UP FOR GROWTH

UP FOR GROWTH LEGISLATIVE BRIEF

H.R. 6314

The Emergency Rental Assistance Act of 2020

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INTRODUCTORY NOTE

In the following pages, we analyze the provisions laid out in H.R. 6314, The Emergency Rental Assistance Act of 2020 and the potential impact of the bill on families and individuals who are facing extreme economic and public health challenges as a result of the COVID-19 crisis. Our analysis considers the bill's emergency rental assistance plan both in context of the crisis and in the larger context of the affordable housing crisis that the nation was confronting before the outbreak of the virus. We also compare the legislation to similar legislative and policy proposals currently being considered by various Congressional offices and committees. Finally, in crafting this response, we have engaged our Federal Pro-Housing Policy Task Force, comprised of housing experts, practitioners, and advocates in order to gain comprehensive, rigorous analysis of the policy proposal. This work is done by Up for Growth, a 501(c)(3), and is not intended to serve as an endorsement of H.R. 6314.

BACKGROUND

As the coronavirus pandemic continues to ravage the health system, the economy, and labor markets, millions of households are facing incredible economic and health burdens. Access to quality, affordable housing is critical both to stopping the spread of the virus and to mitigating the economic fallout of unprecedented job loss and economic hardship. Before the crisis, housing markets were already under-supplied — Up for Growth's research estimates that the nation fell 7.3 million homes short from 2000-2015 relative to demand.[1] This shortage means that nearly half of the nation's 44 million renter households are cost-burdened — paying more than 30% of their income on rent[2] — which leaves millions of families and individuals unable to save for emergencies, and now as the COVID-19 crisis continues, they face a dire situation.

As businesses close during shelter-in-place ordinances, millions of Americans will experience short- and long-term unemployment and will struggle to pay critical household bills, especially rent. The economic consequences of COVID-19 will disproportionately impact low- and moderate-income households who are more likely to be employed in jobs that cannot be performed from home and who already face cost-burdening due to a lack of available and affordable rental units in most cities across the country. Renters also, on average, have lower incomes than homeowners. The median renter income in 2018 was just over $40,000 compared with $78,000 for owner households.[3] Expanded Unemployment Insurance benefits and a $1,200 per person stimulus payment included in the CARES Act will offer small relief to financially burdened renters, but that money will not go far enough to keep people housed and to ward off a looming housing crisis.

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Eviction moratoriums and mortgage forbearance programs are critical for short-term triage, but without large scale financial assistance, these provisions are only shifting the financial burden to a later time and temporarily delaying a major housing crisis. At the end of the moratorium and forbearance periods, renters and owners will still be responsible for past due payments, even those that accrue during periods of unemployment and lost wages. Without immediate financial intervention, the country faces a looming and devastating housing crisis.

Rental payments are the cornerstone of the housing ecosystem. Many landlords and property owners operate under very tight margins, and a major loss of monthly rental income would be disastrous to cash flows. 74% of multifamily properties are owned by individuals who will face significant economic hardship as rental income dries up.[4] Furthermore, without cash flow from rental income, many landlords may be forced to defer property maintenance, lay off property management staff and default on their mortgage obligations, which would have dire economic consequences for employees, renters and the real estate market, and other sectors of the economy.

Large scale federal intervention is needed to protect the delicate housing ecosystem. Keeping millions of people affordably housed in properties that are clean and healthy while minimizing the financial burden on property owners is critical — and expensive. Rental assistance cost estimates range from $24 billion — $96 billion depending on the percentage of renters who become unemployed and for how long. (The low-end estimate assumes a low share of renters require assistance for 3 months; the high-end estimate assumes a high share of renters require assistance for 6 months).[5, 6] The National Low Income Housing Coalition estimates that it will cost $99.5 billion just to keep extremely low and very low income renters (those making less than 50% AMI) in their homes.[7] Intervention is critical to prevent a massive eviction and housing crisis that will both exacerbate the public health risks of COVID-19 and stall economic recovery. Federal emergency rental assistance is critical for protecting millions of vulnerable Americans from losing their homes and for preventing a housing market crisis.

BILL SUMMARY

H.R. 6314, the Emergency Rental Assistance Act of 2020, proposes to dramatically increase short-term rental assistance to help keep renters housed and avoid devastating economic consequences for landlords during the economic fallout of the COVID-19 crisis.

The bill would expand the Emergency Solutions Grant (ESG) program's rental assistance component, established under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11374), in five key ways:

1. The bill would increase ESG program funding by $100 billion to provide short-term rental assistance to renters who are impacted by COVID-19. While this amount exceeds the current estimates of rental assistance cost, this allocation amount anticipates severe economic hardship and helps mitigate the crisis by protecting renters, paying arrears, and covering program administration costs. The first $50 billion would be delivered to states in the first 60 days after bill passage, and the second $50 billion would be delivered to states over the subsequent 60-day period. The expanded allocation extends for 6 months after FEMA termination of the state of emergency declared on March 13, 2020, and grantees have 3 years to use the grant dollars.

