new affordable housing through the national Housing Trust Fund.¹¹ The bill provided \$65 billion to preserve public housing for future generations and to protect the health and safety of its 2.5 million residents. The Build Back Better Act also included \$15 billion to build and preserve more than 150,000 homes for people with the greatest needs through the national Housing Trust Fund.¹² The historic investments included in the Build Back Better Act are still critically needed and long overdue after decades of federal disinvestment in affordable housing. By failing to include the Build Back Better Act's significant affordable housing investments in the reconciliation package passed earlier this year, Congress missed a once-in-a-generation opportunity to help end homelessness in America, repair public housing, and pave the path to universal rental assistance for everyone in need.

ENACT TENANT PROTECTIONS AT THE STATE, LOCAL, AND FEDERAL LEVELS

The COVID-19 pandemic made manifest the close links between housing and individual and public health, as millions of renters – predominantly people of color – struggled to remain safely and stably housed throughout the public health crisis. To mitigate the spread of COVID-19 and keep people in their homes, the Centers for Disease Control and Prevention (CDC) issued a nationwide eviction moratorium in September 2020. Following the federal government's lead, state and local jurisdictions

across the country recognized the crucial role protections play in preventing evictions and ensuring housing stability for the most marginalized households by enacting numerous tenant protection measures.

The [ERASE State and Local Tenant Protections Database](#) provides information about those protections passed or implemented since January 2021 that have helped prevent evictions and keep renters stably housed during the COVID-19 pandemic. The database includes information about the jurisdictions enacting protections, the implementing authorities, the status of protections, brief descriptions of these protections, and links to more information on both short-term protections directly related to emergency rental assistance and long-term tenant protections intended to outlast the pandemic.

As noted above, in 2021 alone, states and localities passed or implemented over 130 new laws or policies to protect tenants from eviction and keep them stably housed. To date, more than 150 state and local laws have been passed to support tenants' rights and housing stability. These tenant protections can be separated into five categories: (1) state and local eviction moratoriums; (2) pauses on the eviction process to allow for ERA processing; (3) mandates that require landlords to apply for or share information on ERA before filing an eviction and that limit tenant fees; (4) increases to tenant representation during the eviction process; and (5) protections that reduce discrimination and promote housing stability.¹³

The pandemic highlighted the need for additional tenant protections but also presented opportunities to learn how existing protections can be strengthened and expanded in the future. Emergency rental assistance and the short-term tenant protections tied to ERA will eventually expire, but long-term tenant protections, like source-of-income discrimination laws, right to counsel, and sealed eviction legislation, will outlast the pandemic and can guide housing advocates and policymakers looking to pass

similar protections in their own jurisdictions.

NLIHC recommends the following actions at the state and local levels to protect tenants, prevent evictions, and support long-term housing stability:

- ◀ State and local governments should make permanent those ERA-era tenant protections enacted during the pandemic and continue to pass tenant protections focused on all stages of the eviction process to advance housing as a human right.
- ◀ States and localities must assess their tenant-protection laws and programs to ensure maximum effectiveness in preventing evictions, from improving enforcement of source-of-income discrimination laws to adequately funding right-to-counsel programs.
- ◀ ERA programs, states, and local courts should develop collaborative partnerships to ensure the successful implementation and enforcement of tenant protections at all stages of the eviction process.
- ◀ State and local courts should centralize eviction filing and outcome data for facilitating access to ERA to those in need, enforce existing tenant protections, and track housing stability outcomes for tenants who may have been evicted.
- ◀ Long-term federal tenant protections, such as a Tenant's Bill of Rights, source-of-income discrimination laws, "just cause" eviction standards, right to counsel, and sealed eviction legislation, are needed to ensure that all renters – across all jurisdictions – share a basic level of protection.

Endnotes

- 1 Peter Hepburn et al. "Preliminary Analysis: Eviction Filing Patterns in 2021," March 8, 2022, <https://evictionlab.org/us-eviction-filing-patterns-2021/>
- 2 Peter Hepburn et al. "Preliminary Analysis: Eviction Filing Patterns in 2021," March 8, 2022, <https://evictionlab.org/us-eviction-filing-patterns-2021/>.
- 3 Claudia Aiken et al. "Emergency Rental Assistance (ERA) During the Pandemic: Implications for the Design of Permanent ERA Programs," Housing Initiative at Penn and National Low Income Housing Coalition, March 10, 2022, https://nlihc.org/sites/default/files/HIP_NLIHC_2022_3-10_FINAL.pdf.
- 4 Chihoub, Lina. The Daily Pennsylvanian. "Penn to jointly operate one of Philadelphia's two upcoming guaranteed income pilots." 2/21/2022. <https://www.thedp.com/article/2022/02/philadelphia-guaranteed-income-policy-tanf>
- 5 Chihoub, Lina. The Daily Pennsylvanian. "Penn to jointly operate one of Philadelphia's two upcoming guaranteed income pilots." 2/21/2022. <https://www.thedp.com/article/2022/02/philadelphia-guaranteed-income-policy-tanf>
- 6 "Housing Influences Outcomes Across Many Sectors and the Research Shows It," Opportunity Starts at Home Campaign, accessed October 21, 2022, <https://www.opportunityhome.org/related-sectors/>.
- 7 "Ensure Universal Rental Assistance," National Low Income Housing Coalition, March 15, 2021, https://nlihc.org/sites/default/files/Solution_Rental_Assistance.pdf.
- 8 Center on Budget and Policy Priorities, "Housing Choice Voucher Fact Sheets," August 9, 2017, <https://www.cbpp.org/housing-choice-voucher-fact-sheets>.
- 9 Andrew Aurand et al. "The Gap: A Shortage of Affordable Homes," National Low Income Housing Coalition, April 2022, <https://nlihc.org/gap>.
- 10 "HTF: The Housing Trust Fund," National Low Income Housing Coalition, March 5, 2020, https://nlihc.org/sites/default/files/HTF_Factsheet.pdf; "Expand and Preserve the Supply of Affordable Rental Homes," National Low Income Housing Coalition, March 15, 2020, https://nlihc.org/sites/default/files/Solution_Supply.pdf.
- 11 "Historic Housing Investments in The Build Back Better Act," National Low Income Housing Coalition, December 14, 2021, <https://nlihc.org/sites/default/files/Historic-Housing-Investments-in-the-Build-Back-Better-Act.pdf>.
- 12 "National Housing Trust Fund Estimated Allocations," National Low Income Housing Coalition, October 26, 2021, https://nlihc.org/sites/default/files/housed_NHTF_allocations-15B.pdf.
- 13 "ERASE State and Local Tenant Protections Database," National Low Income Housing Coalition, accessed October 21, 2022, <https://nlihc.org/tenant-protections>.

Looking for more information?

- ◀ For more information on emergency rental assistance, please visit the ERASE [website](#)
- ◀ If you have a question, please contact the ERASE team at eraseproject@nlihc.org



**NATIONAL LOW INCOME
HOUSING COALITION**

ABOUT NLIHC

The National Low Income Housing Coalition is dedicated to achieving racially and socially equitable public policy that ensures people with the lowest incomes have quality homes that are accessible and affordable in communities of their choice.