

**PROTECTING RENTERS DURING THE
PANDEMIC: REVIEWING REFORMS TO
EXPEDITE EMERGENCY RENTAL ASSISTANCE**

VIRTUAL HEARING
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**PROTECTING RENTERS DURING
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EMERGENCY RENTAL ASSISTANCE**

Friday, September 10, 2021

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 12:09 p.m., via Webex, Hon. Maxine Waters [chairwoman of the committee] presiding.

Members present: Representatives Waters, Sherman, Green, Cleaver, Perlmutter, Foster, Gottheimer, San Nicolas, Axne, Adams, Dean, Ocasio-Cortez, Garcia of Illinois, Garcia of Texas, Williams of Georgia, Auchincloss; McHenry, Posey, Huizenga, Wagner, Barr, Williams of Texas, Hill, Emmer, Zeldin, Loudermilk, Davidson, Kustoff, Gonzalez of Ohio, Rose, Steil, Timmons, Taylor, and Sessions.

Chairwoman WATERS. The Financial Services Committee will come to order. Without objection, the Chair is authorized to declare a recess of the committee at any time.

As a reminder, I ask all Members to keep themselves muted when they are not being recognized by the Chair. The staff has been instructed not to mute Members, except when a Member is not being recognized by the Chair, and there is inadvertent background noise.

Members are also reminded that they may only participate in one remote proceeding at a time. If you are participating today, please keep your camera on, and if you choose to attend a different remote proceeding, please turn your camera off.

Today's hearing is entitled, "Protecting Renters During the Pandemic: Reviewing Reforms to Expedite Emergency Rental Assistance."

I now recognize myself for 4 minutes to give an opening statement.

From the very beginning of this pandemic, I have sounded the alarm about the urgent need for congressional action to avert a massive spike in our national eviction crisis. As Chair of this committee, I understand the devastating impacts that evictions have on families, and I also understand how much landlords, particularly small, mom-and-pop landlords, are struggling because of unpaid rent.

I also recognize that evictions increase the spread of COVID, and have the potential to seriously set back our national economic recovery. That is why I have worked around the clock on this issue.

I am reminded, as I have worked on this issue, that we have extended the moratorium between the Congress of the United States and the CDC 6 times. Thankfully, due to the hard work of this committee, in 2020 Congress passed \$25 billion in emergency rental assistance and provided an extension of the Federal eviction moratorium.

Several months later, under the leadership of President Biden, Democrats passed an additional \$21.6 billion in emergency rental assistance as part of the American Rescue Plan Act.

But our work is not done. I am very concerned about data showing that State and local governments have only used 11 percent of the \$46.6 billion in emergency rental assistance funds that are available. There is no question that the funds are not reaching landlords and renters quickly or widely enough.

In addition, the Supreme Court's action along partisan lines to lift the CDC's eviction moratorium puts millions at risk of eviction, even as the Delta variant causes a deadly resurgence of the virus.

That is why I have introduced new legislation, the Expediting Assistance to Renters and Landlords Act of 2021, which is designed to make sure that individuals and families are not put out of their homes while this virus continues to harm communities across the country.

This bill would allow landlords to apply directly for back rent they are owed, even if a renter is unresponsive, as long as the landlord provides notice and meets other conditions, including a requirement that tenants may not be evicted for at least 120 days, and that the landlords would be paid for those 120 days following the first request for assistance.

The legislation would also require grantees receiving emergency rental assistance funds to accept attestations from tenants, and to provide funds directly to tenants when the landlord is unresponsive or refuses to participate.

The legislation also gears up outreach. Working very closely with the Treasury, we have come up with many ways to modify these applications. So the legislation, again, also gears up outreach to increase public awareness of the availability of emergency rental assistance funds, providing funding for mailings, radio, TV, and internet ads, and ensures that grantees have the resources and help to get the funds out the door.

These steps and others in the bill will cut down barriers preventing the robust rental assistance funding that Congress has provided from reaching renters.

Today, we will also discuss legislation that Ranking Member McHenry has introduced regarding rental assistance.