2. The bill expands income eligibility from households earning 30% Area Median Income (AMI) to those earning 80% AMI. The bill requires that at least 50% of ESG funding go toward qualifying households earning less than 50% AMI.[i, ii] It also changes HUD guidelines (24 CFR § 576.106) for ESG rent payments to the higher of 120% Fair Market Rent (FMR) or Small Area FMR.

[i] This requirement can be waived by the Secretary if the grantee demonstrates that there is sufficient support for households earning less than 50% AMI via other programs in the area.

[ii] Households earning less than 50% AMI are much more likely to be cost-burdened or extremely cost-burdened during normal economic times. A majority of employed individuals in this demographic work in sectors that are most susceptible to COVID-19-related job loss and therefore are very likely to suffer job loss and reduced hours and wages. (NLIHC, 2020)

3. The bill would preserve reporting requirements for agencies, but creates a more flexible reporting process, including the allowance of virtual public hearings so that grantees may comply with social-distancing guidance.

4. The bill eliminates the state matching requirement on funds received under H.R. 6314. This is an important exemption as typical ESG program recipients are required to match every dollar received via the program (except for the initial $100,000) with cash and non-cash matches, which can include buildings and other in-kind resource donations. Because of intense demands on state budgets as a result of COVID-19 and the need for immediate relief, the matching requirement would be prohibitive.

5. H.R. 6314 prohibits the use of prerequisites, including receiving substance abuse treatment and other Continuum of Care activities, on individuals and households accessing ESG dollars allocated by the bill. This is critically important, as millions of families and individuals will need quick and easy access to the funds. Program prerequisites would slow the administration of the emergency rental assistance and make the program less effective and efficient.

DETAILED BILL ANALYSIS

The Emergency Solutions Grants program (ESG), formerly the Emergency Shelter Grants program, was revised under the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act). ESG's purpose is to aid families and individuals who are experiencing a housing crisis or homelessness. The ESG program provides funding across five main areas: street outreach, emergency shelter, homelessness prevention, rapid re-housing, and data collection. For the purposes of this analysis, we will focus on the homelessness prevention category, as the funds from H.R. 6314 will primarily be allocated there.

Under this category, funds can be used for housing relocation and stabilization and short or medium-term rental assistance that prevents homelessness. In addition to rental assistance and arrears, eligible costs under this provision include relocation fees such as rental application fees, security deposits, utility payments and deposits, first and last month's rent, and legal services. H.R. 6314 specifically allocates money to section 415(a)(4) of the McKinney-Vento Homeless Assistance Act, which is the "provision of rental assistance to provide short-term and medium-term housing to homeless individuals or families [or those] at risk of homelessness/ Such rental assistance may include tenant-based or project-based rental assistance."[9] Additionally, the bill allows for a maximum 20% of grant dollars to be used for housing relocation or stabilization services, such as those listed above. The bill's emphasis is on directly addressing the need for emergency short- and medium-term rental assistance and not on the broader goals of the ESG program.

The ESG program is administered by HUD and provides grants to states who distribute the funds to localities and nonprofit organizations tasked with helping families and individuals gain housing stability in the middle of crisis. Under H.R. 6314, states may directly administer up to 50% of allocated funds.

Funds are applied for and distributed through the Consolidated Planning process using the allocation formulation laid out in Section 106 of the *Housing and Community Development Act of 1974*.[10] The Consolidated Planning process is also used in Community Development Block Grants (CDBG), HOME Investment Partnership grants, and the Housing Opportunities for Persons with AIDS program (HOPWA). Under the ESG program, state grant recipients subgrant all money (minus administrative costs) to local governments and nonprofit organizations. ESG recipients must match the entirety of the award, except for $100,000, via cash or non-cash contributions. Importantly, this matching provision is waived in H.R. 6314, which will allow states to more quickly access and allocate dollars to renters in need. They must also consult with local Continuums of Care and distribute all funds to subgrantees within 60 days; subgrantees then have 120 days to distribute funds. The allocation dollars in H.R. 6314 would specifically go toward ESG rental assistance activities.

