

# IV. PREVENTING EVICTIONS AND PROMOTING HOUSING STABILITY WITH ERA AND TENANT PROTECTIONS

Emergency Rental Assistance:  
A Blueprint for a Permanent Program



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# 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 |                  |

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# PREVENTING EVICTIONS AND PROMOTING HOUSING STABILITY WITH ERA AND TENANT PROTECTIONS

**E**mergency rental assistance (ERA) programs aim to prevent eviction and housing loss for the lowest-income and most marginalized households. Preventing evictions and housing loss requires providing emergency assistance in time to prevent an eviction, ensuring evictions do not take place once emergency assistance has been received, and addressing the systemic disparities and policies that have contributed to housing instability in the first place, particularly for low-income and BIPOC households.

To accomplish these goals, states and localities should establish programs that pair emergency rental assistance with state and local policies and legislation to protect tenants throughout the process. Moreover, specialized case-management and mediation services, formal partnerships with state and local courts, and the integration of housing services with other social services can provide a path to long-term housing stability when coordinated with ERA.

Program administrators, community members, and ERASE Cohort members have played crucial roles in establishing and supporting programs that braided financial assistance available under the ERA program with other supportive housing services to prevent evictions. In this section, we highlight various practices adopted by cohort members and ERA program administrators to ensure that ERA was preventive. These included:

- ◀ Using ERA to pay for prospective rent and other housing services.
- ◀ Using ERA to fund housing counseling and housing navigation services.
- ◀ Integrating ERA with landlord-tenant mediation programs.
- ◀ Supporting coordination between courts and ERA programs to prevent evictions.
- ◀ Establishing and enforcing ERA-related tenant protections at the state and local levels.
- ◀ Setting up eviction diversion and prevention programs.
- ◀ Utilizing ERA to prevent and end homelessness.

## USING ERA TO PAY FOR PROSPECTIVE RENT AND OTHER HOUSING EXPENSES

Guidance issued by the U.S. Department of the Treasury (Treasury) makes clear that ERA funds can be used to cover prospective rent, with recertification for future rent taking place every three months. ERA funds can also be used to cover other housing-related expenses, such

as relocation assistance, security deposits and application fees, and hotel and motel stays to assist those who are at risk of or have already experienced eviction or displacement. These services work together to help renters move out of unstable housing situations and thus promote longer-term stability. At the end of 2021, NLIHC's tracking showed that over 80% of all ERA programs covered prospective rent, 28% covered relocation expenses, and 12% used funds to cover hotel and motel stays for renters at risk of or experiencing homelessness.<sup>1</sup>

Members of the ERASE Cohort explained that using ERA funds in this way successfully helped renter households in their areas. Rhode Island's ERA program, Rent Relief RI, instated prospective rent payments and covered security deposits from the onset of its program. While tenants were responsible for finding new housing, the state program provided preapproval letters for future assistance with rent and/or security deposits to renter households that met the eligibility criteria. Households could use these letters to secure new rental units and later update their applications with details about their new landlords and addresses to receive rental assistance payments. The program eventually extended funds to cover moving fees for renter households as well. Cohort members indicated that these services together helped prevent homelessness.

Several other states and localities increased flexibility in their programs to cover additional expenses over time. For instance, Durham, North Carolina, initially made prospective payments to landlords only under its ERA1 program. However, under ERA2, the program – known as the Durham Rent Relief Program (DRRP) – offered a combination of future payments and security deposits to landlords of new units. Tenants were also eligible to receive direct payments from the program.

## USING ERA TO FUND HOUSING COUNSELING AND HOUSING NAVIGATION SERVICES

Treasury guidance establishes that a portion of ERA funds can be used to provide housing stability services for renter households. These services include landlord and tenant mediation; housing counseling and case management services; housing-related services for survivors of domestic abuse or human trafficking; legal services or attorneys' fees related to eviction proceedings; and specialized housing services for individuals with disabilities or seniors.<sup>2</sup> Members of the ERASE Cohort highlighted the benefits of funding housing counseling and navigation services to help ERA applicants identify and secure new housing that would promote longer-term housing stability. Housing counseling and navigation services were offered by ERA staff through community-based organizations as well as through partnerships in court. Several programs also set up kiosks in courts with high concentrations of eviction cases and offered remote services for high-need tenants in other parts of their states.

