

S 8140-A KAVANAGH Same as [A 10248](#) Cymbrowitz
ON FILE: 03/31/20 Public Housing Law
TITLE....Establishes a COVID-19 emergency rental assistance program
03/29/20 REFERRED TO HOUSING, CONSTRUCTION AND
COMMUNITY DEVELOPMENT
03/30/20 AMEND AND RECOMMIT TO HOUSING,
CONSTRUCTION AND COMMUNITY
DEVELOPMENT
03/30/20 PRINT NUMBER 8140A

A10248 Cymbrowitz Same as [S 8140-A](#)
KAVANAGH
Public Housing Law
TITLE....Establishes a COVID-19
emergency rental assistance program
04/08/20 referred to housing

KAVANAGH, BAILEY, BIAGGI, GAUGHRAN, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON,
KAMINSKY, KAPLAN, LIU, MAY, MAYER, MYRIE, PARKER, PERSAUD, RIVERA, SALAZAR, SAVINO,
SEPULVEDA, SERRANO

Add Art 14 §§600 - 609, Pub Hous L

Establishes a COVID-19 emergency rental assistance program; implements a program of rental assistance in the
form of emergency vouchers for eligible individuals or families; defines terms.

STATE OF NEW YORK

8140--A

IN SENATE

March 29, 2020

Introduced by Sens. KAVANAGH, BAILEY, BIAGGI, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, LIU, MAY, MAYER, MYRIE, PARKER, PERSAUD, RIVERA, SALAZAR, SAVINO, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public housing law, in relation to establishing a COVID-19 emergency rental assistance program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public housing law is amended by adding a new article
2 14 to read as follows:

ARTICLE XIV

COVID-19 EMERGENCY RENTAL ASSISTANCE PROGRAM

Section 600. Legislative findings.

601. Definitions.

602. Authority to implement emergency rental assistance.

603. Eligibility.

604. Payment of emergency vouchers.

605. Rental obligation.

606. Assistance payment.

607. Verification of income and assets.

608. Division of a recipient family.

609. Fair housing obligations.

15 § 600. Legislative findings. The legislature finds that it is in the
16 public interest and an obligation of government to ensure that individ-
17 uals and families are not rendered homeless or severely financially
18 burdened because of an inability to pay the cost of housing and other
19 necessities due to loss of income related to the widespread outbreak of
20 the coronavirus commonly known as COVID-19. The legislature further
21 finds that providing funding for individuals and families to pay rent
22 that they would otherwise have difficulty paying will promote the
23 stability and proper maintenance of the housing stock and assist commu-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD16080-03-0

1 nitities in recovering from the adverse social and economic effects of the
2 COVID-19 outbreak.

3 § 601. Definitions. For the purposes of this article:

4 1. "Adjusted income" shall mean income minus any deductions allowable
5 by the rules promulgated by the commissioner pursuant to this section.
6 Mandatory annual deductions shall include:

7 (a) four hundred eighty dollars for each dependent;

8 (b) four hundred dollars for any elderly family member and/or a family
9 member with a disability;

10 (c) any reasonable child care expenses necessary to enable a member of
11 the family to be employed or to further his or her education;

12 (d) the sum total of unreimbursed medical expenses for each elderly
13 family member and/or family member with a disability plus unreimbursed
14 attendant care and/or medical apparatus expenses for each member of the
15 family with a disability which are necessary for any member of the fami-
16 ly, including the member who is a person with a disability, to be
17 employed greater than three percent of the annual income; and

18 (e) child support payments paid by the individual or member of the
19 family.

20 2. "Child care expenses" shall mean expenses related to the care of
21 children under the age of thirteen.

22 3. "Dependent" shall mean any member of the family who is neither the
23 head of household, nor the head of the household's spouse, and who is
24 under the age of eighteen, a person with a disability, or a full-time
25 student.