Originally the Emergency Shelters Grant program was designed to help individuals and families experiencing homelessness or the threat of homelessness. Before the program was revised under the HEARTH Act of 2009, ESG program money went primarily to renovating and rehabilitating buildings to be used as shelters and transitional housing, providing essential services, and operating shelters. Only 30% of ESG dollars could be used directly for short-term rental assistance — which includes rent cost, eviction and foreclosure assistance, utility payments, first month's rent and security deposits and legal services. The HEARTH Act revised the ESG program and changed the name to Emergency Solutions Grants program in order to reflect the shift in emphasis on shelters and emergency situations to moving people into more permanent, stable housing.[11]

While the ESG program has an infrastructure for reaching vulnerable populations, those experiencing homelessness or facing immediate threat of homelessness, it is unclear whether this program can immediately deliver the necessary aid to a newly vulnerable population facing major economic fallout related to COVID-19. Many of the millions of renters who have experienced significant job loss and wage reduction in the wake of the virus will be unfamiliar with the ESG program and may struggle to accurately and quickly apply for emergency rental assistance. Furthermore, evidence from other disaster relief programs, programs funded via the Consolidated Plan process — like CDBG, HOME, and ESG — are generally better equipped to handle long-term recovery rather than to provide immediate, direct disaster assistance.[12]

Millions of Americans are at risk of losing their homes in the immediate and longer-term wake of the COVID-19 crisis. Eviction moratoriums, mortgage forbearance programs, and enhancements to Unemployment Insurance benefits are important steps, but they are not enough to prevent a looming eviction and housing crisis. In order to keep people in their homes, to minimize the spread of the virus, and to mitigate the economic consequences of COVID-19 comprehensive, widespread rental assistance must be made available to families and individuals suffering in this crisis.

Policy Considerations

The COVID-19 crisis presents incredible public health and economic challenges, and the impact on the housing market will be severe. Comprehensive federal assistance is necessary to keep renters in their homes, to ensure that landlords and property owners have enough funds to continue operations, and to ensure that there is not a major housing crisis in the near- or long-term. Large scale rental assistance is the cornerstone of preserving the housing ecosystem. From our analysis, we have developed the following list of considerations that could improve the efficiency and effectiveness of the emergency rental assistance program.

- **Mechanisms for Program Delivery**
    - **Public Housing Authority (PHA)** — We recommend that, when possible, states subgrant funds to Public Housing Authorities. PHAs have the infrastructure to administer large scale assistance to the millions of households who will need help during crisis recovery. Additionally, we recommend that the PHAs be given the ability to determine whether payments are made directly to tenants or on a project-basis (money directed toward landlords and property owners).
    - **Federal Emergency Management Agency (FEMA) Individual and Household Program (IHP)** — Through IHP, FEMA provides financial assistance and direct services to eligible households. Housing assistance is one of two eligible programs under IHP, and it can come via direct financial assistance, including rental assistance, or through actual housing structures. FEMA is equipped to deal with disaster response and can provide immediate relief to impacted individuals and families. Because of the nature of the COVID-19 crisis, utilizing existing FEMA programs may help efficiently and effectively deliver immediate assistance to renters facing economic hardship because of the virus.
- **Expand the Bill's Appropriation Amount**
    - The exact economic impact of the COVID019 crisis is unclear and estimates on the number of renters who will require emergency rental assistance are based on best assumptions about the number of renters who

are most likely to need assistance. Because estimates range from $20 billion to $96 billion to NLIHC's estimate of $99.5 billion for renters making less than 50% AMI alone, the program expansion to 80% AMI and the constantly evolving nature of the COVID-19 crisis will likely mean that the need for rental assistance could exceed the $100 billion estimate. A larger appropriation amount would better ensure that the program protects the greatest number of households.

- **Allow ESG Rental Assistance Funds to Apply to Manufactured Homes Space Rental I**
    - Emergency rental assistance allocated via this bill must also apply to households who own and live in manufactured homes but who rent the property where the home is located. The Housing Opportunity Through Modernization Act of 2016 amended the rules for the Housing Choice Voucher program to include such space rental provisions. The ESG program should be similarly amended — to correspond with the provisions laid out in Notice PIH 2017-18 — so that households in manufactured homes can access critical rental assistance.[13]
- **Clarify Income Eligibility Timing**
    - As unprecedented numbers of Americans lose their jobs or see major loss of income in the immediate wake of the COVID-19 crisis, millions of families and individuals face stark new economic realities — even those who were earning at or near Area Median Income (AMI) before the outbreak of the virus. The financial hardship of lost wages via layoffs or reduced work hours immediately and dramatically impacts households budgets, and therefore, emergency rental assistance eligibility must be based on income at the time of application, rather than during the previous months or year before the start of the COVID-19 crisis. Clarifying language that states that eligibility for rental assistance is determined at the application time will help ensure that the intended recipients receive the aid.

CONCLUSION

COVID-19 brings unprecedented health and economic consequences that have already dramatically impacted millions of American households. As unemployment numbers rise to previously unseen levels, families and individuals face a dramatic loss of income. An already suppressed housing market has left many renters unable to save during normal times, and as these renters face a major reduction in income as a result of the crisis, paying the rent becomes all the more difficult.