Indiana Housing and Community Development Authority (IHCD) provided a \$15 million ERA2 grant to Prosperity Indiana – an ERASE Cohort member – and Indiana Community Action Association (INCAA) to establish the statewide Housing Stability Network. The Network is now able to provide housing counseling and family stability wraparound case management services for tenants in all 92 counties, with specific outreach to the lowest-income, BIPOC, and most underinvested communities. The Network also closely coordinates with the Indiana Bar Foundation's ERA2-funded Indiana Legal Help Network, which provides court-based eviction diversion and other legal services to tenants.

When ERA funds are again available, these two networks will be able to cross-refer tenants to ERA funds as well.

In many cases in which landlords were unwilling to participate or tenants were concerned that their landlords would not accept assistance or would retaliate, housing counselors were the final line of defense against unnecessary evictions. One of our cohort members in the District of Columbia – Housing Counseling Services, Inc. (HCS) – served as a housing navigator and mediator for the District’s ERA program. HCS reported that over 50% of evictions were stopped, quashed, or delayed, in large part due to the collaborative efforts between housing counselors, legal service providers, and judges.

## INTEGRATING ERA WITH LANDLORD-TENANT MEDIATION PROGRAMS

Several jurisdictions established landlord-tenant mediation programs to work in conjunction with ERA in their area. Mediation programs vary greatly based on how they identify landlords, whether they are mandatory, and whom they include to help facilitate mediations, and different states and localities have adopted different approaches to mediation. Some, like Philadelphia, established by law mandatory landlord participation in mediation services prior to the filing of an eviction due to nonpayment of rent. Others, such as Illinois and Washington, require landlords to provide notice of available mediation services prior to the filing of an eviction and to delay filing if a tenant agrees within a certain number of days to participate. In both scenarios, examples from our cohort suggest that housing counselors and navigators helped to mediate landlord-tenant conflicts to reach resolutions that did not end in eviction courts, such as petitions to close active eviction cases. Their services ranged from formal conversations conducted in court to initiatives that preemptively

targeted landlords to encourage them to apply for assistance instead of filing for eviction.

As noted above, the Housing Stability Network in Indiana coordinates with the Indiana Bar Foundation’s ERA2-funded Indiana Legal Help Network to provide court-based eviction diversion and other legal services to tenants. After two years of work, these advocates won a partial sealing/expungement of eviction filing records, when House Enrolled Act 1214 became law on July 1, 2022. In addition, housing partners on the Indiana Supreme Court’s Landlord Tenant Task Force created the Fast Track Facilitation eviction diversion mediation program to increase utilization of mediation services and reform court processes to provide more time for tenants to access resources and services.

Housing counselors in the District of Columbia brokered conversations with major landlord and property owners to identify renters who might need assistance and who might benefit from mediation. Housing counsellors identified properties with rental delinquency rates of 17%-18% and assumed that landlords of these properties were likely to file a larger number of evictions. They approached those landlords with information on ERA to encourage their participation in an attempt to divert evictions. These relationships also fostered trust in the ERA program.<sup>3</sup>

ERASE Cohort members in Weber County, Utah, had similar successes with their data-driven approach to mediation. They highlighted that in a county as small as Weber, even one or two evictions by the same landlord can indicate where to direct an offer of mediation services. Using court data, it was possible to identify and connect with landlords and property managers with significant numbers of evictions. Through mediation, program staff were then able to encourage other methods of resolution. Several landlords and property owners cited the provision of ERA as the main motivation to reach a settlement outside of eviction court.

ERASE cohort members also highlighted the importance of tapping into existing networks that work with or convene landlord groups to support mediation services. In Alabama, cohort members coordinated with local Continuums of Care, several of which had preexisting relationships with landlords and property managers, to help facilitate mediation sessions. By connecting financial assistance to mediation services, cohort members were able to prevent evictions for more than 1,400 Alabama renters.

## **SUPPORTING COORDINATION BETWEEN COURTS AND ERA PROGRAMS TO PREVENT EVICTIONS**

Partnerships between courts, attorneys, housing advocates, and ERA programs are crucial to eviction diversion and prevention efforts. These partnerships take many different shapes – some formal, others informal – and were bolstered by funding from ERA during the pandemic. Such partnerships are most successful when they involve court systems that value eviction diversion programs, offer established legal representation and formal mediation programs, work with landlords and tenants, and can help tenants navigate or access rental assistance. Funding for court and eviction diversion programs and for advocacy supporting such programs helps strengthen these efforts, especially by scaling and sustaining them.

After reviewing efforts by members of the ERASE Cohort, we have observed that the process of integrating courts and ERA programs involves three steps: (1) creating judicial buy-in, (2) setting up and bolstering a framework for legal aid partnerships at eviction court, and (3) making ERA accessible through courts.