While I have some serious concerns with the ranking member's bill, I believe that we are aligned in our goal to expedite assistance to those in need, so I want to work with him, and I am hopeful that we can work together and that this could be a bipartisan bill. I look forward to discussing both bills with our panel of experts today.

I now recognize the ranking member of the committee, the gentleman from North Carolina, Mr. McHenry, for 5 minutes.

Mr. MCHENRY. Thank you, Madam Chairwoman, for holding today's hearing, and thank you for those encouraging words of outreach now that we are 5 months past when committee Republicans filed our bill, the Renter Protection Act. And I want to thank you for attaching that bill, which is supported by every Republican on the committee, to this hearing.

The bill makes common-sense reforms to Treasury's rental assistance programs to get help to renters and landlords now. It is a bill we should have considered months ago, before the eviction moratorium expired, and before renters and landlords had the rug pulled out from underneath them.

Committee Republicans have been raising the alarm since it became clear that the Treasury Department was failing to get renter relief out the door. To state the obvious, the Emergency Rental Assistance Program isn't working.

Congress gave the Treasury Department more than \$46 billion to help renters and property owners survive the pandemic. Back in May, I asked Treasury to provide basic data that would help us understand where all that money is and why it hasn't reached renters. They couldn't answer those questions. And they still can't.

We had a hearing late in July with the HUD Secretary, who was profoundly unprepared to answer basic questions about this important program. We asked, "Is rental assistance money being used to help COVID-impacted families?" and she told us, "I have no idea." Let me repeat that. The HUD Secretary said, "I have no idea." That is unacceptable.

The whole process has been unacceptable. It has been 2 months since the Federal eviction moratorium expired, and several weeks since the Supreme Court struck down President Biden's last-minute extension, and here we are, again, asking, why isn't the program working and how can we fix it?

Is Secretary Yellen here? No. Did the Majority invite her? No. And she is in charge of deploying these moneys. Committee Republicans did invite her, and to no one's surprise, she didn't agree to come. And, again, she didn't come to answer these basic questions that we all have, on both sides of the aisle.

Three days ago, Democrats finally put forward their alternative. You may have not heard or read about it, so I will summarize it for you: more red tape; more bureaucracy; and more delays. Simply put, the Democrats' bill will not fix the Biden Administration's abject failure.

Here is what we should be doing. First, we should consolidate all of the rental assistance programs into one easy-to-manage program for localities to administer.

Second, we need to reform the program so that money goes to property owners to settle back debts, so that families can stay in their homes.

Third, we need to make it easier for property owners to participate on behalf of residents.

And finally, we have to require grantees to move faster, for example, by accepting bulk applications.

It seems like Democrats in Washington forgot that the purpose of the program is to pay back rent. This isn't difficult. To get the program back on track, it simply requires that our solutions be tar-

geted, timely, and tied to COVID. But the bill put forward by Democrats would only make things worse, not better.

So, instead of actually solving problems today, there will be more finger-pointing at the previous Administration by my Democrat friends, and more proposals to empower liberal activists by my Democrat friends, and zero plans to hold the Biden Administration accountable for their failures, which is very typical of my Democrat friends right now. This is a shame.

Since it appears our bill won't get a fair shake in this committee this morning, I filed a discharge petition for the Renter Protection Act. I would encourage every Member to sign onto it.

And with that, I look forward to the panel, and I yield back.

Chairwoman WATERS. Thank you very much. Much of what the ranking member is saying needs to be done, is in this bill.

The gentleman from Missouri, Mr. Cleaver, is recognized for one minute.

Mr. CLEAVER. Thank you. The legislation being discussed at this hearing, the Expediting Assistance to Renters and Landlords Act of 2021, proposes several changes to Emergency Rental Assistance (ERA) 1 and ERA 2 which will ensure that the Federal emergency rental assistance funding that we fought so hard for on this committee is continuing to reach those who are in need.

As the COVID-19 pandemic continues to surge, far too many American families have been, and will be subject to the horrors of an eviction. Many small landlords who have invested their retirement incomes now have to worry about whether or not their property will go into foreclosure.