26 4. "Disability" shall mean:

27 (a) the inability to engage in any substantial gainful activity by
28 reason of any medically determinable physical or mental impairment which
29 can be expected to result in death or which has lasted or can be
30 expected to last for a continuous period of not less than twelve months;
31 or

32 (b) in the case of an individual who has attained the age of fifty-
33 five and is blind, the inability by reason of such blindness to engage
34 in substantial gainful activity requiring skills or abilities comparable
35 to those of any gainful activity in which they have previously engaged
36 with some regularity and over a substantial period of time; or

37 (c) a physical, mental, or emotional impairment which:

38 (i) is expected to be of long-continued and indefinite duration;

39 (ii) substantially impedes his or her ability to live independently;
40 and

41 (iii) is of such a nature that such ability could be improved by more
42 suitable housing conditions; or

43 (d) a developmental disability that is a severe, chronic disability of
44 an individual that:

45 (i) is attributable to a mental or physical impairment or combination
46 of mental and physical impairments;

47 (ii) is manifested before the individual attains age twenty-two;

48 (iii) is likely to continue indefinitely;

49 (iv) results in substantial functional limitations in three or more of
50 the following areas of major life activity:

51 (A) self-care;

52 (B) receptive and expressive language;

53 (C) learning;

54 (D) mobility;

55 (E) self-direction;

56 (F) capacity for independent living;

1 (G) economic self-sufficiency; and
2 (v) reflects the individual's need for a combination and sequence of
3 special, interdisciplinary, or generic services, individualized
4 supports, or other forms of assistance that are of lifelong or extended
5 duration and are individually planned and coordinated.

6 5. "Dwelling unit" shall mean a single-family dwelling, including
7 attached structures such as porches and stoops; or a single-family
8 dwelling unit in a structure that contains more than one separate resi-
9 dential dwelling unit, and in which each such unit is used or occupied,
10 or intended to be used or occupied, in whole or in part, as the resi-
11 dence of one or more persons.

12 6. "Elderly" shall mean sixty-two years of age or older.

13 7. "Fair market rent" shall mean the fair market rent for each rental
14 area as promulgated annually by the United States department of housing
15 and urban development's office of policy development and research pursu-
16 ant to 42 USC 1437f.

17 8. (a) "Family" shall mean a group of persons living in the same
18 household who:

19 (i) are related by birth, marriage or adoption. This group includes,
20 but is not limited to a family with or without children (a child who is
21 temporarily away from the home because of placement in foster care is
22 considered a member of the family), an elderly family, a near-elderly
23 family, a disabled family, a displaced family, or the remaining member
24 of a tenant family; or

25 (ii) are two or more individuals who are not related by blood,
26 marriage, adoption, or other operation of law, but who can demonstrate
27 that they have lived together previously and certify that each individ-
28 ual's income and other resources will be available to meet the needs of
29 the family.

30 (b) Each family shall identify the individuals to be included in the
31 family at the time of application, and shall update this information if
32 the family's composition changes.

33 (c) The commissioner shall have the discretion to determine if any
34 other group of persons qualifies as a family.

35 9. "Income" shall mean income from all sources of each member of the
36 household, including all wages, tips, over-time, salary, recurring
37 gifts, returns on investments, welfare assistance, social security
38 payments, child support payments, unemployment benefits, and any other
39 government benefit or cash grant. The term "income" shall not include:
40 employment income from children under eighteen years of age, employment
41 income from children eighteen years of age or older who are full-time
42 students, foster care payments, sporadic gifts, groceries provided by
43 persons not living in the household, supplemental nutrition assistance
44 program (SNAP) (food stamp) benefits, earned income disregard (EID), or
45 the earned income tax credit.

46 10. "Individual" shall mean a single person.

47 11. "Manufactured home tenant" shall have the same meaning as defined
48 by section two hundred thirty-three of the real property law.

49 12. "Owner" shall mean any private person or any entity, including a
50 cooperative, an agency of the federal government, or a public housing
51 agency, having the legal right to lease or sublease dwelling units.