### **Creating Judicial Buy-In**

Educating judges, attorneys, and local and state representatives about the availability of ERA, features of the program, and the benefits of participating was a crucial step toward enabling courts and ERA programs to work together to prevent evictions.

The Detroit-based United Community Housing Coalition (UCHC) and its partners participated in information sessions with sitting Detroit City Council members and their staffs to discuss the growing eviction crisis and brainstorm strategies to keep Detroit residents stably housed.

Expanding on its ongoing efforts to bring together Detroit tenants and residents, nonprofit organizations, and legal aid organizations, UCHC was effective in educating community members, members of courts, and local policy makers about the importance of tenant protections and ERA. This work resulted in a unanimous 9-0 vote by the Detroit City Council to enact a right-to-counsel law. By creating buy-in among members of local district courts and the City Council, UCHC ensured additional protections for tenants. For instance, all litigants are entitled to receive brief legal advice before hearings proceed. The organization also had success in pushing for courts to adjourn cases to allow enough time for a pending ERA application to be processed. Finally, the right-to-counsel ordinance provided a right to full legal representation for persons whose household income did not exceed 200% of the Federal Poverty Limit.

### **Setting Up and Bolstering a Framework for Legal Aid Partnerships at Eviction Court**

Evidence shows that access to legal representation for renters increases the likelihood of eviction cases being withdrawn or reaching settlement outside of eviction courts.<sup>4</sup> Therefore, ERA-focused advocates knew from the beginning that preventing evictions during the pandemic would necessitate building strong networks of legal aid or pro-bono lawyers who were familiar with the eviction process and available support

services in their areas, as well as establishing frameworks through which legal aid lawyers could intervene and prevent evictions.

ERASE Cohort members worked closely with legal aid providers to develop and integrate free or low-cost legal services into the eviction court system. One cohort member in Illinois, the Lawyers' Committee for Better Housing (LCBH), examined Chicago's eviction court records and found that tenants with access to legal representation were more likely to receive a positive outcome at court. LCBH then used this research to argue for eviction court reform. Meanwhile, the pandemic provided the impetus for Cook County to establish the Cook County Legal Aid for Housing and Debt (CCLAHD) program in combination with legal aid providers and the local bar association. The Early Resolution Program, a key element of CCLAHD, combines free legal assistance and rental assistance in Zoom break-out rooms to assist unrepresented landlords and tenants. In these breakout rooms, attorneys provide tenants information about rental assistance and whether they are eligible and offer formal mediation services. The break-out rooms allow self-represented tenants to consult with attorneys and reduces barriers to legal aid. The early success of the county's court-based program also paved the way for Chicago's new Right-to-Counsel pilot program, which is funded by ERA2.

While free or low-cost legal representation has been an important component of court-based programs, it can be difficult in some jurisdictions to identify pro bono or other legal aid attorneys with expertise in eviction court proceedings, or to find trained staff capable of carrying out mediation. In these cases, cohort members had to turn to other strategies to fill in the gaps. In Columbia, South Carolina, the NAACP Housing Navigator program trained community volunteers to help clients with landlord-tenant mediation and other pre-eviction solutions, aiding over 200 housing insecure individuals. Similarly, as an alternative to enacting a politically controversial moratorium in Nebraska, the state's bar

association set up a framework for a volunteer-based legal aid program in Douglas and Lancaster counties known as the Tenant Assistant Project.<sup>5</sup> Despite initial skepticism about this effort from judges and courts, cohort members in Nebraska report that the program effectively prevented or delayed several thousand evictions, preventing over 7,400 evictions in Omaha alone.<sup>6</sup> Additionally, to mitigate the effects of the limited capacity of legal aid and pro bono attorneys to offer legal assistance to all litigants in need of help, several states have pushed to authorize and expand regulations around unbundled legal services. One such effort in Delaware undertaken by the Eviction Defense Project resulted in a Delaware Supreme Court ruling allowing tenants to be represented in court by "Qualified Tenant Advocates" – non-lawyers trained by Delaware legal-aid agencies.<sup>7</sup> In these ways, ERASE Cohort members have set up and bolstered frameworks that make legal aid available and accessible to renters at eviction court.

### **Making ERA Accessible through Courts**

Research has shown that the most effective factor in preventing evictions has been the provision of rental assistance to cover back-rent.<sup>8</sup> Therefore, while efforts to bring courts, judges, attorneys, and housing navigators to the table have been very helpful, such efforts would not have been as successful without the provision of emergency rental assistance. Court-based interventions that were connected with Treasury ERA funds were identified as central to the work of successfully diverting evictions and keeping renters housed.