Like many of you, I have been frustrated at the slow pace at which State and local governments have been implementing the Emergency Rental Assistance Program, and there is no time to waste in making the reforms necessary to get funds out the door as quickly and efficiently as possible.

I look forward to hearing from today's witnesses, and I want to thank you, Madam Chairwoman, for your leadership, and for convening this hearing. Thank you very much. I yield back.

Chairwoman WATERS. You are so welcome.

I now recognize the gentleman from Arkansas, Mr. Hill, for one minute.

Mr. HILL. Thank you, Madam Chairwoman.

Where is Secretary Yellen? It has been 5 months since the Treasury Secretary testified before our committee. Yet, the Biden Administration seems to feel no sense of urgency to help renters and mom-and-pop landlords who need it most, no sense of responsibility to answer to Congress, and no sense of shame over a complete mishandling of the Emergency Rental Assistance Program.

Instead, we have the distinguished chairman from South Carolina, Mr. Clyburn, browbeating governors and trying to shift blame to them from the Treasury Secretary. It is a mistake, and we are hurting over a million families who are estimated to be evicted in the next couple of months.

Republicans have a better solution, the Renter Protection Act, which would simplify the needlessly-complicated Rental Assistance Program, get the money out faster, and actually help the people

that Congress intended to help: those who lost their jobs and got behind on their rent due to COVID-19.

If my friends across the aisle are serious about a solution, I urge my friends to include the Renter Protection Act in Monday's committee action.

Thank you, Madam Chairwoman, and I yield back.

Chairwoman WATERS. Thank you very much.

I want to welcome today's distinguished witnesses to the committee. First, we have Mr. Kadeem Morris, a supervising attorney with Community Legal Services of Philadelphia.

Second, we have Ms. Margaret Salazar, the executive director of the Oregon Housing and Community Services Department.

Third, we have Mr. David Schwartz, the CEO, chairman, and co-founder of Waterton, and the chair of the National Multifamily Housing Council.

Fourth, we have Ms. Diane Yentel, the president and CEO of the National Low Income Housing Coalition.

Now, I will recognize the gentleman from Massachusetts, Mr. Lynch, to introduce our last witness.

Mr. Lynch?

Is Mr. Lynch on the platform?

Okay. Well, while we are waiting for Mr. Lynch, who wanted very much to introduce this witness, I will move on, and I will introduce Mr. Gilbert Winn, the CEO of WinnCompanies.

Each of you will have 5 minutes to summarize your testimony. You should be able to see a timer on your screen that will indicate how much time you have left, and a chime will go off at the end of your time. I would ask you to be mindful of the timer, and quickly wrap up your testimony if you hear the chime. And without objection, your written statements will be made a part of the record.

Mr. Morris, you are now recognized for 5 minutes to present your oral testimony.

**STATEMENT OF KADEEM MORRIS, SUPERVISING ATTORNEY,
COMMUNITY LEGAL SERVICES OF PHILADELPHIA**

Mr. MORRIS. Good afternoon. My name is Kadeem Morris, and I am a supervising attorney in the housing unit of Community Legal Services of Philadelphia. Community Legal Services helps more than 10,000 people per year with legal problems that threaten their home, health, and income, and more than 2,300 households per year who are facing evictions due to the COVID-19 pandemic.

I would like to thank Chairwoman Maxine Waters and the members of the House Committee on Financial Services for inviting me to speak today.

The COVID-19 pandemic has exacerbated the pre-existing housing crisis in the United States, causing more people to join the ranks of the housing insecure. The ability to access safe and affordable housing is not guaranteed in the United States. However, the collateral consequences when a family is evicted are clear and immediate.

The faces of the evicted are the faces of the vulnerable members of society. Studies have found that single mothers, most commonly Black and Brown, make up the majority of those affected by evictions and forced moves, the grim reality in Philadelphia, where 71

percent of the annual eviction cases are filed against communities of color.

The pandemic has exacerbated difficulties for these communities, mainly Black, Brown, seniors, and people living with disabilities. These communities are most likely to have lost income during the pandemic, putting them at greater risk of an eviction filing and subsequent homelessness and housing instability beyond the pandemic.