52 13. "Public housing agency" shall mean any county, municipality, or
53 other governmental entity or public body that is authorized to adminis-
54 ter any public housing program, or an agency or instrumentality of such
55 an entity, and any other public or private non-profit entity that admin-
56 isters any other public housing program or assistance.

1 14. "Voucher" shall mean a document issued by the housing trust fund
2 corporation pursuant to this article to an individual or family selected
3 for admission to this program, which describes the program and the
4 procedures for approval of rental assistance for the individual or fami-
5 ly and states the obligations of the individual or family under the
6 program.

7 § 602. Authority to implement emergency rental assistance. The commis-
8 sioner, as soon as practicable and subject to the appropriation of funds
9 for this purpose, shall implement a program of rental assistance in the
10 form of emergency vouchers for those eligible pursuant to section six
11 hundred three of this article. The housing trust fund corporation shall
12 issue vouchers pursuant to this article, subject to appropriation of
13 funds for this purpose, and may contract with the division of housing
14 and community renewal to administer any aspect of this program in
15 accordance with the provisions of this article. The commissioner may
16 delegate administration of a portion of this program to the department
17 of labor for those applying for or receiving unemployment benefits. The
18 commissioner may also delegate the administration of portions of this
19 program to any county, city, town, or public housing agency in accord-
20 ance with the provisions of this article.

21 § 603. Eligibility. The commissioner shall promulgate standards for
22 determining eligibility for this program.

23 1. An individual or family shall be eligible for this program if,
24 because of the outbreak of COVID-19:

25 (a) the individual or family has suffered a substantial loss of income
26 as defined by the commissioner; and

27 (b) the individual or family rents their primary residence in the
28 state of New York, including both tenants of dwelling units and manufac-
29 tured home tenants; and

30 (c) the individual or family's monthly rent obligation is greater than
31 thirty percent of their current monthly adjusted income.

32 2. In addition to the eligibility criteria in subdivision one of this
33 section, the commissioner may promulgate limits on assets as part of any
34 determination of eligibility for this program.

35 3. An individual or family in receipt of rental assistance under this
36 program shall no longer be financially eligible for assistance when:

37 (a) the individual or family's monthly income has been restored to an
38 amount equal to or greater than the individual's or family's income
39 prior to the eligible loss suffered in paragraph (a) of subdivision one
40 of this section; or

41 (b) the individual or family's monthly rent obligation is no longer
42 greater than thirty percent of their monthly adjusted income.

43 4. An individual or family shall no longer be eligible for this
44 program after three months of rental assistance is paid, unless extended
45 at the discretion of the commissioner.

46 5. An individual full-time college student or family consisting exclu-
47 sively of full-time college students is ineligible for this program
48 unless each individual in the household satisfies the following condi-
49 tions:

50 (a) the individual shall have established a household separate from
51 his or her parents or legal guardians for at least one year prior to
52 application for admission or shall meet the United States department of
53 education's definition of independent student; and

54 (b) the individual shall not be claimed as a dependent by his or her
55 parents or legal guardians pursuant to Internal Revenue Service (IRS)
56 regulations.

1 6. Rental assistance shall be terminated when the recipient individual
2 or family becomes ineligible for this program for rent due after the
3 date the recipient becomes ineligible.

4 7. Pursuant to 8 U.S.C. 1621(d), the commissioner may use state funds
5 allocated for this program to provide benefits to individuals or fami-
6 lies who, but for 8 U.S.C. 1621(a), would otherwise be eligible for
7 benefits.

8 § 604. Payment of emergency vouchers. The emergency voucher shall be
9 paid directly to the owner of the dwelling unit or manufactured home
10 park occupied by the voucher recipient by the housing trust fund corpo-
11 ration for rent due from the voucher recipient and any rental arrears
12 owed that were not paid as a result of the loss of income described in
13 paragraph (a) of subdivision one of section six hundred three of this
14 article. Any rental arrears payment shall be equal to the amount for
15 which the tenant would have been eligible as determined by section six
16 hundred six of this article, plus any late fees incurred due to such
17 nonpayment, up to the legal maximum as prescribed by section two hundred
18 thirty-eight-a of the real property law.