Cohort members have thus placed special emphasis on the provision of ERA at court. Cohort members in Memphis and Shelby County, Tennessee, worked closely with their ERA program to identify tenants who were eligible for assistance and had an active eviction case by matching program and local court data. A dedicated team of five on-staff ERA attorneys would then contact the landlord to offer a settlement. At court, judges would inform tenants about the availability of assistance and issue a



two-week continuance to give tenants time to apply for ERA. County program staff also set up tables at the courthouse to help tenants apply for assistance. For every eviction case filed at court, an informational flyer would be mailed to tenants, informing them of their upcoming hearing and information about ERA. This system ensured that efforts to get courts and lawyers involved were matched with a focus on ensuring assistance was available to resolve cases and divert harmful evictions.

The Housing Alliance of Pennsylvania studied two eviction diversion programs administered in Berks and Chester counties. Both programs were begun during the pandemic and tied ERA to courts in some way. Drawing on court data, conversations with tenant participants in the programs, and interviews with judges whose courtrooms participated in eviction diversion, the Alliance found that implementation of the two programs was associated with better case outcomes for tenants in court. Among other findings, the Alliance heard directly from tenant participants that the financial assistance and paired services offered under the diversion programs helped them stay in their homes and in many cases find and keep employment. The coordination of rental assistance, legal assistance, and outreach to tenants and landlords enabled the programs to be especially effective in meeting the needs of tenants, landlords, and members of the wider community.

## **ESTABLISHING ERA-RELATED TENANT PROTECTIONS TO ENSURE LONG-TERM HOUSING STABILITY**

Throughout the pandemic, tenant protections have played a crucial role in preventing evictions and ensuring housing stability. Since January 2021, states and localities have passed or implemented more than 150 new laws or policies to protect tenants from eviction and keep them

stably housed. Of these protections, 70 laws and policies were implemented by or in support of ERA programs.<sup>9</sup>

The enactment of tenant protections depends on the willingness of jurisdictions to establish safe harbors for renters. In jurisdictions where there is little political will to enact protections through legislative bodies or the court, ERA programs must establish these protections within their policies. ERASE Cohort members represented areas with different political orientations and varying degrees of protections. Where laws fell short and local politics prevented protections from being enacted in law, cohort members fought to win protections and establish safe harbors by means of ERA program policies. In addition to working to enact ERA-related tenant protections, advocates sought to ensure that landlords and property owners adhered to these protections. This section describes the range of tenant protections enacted and highlights the means established to ensure renters remain stably housed.

### **Enacting ERA-Related Tenant Protections at the State, County, and City Levels**

In 2021, several state and local courts issued rulings that tied tenant protections to the availability of ERA in their area.<sup>10</sup> These protections vary in aim and structure, but in general they are designed to ensure that landlords and property owners have made every effort to resolve problems related to rental arrears before turning to the eviction process. Some ERA-related tenant protections enacted at the state, county, and city levels required landlords to apply for ERA before they filed evictions, while others established wait periods and safe harbors for ERA applicants. Others involved the issuing of eviction stays or prohibited landlords participating in the ERA program from evicting tenants in the near term.

Some states, like California, Virginia, and Connecticut, enacted legislation or issued executive orders requiring that landlords apply

for ERA prior to filing an eviction. In some cases, these policies also ensured tenants were given a 30-day notice before an eviction could be filed. In some jurisdictions, local courts mandated participation in ERA in certain cases. The Philadelphia Municipal Court issued an order in April 2021 that instated three requirements for landlords seeking to evict a tenant for non-payment of rent. These landlords had to apply for rental assistance, participate in mediation through Philadelphia’s Eviction Diversion Program, and wait 45 days before filing if the issues leading the landlord to seek to evict were not resolved. Officials say the program was essential to Philadelphia’s success in distributing more than \$235 million in emergency rental assistance and that it has helped reduce the number of eviction filings to 75% of the pre-COVID number.<sup>11</sup>

Jurisdictions also established wait periods and safe harbors to ensure that renters who applied for assistance were not evicted as they waited for their applications to be approved. Most such protections, like those enacted in Arizona, California, and Oregon, delay eviction proceedings for 30 to 90 days, pending a tenant’s successful ERA application. These safe harbor policies were critical in allowing ERA program administrators time to process large numbers of applications during the pandemic. Other safe harbor protections, like one established in Philadelphia, prohibited landlords from issuing a writ of possession for nonpayment of rent while an ERA application was pending.<sup>12</sup>