The health consequences combined with the financial hardship of having your job disappear has shattered the already shaky foundation upon which vulnerable families stood. People who were struggling to make ends meet before the pandemic were forced to make the bitter choice of risking their health and the health of the families that they live with by working during the pandemic and potentially contracting the virus, or facing the long-term consequences of unemployment and increased household expenses.

In Philadelphia, the effects of delivery of rental assistance to vulnerable households has prevented displacement and, as a result, prevented the community spread of COVID-19.

The Philadelphia Eviction Diversion Program partners with the City's Emergency Rental Assistance Program to ensure that people are able to access assistance for the benefit of both landlords and tenants. Through targeted outreach and supportive services, Philadelphia was able to build a rental assistance program that could preserve the landlord/tenant ecosystem.

The demographic data provided by the City of Philadelphia demonstrates that rental assistance dollars are reaching vulnerable communities: 65 percent of the families assisted were Black or African American; 60 percent of the applicants were female; and over 70 percent of the households served had a household income below 30 percent of the area median income.

Landlords who were struggling with their mortgages were paid, and tenants who were behind on their rent were not displaced.

The Eviction Diversion Program provides a forum by which landlords and tenants can meet and discuss issues without the pressure of a court filing. The program also uses highly-skilled, impartial mediators to create a forum where landlords and tenants can resolve issues, and tenants are automatically assigned a housing counselor who works with them throughout the process, assisting them with the rental assistance application, and coordinating any other supportive services.

For rental assistance programs to operate effectively, administrators cannot create additional hoops for tenants and landlords to have to jump through. If the stated goal of the program is to prevent evictions of vulnerable households, the municipalities and other administrators should limit the amount of paperwork and forms of verification that tenants and landlords need to submit.

Under the American Rescue Plan, households who have not experienced a change in income, but have experienced an increase of expenses, are eligible to apply. This opens the door for a significant portion of the population, including the elderly and disabled, to participate in the program.

Increased expenses during the pandemic are reflected in the cost of food, cost of transportation, and often, the cost of burying family

members who have suffered from COVID. These vulnerable households are bearing the increased costs without an increase in income, and most are unable to afford market-rate rent based on their income.

Sadly, H.R. 3913, the Renter Protection Act, proposes to limit the usage of the unspent funds under the American Rescue Plan. If getting the money out to landlords and tenants is a top priority, the Federal Government should not take any steps to limit the flexibility that is currently given to program administrators, and set up both programs and supportive services that gets the money paid out.

The proposed changes outlined in the Emergency Rental Assistance Program in H.R. 5196, the Expediting Assistance to Renters and Landlords Act, are vital to the survival of the landlord/tenant ecosystem.

Providing flexibility for landlords to apply without tenants who are unresponsive, requiring grantees to inform those tenants that their arrearage has been paid, and that they are covered by the 120-day eviction prohibition places landlords and tenants on even footing by allowing tenants to self-advocate with the information.

The satisfaction of outstanding money judgments and the sealing of cases are vital, as evictions have long-term consequences.

In closing, I would like to encourage the Federal Government to take steps to adopt the proposed changes outlined in H.R. 5196, and make it easier and create additional flexibility for agencies to administer their rental assistance programs. Thank you for your time.

[The prepared statement of Mr. Morris can be found on page 68 of the appendix.]

Chairwoman WATERS. Next, we will go to Ms. Salazar. You are now recognized for 5 minutes to present your oral testimony.

STATEMENT OF MARGARET SALAZAR, EXECUTIVE DIRECTOR, OREGON HOUSING AND COMMUNITY SERVICES (OHCS); AND VICE CHAIR, NATIONAL COUNCIL OF STATE HOUSING AGENCIES (NCSHA)

Ms. SALAZAR. Thank you, Chairwoman Waters, Ranking Member McHenry, and members of the committee. Thank you for the opportunity to testify today. For the record, my name is Margaret Salazar, and I am the executive director of the Oregon Housing and Community Services Department, and I also serve as the vice chair of the National Council of State Housing Agencies (NCSHA).