When millions of households cannot afford to pay rent, the consequences are far-reaching. Landlords and property owners face an equally dramatic loss of income which leaves them unable to pay mortgages, maintain buildings, and meet demands for increased health and safety measures. The inability to pay also has an upstream impact on lenders as cashflows from property owners slow. Furthermore, the consequences of millions of renter households being unable to make payments have far-reaching economic and social consequences in the long-term, including largescale evictions and foreclosures, downstream economic impacts, and a housing crisis.

Emergency rental assistance keeps people in their homes and minimizes the impact on property owners and lenders. While eviction moratoriums and mortgage forbearance keep people housed in the short-term, the financial burden is merely being delayed. Emergency rental assistance provides critical resources to renters who face unprecedented job and income loss. Rent is the cornerstone of the housing ecosystem and emergency rental assistance will not only keep families housed as they face extreme financial hardship, but it will also help mitigate a housing market crisis.

ABOUT UP FOR GROWTH

Up for Growth is a 501(c)(3) research and policy organization, driven by a diverse network of members from around the U.S. and across stakeholder groups, that is committed to fostering equitable growth across the nation by eliminating structural barriers to housing.

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[1] Up for Growth. (2019). *Housing Underproduction in the U.S.: Economic, Fiscal, and Environmental Impacts of Enabling Transit-Oriented Smart Growth to Address America's Housing Affordability Challenge.* Retrieved from: https://www.upforgrowth.org/sites/default/files/2018-09/housing_underproduction.pdf

[2] Joint Center for Housing Studies of Harvard University. (2019). *The State of the Nation's Housing 2019.* Retrieved from: https://www.jchs.harvard.edu/state-nations-housing-2019

[3] Choi, Jun Hyun, Laurie Goodman, and Jun Zhu. (2020). *We Must Act Quickly to Protect Millions of Vulnerable Renters.* Urban Wire. Urban Institute. Retrieved from: http://www.urban.org/urban-wire/we-must-act-quickly-protect-millions-vulnerable-renters

[4] National Multifamily Housing Council. (2019). *Quick Facts: Ownership and Management.* Retrieved from: https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-ownership-and-management/#ownsaptunits

[5] Bordia, Sandra, Aleksandra Firstenko, and Aaron Haan. (2020). *Coronavirus: Don't Forget America's 43.8 Million Renters.* Amherst Market Commentary, March 2020. Amherst Capital Management. Retrieved from: https://www.amherstcapital.com/documents/20649/0/Amherst+Market+Commentary+-+COVID19+Impact+on+43.8mm+Renters/20f0e3ed-cfee-4b74-b742-4b69b79dd1c5

[6] Kaul, Karan and Laurie Goodman. (2020). *The Price Tag for Keeping 29 Millions Families in Their Homes: $162 Billion.* Urban Wire. Urban Institute. Retrieved from: www.urban.org/urban-wire/price-tag-keeping-29-million-families-their-homes-162-billion

[7] Aurand, Andrew, Dan Emmauel, and Daniel Threet. (2020). *NLIHC Research Note: The Need for Emergency Rental Assistance During the COVID-19 and Economic Crisis.* The National Low Income Housing Coalition. Retrieved from: https://nlihc.org/sites/default/files/Need-for-Rental-Assistance-During-the-COVID-19-and-Economic-Crisis.pdf?utm_source=NLIHC+All+Subscribers&utm_campaign=a8f9c7e1cc-update_040720&utm_medium=email&utm_term=0_e090383b5e-a8f9c7e1cc-293237869&ct=t(update_040720)

[8] Housing and Urban Development. (2017). Notice 2017-18. Retrieved from: https://www.hud.gov/sites/documents/PIH2017-18.PDF

[9] Housing and Urban Development. (2019). Emergency Solutions Grants Program. Retrieved from: https://www.hudexchange.info/programs/esg/

[10] *The McKinney-Vento Homeless Assistance Act as amended by S. 896: The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009.* (2009). Retrieved from: https://files.hudexchange.info/resources/documents/HomelessAssistanceActAmendedbyHEARTH.pdf

[11] Housing and Urban Development (2009). Retrieved from: https://www.hudexchange.info/programs/emergency-shelter-grants/

[12] Congressional Research Services. (2020). *COVID-19 Stimulus Assistance to Small Businesses: Issues and Policy Options.* Retrieved from: https://crsreports.congress.gov/product/pdf/R/R46284

[13] Housing and Urban Development. (2017). Notice 2017-18. Retrieved from: https://www.hud.gov/sites/documents/PIH2017-18.PDF

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