Eviction moratoriums and stays, especially those that addressed earlier steps in the eviction process, were effective in reducing eviction filings.<sup>13</sup> During the pandemic, 16 state and local jurisdictions enacted protections that paused or delayed eviction judgements to allow time for tenants to apply for ERA.<sup>14</sup> In Illinois, for example, the state Supreme Court redirected every new eviction filing to the state’s ERA program. Eviction stays are a critical intervention, helping delay final judgments and giving renters opportunities to apply for ERA and avoid eviction.<sup>15</sup>

The strongest ERA-related protections include requirements for landlords receiving ERA to drop eviction filings or forgive rental arrears, interest, or fees. In 2021, 29 states and localities passed laws or policies that prohibited landlords participating in ERA from evicting tenants. The length of time for which such policies prohibited evictions ranged from 30 days to 12 months.<sup>16</sup> These protections work in tandem with safe harbors and wait periods to give renters sufficient time to access assistance. For instance, in Kentucky, landlords must wait 45 days after receiving assistance before initiating an eviction and must provide 30 days’ notice before moving forward with an eviction.<sup>17</sup>

### **Enforcing Protections to Ensure Renters Are Protected in the Long Term**

While jurisdictions across the country enacted ERA-related tenant protections, reports indicated that in some cases protected renters were still being evicted, even after their landlords received assistance.<sup>18</sup> This was due to the fact that many new protections lacked formal protocols to enforce compliance. As a result, many local administrators and their community partners had to work directly with landlords to ensure ERA-assisted tenants were protected in the long term.

For instance, Dane County, Wisconsin’s ERA program – administered by the Tenant Resource Center (TRC) – provides tenants with free legal representation, ensuring they have access to attorneys who can help negotiate agreements, lease extensions, and the reopening of falsely filed cases, and appeal terminations impacting tenants in protected properties. In response to guidance from Treasury, TRC established a mandatory landlord agreement that prohibited landlords from evicting tenants for nonpayment of rent for the period of assistance. Since the state was not willing to enforce additional protections, TRC leveraged its position as an administrator and mediator to protect tenants from harmful evictions. The organization found that its ability to leverage the combination of attorneys, mediation, and the landlord agreement, allowed

tenant attorneys to launch payments the day of the hearing and negotiate agreements that stabilized and/or extended housing. By working with landlords to enforce adherence, the program ensured that eviction filings did not rise above their pre-pandemic level of roughly 2,000 annually. Additionally, 78% of cases are dismissed at or before the tenant's initial appearance – a significantly higher rate of dismissal than pre-pandemic, when the rate was approximately 29%. Especially remarkable is the fact that tenants are now more often represented in courts than landlords – the first time this has occurred in the history of Dane County.

As Treasury ERA funds dwindle, some cohort members are working to expand partnerships with landlords and property owners to ensure eviction filings do not return to pre-pandemic levels and renters remain protected in the long term. One ERASE Cohort member in Louisiana – HousingLOUISIANA – developed a targeted intervention project to inform landlords about alternatives to eviction. Designed through partnerships with the Housing1st Alliance of the Capitol Area, Together Baton Rouge, and the City of Baton Rouge Mayor's Office, the project was called the Healthy Housing Forum and targeted landlords who had received ERA funds to ensure their renters remain stably housed. The project developed content to help these landlords understand how they could be part of the broader solution to affordable housing. Despite ERA funds making landlords whole again, there was still a high rate of eviction filings, leading to several vacant units in the area. Additionally, advocates realized that several units were in need of significant repairs. Healthy Housing Forum partners are now identifying additional sources of funding through state programs (such as Low-Income Housing Tax Credits and CDBG funds) to help landlords and property owners make necessary repairs to their units. They are also co-designing with landlords a loan fund and rental assistance pilot project to benefit both landlords and tenants modeled after similar programs in cities like Milwaukee and Chicago.

## SETTING UP EVICTION DIVERSION AND PREVENTION PROGRAMS

Eviction diversion and prevention programs provide landlords and tenants the resources, information, and time required to find the least harmful alternatives to eviction.<sup>19</sup> Research shows that such programs involve some combination of housing counseling, legal assistance, emergency rental assistance, and other supportive services.<sup>20</sup> They are designed to divert eviction cases from formal proceedings by reaching a mediated alternative prior to or during an eviction filing.