19 § 605. Rental obligation. 1. Each recipient of housing assistance
20 under this section's monthly rental obligation shall be thirty percent
21 of the monthly adjusted income of the family or individual.

22 2. If an individual or family shares a dwelling or manufactured home
23 with one or more individuals who are not part of their family as defined
24 by this article, the monthly rental obligation of the individual or
25 family shall be calculated using the portion of the individual or fami-
26 ly's rent for which they are responsible rather than the entire rent for
27 the shared dwelling unit or manufactured home.

28 § 606. Assistance payment. 1. The amount of the monthly rental assist-
29 ance payment with respect to any dwelling unit or manufactured home
30 shall be the difference between the monthly rent the owner is to receive
31 for the unit or home and the monthly rent the family or individual is
32 required to pay under section six hundred five of this article.

33 2. Notwithstanding subdivision one of this section, if the rent for
34 the individual or family exceeds two hundred fifty percent of fair
35 market rent for the rental area, the monthly assistance payment for the
36 individual or family shall be the difference between the rental obli-
37 gation established in section six hundred five of this article and two
38 hundred fifty percent of the fair market rent for the rental area.

39 3. In addition to any rental assistance payments, the commissioner
40 shall also authorize the full payment of utilities for any recipient
41 individual or family for the time period during which the individual or
42 family qualifies for rental assistance pursuant to section six hundred
43 three of this article. Any such payments shall be paid directly to the
44 utility.

45 § 607. Verification of income and assets. The commissioner shall
46 establish procedures which are appropriate and necessary to assure that
47 data regarding income, and assets to the extent necessary to determine
48 eligibility, provided by individuals and families applying for or
49 receiving assistance under this article is complete and accurate. In
50 establishing such procedures, the commissioner shall randomly select a
51 sample of individuals and families to authorize the commissioner to
52 obtain information on these individuals and families for the purpose of
53 income and asset verification, or to allow those individuals and fami-
54 lies to provide such information themselves. Such information may
55 include, but is not limited to, data concerning unemployment compen-
56 sation and federal income taxation and data relating to benefits made

1 available under the Social Security Act, 42 U.S.C. 301 et seq., the Food
2 and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., or title 38 of the
3 United States code. Any such information received pursuant to this
4 section shall remain confidential and shall be used only for the purpose
5 of verifying incomes, and assets if applicable, in order to determine
6 eligibility of individuals and families for benefits, and the amount of
7 such benefits if any, under this section.

8 § 608. Division of a recipient family. 1. In those instances where a
9 family assisted under this article becomes divided into two otherwise
10 eligible individuals or families due to divorce, legal separation or the
11 division of the family, where the new units cannot agree as to which new
12 unit should continue to receive the assistance, and where there is no
13 determination by a court, the commissioner shall consider the following
14 factors to determine which of the individuals or families will continue
15 to be assisted:

16 (a) which of the two new units has custody of dependent children;

17 (b) which family member was the head of household when the voucher was
18 initially issued (listed on the initial application);

19 (c) the composition of the new units and which unit includes elderly
20 or disabled members;

21 (d) whether domestic violence was involved in the breakup;

22 (e) which family members remain in the unit; and

23 (f) recommendations of social service professionals.

24 2. Documentation of these factors shall be the responsibility of the
25 requesting parties. If documentation is not provided, the commissioner
26 shall terminate assistance on the basis of failure to provide informa-
27 tion necessary for a recertification.

28 3. Any individual or family who loses benefits pursuant to this
29 section may submit a new application for benefits under this program as
30 a separate individual or family.

31 § 609. Fair housing obligations. Nothing in this section shall lessen
32 or abridge any fair housing obligations promulgated by municipalities,
33 localities, or any other applicable jurisdiction.

