

**S. 2506C/A. 3006C PART BB**  
**“COVID-19 EMERGENCY RENTAL ASSISTANCE PROGRAM OF 2021”**

The COVID 19 Emergency Rental Assistance Program can be found in the ELFA part of the Budget in Part BB. OTDA is given the authority to implement the program as soon as practicable.

SUBPART A

- The State Office of Temporary and Disability Assistance (OTDA) will administer the Program.
- Municipalities that receive direct federal aid for rental assistance may opt into the Program for use by local residents.
- **Small Landlord is defined as any person or entity that owns a building of 20 or fewer units.**
- The Commissioner of OTDA may adopt rules to administer the Program. We expect a set of regulations shortly.
- Certain residents based on priority will have access to up to a year in rental arrears and utility assistance.
- \$2.4 Billion in federal and state funding (\$2.3 Federal Funding, \$100 Million State Funding)
- The program will cover up to 12 months of unpaid rent and utilities accrued since **March 13, 2020.**
- For those households that are rent burdened (more than 30% of their income goes toward rent each month) – they can qualify for an additional 3 months of future rent.
- **Distribution of funds: The Commissioner is to ensure an equitable distribution of the funds throughout the state. For the first 30 days the commissioner shall ensure no less than 35% of the emergency rental assistance funding is available to locations outside of NYC. After the initial 30-day priority period, all applications will be processed on a rolling basis.**

**§5: Eligibility**

A household, regardless of immigration status, shall be eligible for emergency rental assistance and/or utility assistance if it:

- i. is a tenant or occupant obligated to pay rent in their primary residence in New York State, **INCLUDES BOTH TENANTS AND OCCUPANTS OF DWELLING UNITS AND MANUFACTURED HOMES**, but those federal or state subsidized housing tenants where the government limits the households share of the rent to a set percentage of income shall only be eligible to the extent funds remain after serving other eligible populations;
- ii. includes persons who qualified for unemployment or a reduction in household income, incurred significant costs, or experienced other financial hardships due to COVID 19 outbreak;

- iii. demonstrates a risk of experiencing homelessness or housing instability; and
- iv. has household income below 80 % of the area median income (AMI) adjusted for household size.

- Those on public assistance are not precluded from receiving emergency rental or utility assistance.
- The new law establishes how income is considered:
  - (a) household total income from 2020; or
  - (b) household monthly income at time of application.

### **PRIORITIES**

**Highest Priority will be given to household incomes that are less than 50% of AMI and households with one or more persons unemployed as of the date of application and have not been employed for 90-days preceding such date.**

- **Other priorities:**
  - (a) mobile home tenants (land in arrears)
  - (b) households with one or more individuals from a vulnerable population (victim of domestic violence, survivors of human trafficking, or veterans)
  - (c) households with eviction cases pending
  - (d) households in arrears disproportionately impacted by Covid-19 in a methodology to be determined by the commissioner (regulations will need to detail).
  - (e) households who reside in a building or development of 20 or fewer units owned by a small landlord as defined in the act**

**(Note that that (a) through (e) do not supersede the above “Priorities” bullet point.)**
- **Prioritization of Applications: Applications are prioritized for the first 30 days by date and time of application in the following sequence:**
  - (a) households with AMI of less than 50% and have a member in one of the “Other Priorities” groups.
  - (b) households with AMI of less than 50% and does not have a member in one of the “Other Priorities” group.
  - (c) households with AMI of less than 80% and have a member in one of the “Other Priorities” group.
  - (d) households with AMI of less than 80% and does not have a member in one of the “Other Priorities” group.
- **After 30-days, all applications will be processed on a rolling basis.**
- **No assistance can be duplicative of assistance previously received or currently being received by the household.**
- Full time college students are not eligible, unless not claimed as a dependent.

- If tenant entitled to rental arrears assistance, then they will be entitled to utility arrears assistance.

§ 6 of the Bill. Application – **As soon as Practicable....**

1. **As soon as Practicable....** OTDA will make an application available through their website. Assistance is available to an applicant through telephone. <https://otda.ny.gov>
2. Municipalities can designate a Not-for profit to file on behalf of households or designate local government person.
3. **Any party or their designee that is eligible to receive funds may initiate an application. Whether or not a landlord participates in the application, the landlord or owner shall be required to:**
  - (a) Use any payments received to satisfy the tenants full rental obligations to the landlord for the time period covered by the payment.
  - (b) Provide OTDA with necessary information and documentation; and
  - (c) Keep information confidential.
4. Immigration status kept confidential.
5. **OTDA will provide a mechanism where both the Landlord and Tenant can track regardless of who submits the application.**
6. Self-attestation is acceptable to the extent permissible under federal law.

**§7 of the Bill.** Documentation. The commissioner shall establish procedures that are appropriate and necessary to assure that the information necessary to determine eligibility provided by households applying for or receiving the assistance under this article are complete and accurate.

**§ 8 of the Bill.** Eviction Proceedings for a holdover or expired lease, or non-payment of rent or utilities that would be eligible for coverage under the Program are prohibited for households that have made application under the Program unless and until a determination of ineligibility is made. For those eviction proceedings commenced, all proceedings will be stayed pending a determination of eligibility.

**§9 of the Bill. Payments:**

1. **12 months arrears and 3 months and 3 months of prospective rent payments, but only rent burdened households will be able to receive the prospective rent monies.**
2. (a) **The rental assistance is paid directly to the landlord.** (b) Commissioner to make reasonable efforts to get the cooperation of the landlord to accept payments from the program. **Landlord does not have to agree to participate.** (c) **If payment cannot be made directly to the LL after outreach, then money goes into escrow for 180 days, and this time can be extended. Tenant can use this as an affirmative defense in proceeding seeking money judgment or eviction brought by a landlord for the non-payment of rent. If the landlord has not accepted such provisional payment within 12 months of the determination of provisional eligibility, then the landlord shall be deemed to have waived the amount of rent covered by such provisional payment and shall be prevented from collecting a judgment for nonpayment.** (We are seeking clarification); (d) Acceptance of payment for rent or rental

arrears shall constitute agreement that the (i) **arrears are covered are satisfied and not be used as the basis for nonpayment eviction; (ii) waive late fees; (iii) not increase the monthly rent for one year after payment of first rental assistance is received; (iv) not to evict for reasons of expired lease or holdover tenancy for 1-year; and (v), notify the tenant of protections afforded under the law.** Note failure to make payments is still a reason to commence eviction proceeding.

§11 of the Bill: Notice to tenants in eviction proceedings – Court will promptly make available to respondent how the respondent may apply for assistance.

§ 12 of the Bill: OTDA will make public outreach to increase awareness of the program. Focus will be in areas where there is 50% AMI, communities with high unemployment rates; communities with highest COVID 19 rates.