While each of the practices and programs highlighted above plays a significant role in preventing unnecessary evictions, combining financial assistance with access to housing mediation services and tenant protections is crucial to addressing housing instability. In a review of 47 state and local eviction prevention and diversion programs, Urban Institute found that while moratoriums, tenant protections, and legal assistance strengthened tenants' positions, they did not "resolve underlying and long-standing drivers of the eviction crisis" by themselves. Financial assistance, meanwhile, played a crucial role in resolving rental arrears, an immediate driver of eviction filings.<sup>21</sup> Eviction diversion and prevention programs that integrated these components not only successfully promoted housing stability but provided a framework for states and localities to reexamine and improve their basic housing service delivery systems.

Treasury ERA funds became the cornerstone of many eviction diversion initiatives that were launched or expanded during the pandemic. In addition to providing critical direct assistance, ERA also provided the funds needed to set up eviction diversion infrastructure. ERASE Cohort members played crucial roles in supporting and establishing eviction prevention and diversion programs in their jurisdictions.

## **State of Texas Eviction Diversion Program**

After the Texas Rent Relief Program was launched in February 2021 to provide rent and utility assistance during the pandemic, the Supreme Court of Texas, the Texas Office of Court Administration, and the Texas Department of Housing and Community Affairs (TDHCA) partnered to create the Texas Eviction Diversion Program (TEDP). TEDP reserved 10% of available Texas Rent Relief funds to help low-income tenants facing eviction to remain in their homes and provide landlords with an alternative to eviction.

The Supreme Court of Texas established the statewide Texas Eviction Diversion Program (TEDP) through an emergency order, which has since been renewed several times.<sup>22</sup> Under the program rules, eviction courts provide an informational ERA flier to a tenant prior to an eviction hearing, and judges are required to discuss the program with the landlord and tenant. If a landlord and tenant agree to apply for ERA, or if they already have applied, the court delays the eviction case for 60 days, makes the eviction filing confidential, and dismisses the case after 60 days, unless the landlord files a motion to reinstate. Through the Texas Eviction Diversion Program, more than 21,000 applicants have received more than \$200 million in assistance, had their evictions stopped, and had their eviction case records made confidential.

The Texas Department of Housing and Community Affairs also used a portion of ERA1 and ERA2 funds to create the Housing Stability Services Program, which provides critical funding for housing stability services to 56 local communities and non-profits, including the Texas Access to Justice Foundation (TAJF). In partnership with 10 organizations, TAJF provides counsel to low-income households during an eviction proceeding, offers mediation services, and provides local in-person and online housing clinics to assist low-income households. The TAJF Program is funded through March 31, 2024.<sup>23</sup>

## **Washington, D.C. Eviction Diversion Initiative**

In the District of Columbia, ERASE Cohort partner Housing Counseling Services, Inc. (HCS) worked closely with the District's ERA program administrator and legal service providers to establish a framework for eviction diversion that ensures any tenants who are scheduled for eviction, have writs of eviction, or have judgments against them are connected to rental assistance and legal counsel. HCS is in the courtrooms every day, participating in hearings and providing updates on active cases. Staff are present in court hearings as housing counselors, providing court staff with information on current ERA application statuses and providing clients with information on how to apply. Extensive collaboration among partners ensures "last mile payments" are accurate and will in fact stop an eviction. Of 400 evictions scheduled for between September 13 and October 31, 2021, HCS staff were able to reach more than 200 tenants, delaying or stopping their evictions. About 75% of those evictions were stopped as a direct result of nearly \$300 million in ERA funds that had been disbursed. Such an outstanding result could not have occurred without the deliberate integration of financial assistance and community-based and legal services, the support of courts and judges, the D.C. government (specifically the Department of Human Services), and the existing system of tenant protections in the District.

## **State of Louisiana Eviction Diversion Pilot**

The emerging Louisiana eviction diversion program began as a series of distinct local efforts between nonprofits and legal aid providers working in courts to provide legal aid and enroll renters facing eviction into ERA. Based on successful efforts in New Orleans and Baton Rouge, advocates, including ERASE cohort member HousingLOUISIANA, have partnered with the Governor's office and Southern University to co-design a pilot program and hope to build support for scaling this intervention statewide. The partnership between advocates,

the Governor's office, and Southern University aims to create a statewide eviction-diversion program modeled after pilots currently underway in Baton Rouge. It builds on a program currently managed by Southern University to prevent the displacement of low-income families in several parishes across the state. The design for this pilot project consists of components similar to those in the Baton Rouge model and has three main intervention points:

- ◀ Tenant intervention in the case of rent arrears or when there is a conflict with the landlord.
- ◀ Landlord intervention to inform landlords of alternatives to eviction and identify other funding sources to help them make repairs.
- ◀ Judicial intervention to show judges how they can help prevent evictions.