34 § 2. This act shall take effect immediately.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S8140A

SPONSOR: KAVANAGH

TITLE OF BILL:

An act to amend the public housing law, in relation to establishing a COVID-19 emergency rental assistance program

PURPOSE:

To provide emergency rental assistance to tenants suffering a substantial loss of income due to the outbreak of the novel coronavirus of 2019.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 of the bill amends the public housing law by adding a new Article 14 to provide for a COVID-19 Emergency Rental Assistance Program.

Section 600 of the new Article sets forth legislative findings.

Section 601 defines terms.

Section 602 authorizes the Housing Trust Fund Corporation to issue emergency rental assistance pursuant to the provisions of the new Article as soon as practicable, subject to appropriation. It allows the HTFC to contract with the Division of Housing and Community Renewal for the implementation of the program, and the Commissioner of DHCR to delegate portions of the administration of the program to the Department of Labor (for recipients also applying for or receiving unemployment benefits), counties, cities, towns, or public housing agencies.

Section 603 defines eligibility for the program as those tenants who, because of the outbreak of COVID-19, have suffered a substantial loss of income and have a rent burden greater than 30% of their new income, if any. Rental assistance will cover three months of rent, both rent due and arrears, and can be extended at the discretion of the Commissioner.

Section 604 provides for payments of emergency vouchers directly to the landlord.

Section 605 makes the rental obligation for emergency voucher recipients 30% of their new income. When multiple individuals or families are sharing the same unit, their rent obligation is calculated only using the portion of rent for which each is responsible.

Section 606 states that the emergency voucher will cover the difference between the total rent for which the recipient is responsible and 30% of the recipient's income, except that the rental assistance will cover not cover the portion of the rent, if any, that is greater than 250% of fair market rent for the rental area. It also provides for the full payment

of utilities for the eligible time period directly to the utility provider.

Section 607 provides for verification of income and assets as necessary to administer the program.

Section 608 outlines criteria for awarding the emergency voucher in the event a family splits up while still receiving assistance, and allows anyone who loses a voucher under this section to apply anew.

Section 609 reinforces that nothing in the program shall abridge any existing fair housing obligations.

Section 2 of the bill sets forth the effective date.

JUSTIFICATION:

The 2020 outbreak of COVID-19 has touched every part of our economy. With State and local governments mandating the shuttering of all but essential businesses in the interest of protecting public health, New York has seen a rapid and unprecedented economic decline. Many New Yorkers, facing severely reduced or entirely lost wages, will not be able to keep up with rent payments during this time. With a three-month moratorium on evictions in place, the immediate danger of mass displacement has been averted, but only temporarily. Once the public health crisis abates and the moratorium is lifted, many New Yorkers will be vulnerable to losing their homes. Moreover, the precipitous loss of rental income by property owners will have an adverse effect on their ability to maintain their property, pay employees, meet mortgage obligations, and keep up with property taxes that local governments will need to cover essential services.

This program provided for in this bill will bring urgent relief to those whose ability to pay has been diminished or eliminated through no fault of their own, while encouraging those who can pay at least a portion of their rent, because they continue to have income available, to continue to do so. As an emergency relief measure, the program would cover both the neediest renters as well as those in rental homes whose cost would typically make them ineligible for rental assistance. Rental obligations up to 250% of the fair market rate for the area would be eligible, as well as utility payments, meaning, for example, that in the New York City metropolitan area, rent of up to \$4,877.50 for a two-bedroom apartment would be eligible for coverage, offset by 30% of the tenant's income during the crisis, if any.

Emergency rental assistance will remedy the worst effects of the public health and economic crisis New York is facing, keep people in their homes as they get back to work, and stabilize our communities.

LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

The cost of the program will depend on the duration of the business closures in response to COVID-19, the speed with which New Yorkers are able to recover from the economic crisis, the availability of other sources of income, including other sources of emergency relief, such as enhanced unemployment benefits, and other factors that cannot be assessed at this time. As emergency housing funds become available,

through federal relief legislation or other sources, this bill will create an effective mechanism for delivering assistance where it is needed most.

EFFECTIVE DATE:

This act shall take effect immediately.