## UTILIZING ERA TO PREVENT AND END HOMELESSNESS


Early research on the connections between ERA and homelessness prevention indicates that even while many programs considered preventing homelessness to be a goal, not all programs were able to transform this intention into processes and structures – e.g., outreach methods, eligibility criteria, documentation requirements, or subsidy structures – that succeeded in reaching those imminently at risk of homelessness. Programs typically favored upstream targeting and tended to require documentation that would be challenging for households most at risk of homelessness to provide. Nevertheless, program administrators often viewed homelessness as the result of a series of destabilizing events and emergency rental assistance as a tool that could disrupt the course of such events.

To be eligible for assistance, applicants to Treasury ERA programs were required to be at risk of experiencing homelessness or housing instability. However, only a quarter of programs

surveyed in the spring of 2021 accepted previous experience of homelessness as proof of a household's risk of homelessness or housing instability, despite research showing that shelter history is a strong predictor of reentry to homelessness. According to information from NLIHC's Treasury ERA program database, as of July 2022, only a handful of programs explicitly stated that they accepted prior experience of homelessness as an indicator of the risk of homelessness. Despite movements towards accepting self-attestation of COVID-19-related hardship and income, only 43% of surveyed ERA programs allowed for self-attestation of tenancy without a current lease, which left doubled-up households or households in informal living arrangements unable to access ERA funds. As of July 2022, only 12% of programs explicitly stated that they accepted self-attestation for a lease. A large number of ERA programs may have inadvertently excluded households most at risk with overly narrow eligibility criteria or overly stringent documentation requirements.

Yet many programs also sought new partnerships or engaged with already existing partnerships to more deeply target vulnerable populations. At least 42 programs had partnerships with a court and 31 programs also funded legal services in order to target and divert households from evictions. Some ERA programs may have used some of their funding to directly support programs that specifically served households currently experiencing homelessness. In Chesterfield County, Virginia, Housing Families First used ERA funds to help families with children living in motels or doubled up secure new housing. Still other programs served a wide variety of households under the Treasury ERA program, including people experiencing homelessness or most at-risk of homelessness, and created specific partners to identify and support these households.

The Alaska Housing Finance Corporation (AHFC) utilized the flexibility offered by the Treasury funding to create a program that would provide immediate housing solutions



for homeless Alaskans, with a goal of finding longer-term housing solutions. Alaska's Housing Stabilization & Recovery program (HSRP), which was deployed statewide in February 2022, works with 20 community-based partners, including the Continuum of Care, to help Alaskans who are on the streets, in emergency shelters, or fleeing domestic violence access immediate safe housing and up to 12 months of rent. ERA has also been used to provide funding to temporarily house formerly homeless households in motels and hotels. Participants receive up to 12 months of rental assistance, assistance in finding long-term housing opportunities, assistance to cover moving costs, and ongoing engagement with a housing navigator. As of September 20, 2022, 1,373 households in Alaska have been enrolled in the program, with 807 households currently housed using program funds.



## REMAINING CHALLENGES

Currently, cohort members are working to make their eviction diversion and prevention strategies permanent and to strengthen state and local tenant protections. It was clear that ERA money – and the promise of payment for arrears – was a significant incentive for both eviction court judges and landlord and property owner groups to partner with tenants and their advocates. In areas where Treasury ERA funds are dwindling or are depleted, ERASE Cohort members report that more landlords are expediting hearings and are unwilling to participate in mediation initiatives.<sup>24</sup>

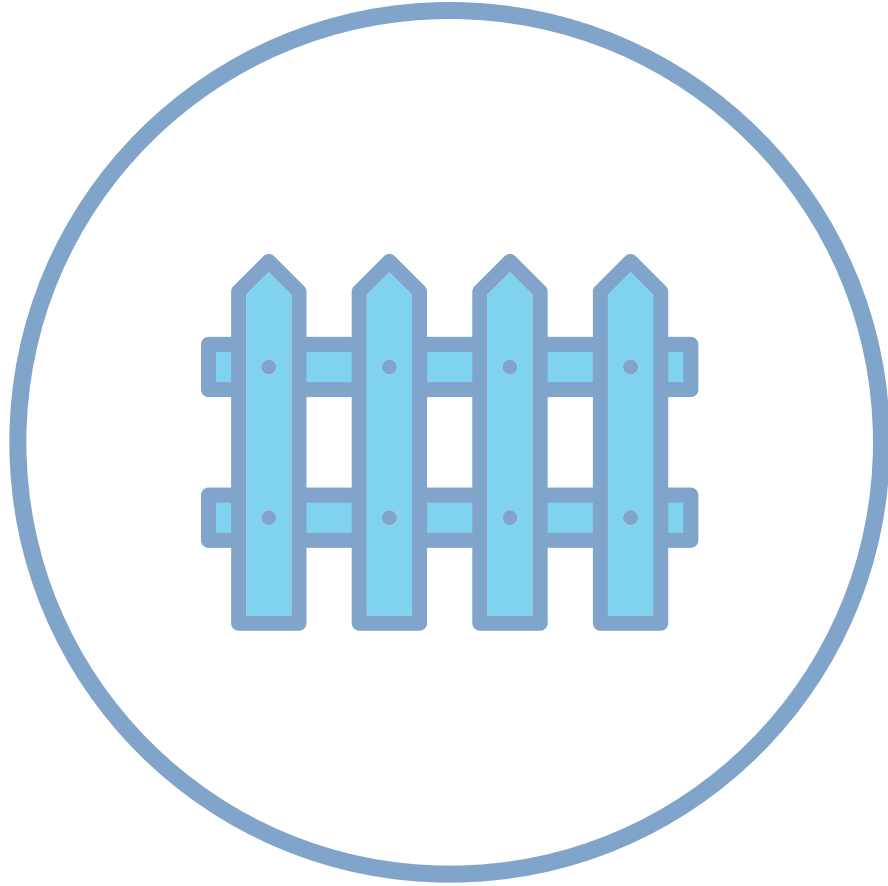
Maintaining partnerships with courts and attorneys is challenging with a lack of funds available for rental assistance and federal, state, or local support for institutionalizing the partnerships created through the Treasury program. Retaining these frameworks is the key to ongoing prevention work. At the same time, cohort members also recognize that there needs to be more judicial buy-in. In Indiana, Tennessee, Pennsylvania, and Wisconsin, cohort members faced hostility from some local courts that were

unwilling to coordinate with ERA programs. They are now seeking ways to represent and support tenants without federal funding and to leverage the limited state and local funding that is available to sustain the efforts from the Treasury ERA program.

## Recommendations for Model Programs

Based on our examination of existing ERA programs, we provide the following recommendations to future programs that aim to design an ERA apparatus that prevents evictions and promotes housing stability:

- ◀ In addition to rental and utility payments, programs should provide assistance paying for other eligible costs, including hotel and motel stays, rental security deposits, application or screening fees, reasonably accrued late fees, and internet service fees, especially for temporarily displaced and doubled-up households that are at high risk of losing their homes.
- ◀ Provide housing navigation assistance to those who have lost their housing or need to relocate.
- ◀ Ensure assistance is available to help households that are currently homeless to exit homelessness into housing.
- ◀ Utilize funding to fund legal attorneys to protect renters facing eviction. Subcontract with legal aid organizations and entities working in eviction courts to directly administer funds.
- ◀ Develop a direct line of communication with courts about the availability of emergency rental assistance funds, and develop procedures and protocols to identify and refer tenants and landlords who may be in need before evictions can be filed.
- ◀ Work with courts to adopt policies and procedural safeguards, including:
  - ◁ Ensuring tenants have knowledge about and access to available assistance and legal representation options.
  - ◁ Requiring judges to postpone eviction case hearings to give renters time to apply for and receive assistance.
  - ◁ Barring landlords from evicting tenants while emergency rental assistance applications are pending.
- ◀ Require that landlords receiving ERA cannot evict renters for at least three months after receiving emergency rental assistance payments, and develop mechanisms to enforce these protections.
- ◀ Access eviction data to target outreach to households most at risk of eviction and to enforce tenant protections for households that have received rental assistance.
- ◀ Enact, fund, and enforce state and local tenant protections, and provide a right to counsel across the eviction process. Right-to-counsel legislation that ensures tenants have access to an attorney during an eviction proceeding significantly diminishes the likelihood of eviction.
- ◀ Develop and implement policies to seal eviction records so that filings do not make it more difficult for renters to find housing in the future.
- ◀ Connect programs, processes, and resources to local Continuum of Care, homelessness diversion, and coordinated entry processes to prevent housing loss and quickly rehouse households where an eviction may have been or may be unavoidable.
- ◀ Provide or coordinate with case management and other support services to support long-term housing stability. Ensure tenants have access to crisis intervention services, education programs, financial counseling, childcare, healthcare, mental health and substance use services, non-legal advocacy, and other supports that assist with housing stability.
- ◀ Provide a bridge to longer-term or intensive housing stability supports for households that have greater needs, such as a history of homelessness, chronic health conditions, or disabilities.



# Preventive



# Endnotes

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# 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](mailto: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.