My agency, like 27 other State housing finance agencies (HFAs), serves as a Statewide administrator of the Emergency Rental Assistance Program. Every month, State ERA administrators have increased the rate at which they have distributed assistance. States delivered more than \$1.6 billion in the month of August, the highest level of any month to date.

State programs, on average, have funded more than one-third of the applications that they have received, with many funding 50 percent or more.

The ERA Program has provided a lifeline to more than 1 million vulnerable renters, and made thousands of landlords whole. Since

the beginning of this calendar year, my agency, OHCS, has obligated more than \$204 million in rental assistance.

This is the equivalent of our entire ERA 1 allocation, but it represents a combination of both State and Federal funds. Of this total, nearly \$35 million is Federal ERA assistance.

In the last month, our agency has taken bold action to speed up application processing. We have hired more than 60 temporary staff, and brought on an outside vendor to boost capacity for our local partners on the ground. We have created self-attestation forms, disseminated informational videos, and translated materials into multiple languages. We have partnered with community-based organizations to increase outreach and support, particularly in communities of color.

But there are limits to what ERA can achieve as currently authorized. We agree with Chairwoman Waters that legislation is needed to further reform this program, to greatly strengthen its effectiveness.

NCSHA supports Chairwoman Waters' Expediting Assistance to Renters and Landlords Act. We also encourage you to make several additional statutory improvements to further strengthen the program, which are in my written statement.

Any ERA program reforms must reflect the fundamental balances that agencies at all levels of government must strike. The first is balancing renter protection with landlord participation. NCSHA has repeatedly acknowledged the extraordinary efforts of landlords to keep tenants safely housed during this pandemic. While some landlords have declined to participate in rental assistance programs, others have been unable to do so, because a tenant is not responsive or has vacated the unit, leaving the landlord with unpaid arrears.

We support the provisions in Chairwoman Waters' proposal, to allow landlords to apply for ERA on behalf of tenants even if the landlord is unable to gain the renters' consent, or because the tenant is not responsive or has vacated the property.

The second important balance is between equity, efficiency, and accountability. ERA administrators have been accused of unnecessarily prioritizing documentation requirements to prevent fraud over the urgent need to make rental assistance available. But even with the new flexibilities in U.S. Treasury rules as of 2 weeks ago, the ERA statute and Treasury requirements still impose significant accountability on ERA administrators.

Our experience in the field tells us that verbal assurances from U.S. Treasury will not guide Federal agency oversight, either through Federal or State or local audits.

State and local officials are on the line for meeting this unprecedented emergency, and we are acting in good faith while we work to balance urgency and accountability.

We support the provisions in Chairwoman Waters' proposal that would provide a safe harbor to grantees so that they would not be subject to liability, to repay assistance provided in good faith, relying on the attestation of the tenant.

The third balance is between current and coming demand. My team in Oregon and my colleagues around the country are committed to helping as many eligible renters, as quickly as possible.

We understand the urgency. The unevenness of the economic recovery and the clear demand for the program suggest that ERA will become even more needed in the months ahead.

In addition, there are indications that utility arrearages remain substantial. Estimates of unpaid utilities range from \$10 billion to \$30 billion.

We also support the provision in Chairwoman Waters' proposal that would extend the time period during which an individual household may receive ERA assistance to up to 24 months.

The Administration has accurately said that the launch of ERA required building a new national infrastructure for rental assistance and eviction prevention that did not previously exist.

Additional improvements to the ERA statute can help build out that infrastructure for an even greater impact.

Thank you, and I will be glad to answer any questions.

[The prepared statement of Ms. Salazar can be found on page 73 of the appendix.

Chairwoman WATERS. Thank you very much, Ms. Salazar.

Mr. Schwartz, you are now recognized for 5 minutes to present your oral testimony.

STATEMENT OF DAVID SCHWARTZ, CEO, CHAIRMAN & CO-FOUNDER, WATERTON; AND CHAIR, NATIONAL MULTIFAMILY HOUSING COUNCIL (NMHC)

Mr. SCHWARTZ. Chairwoman Waters, Ranking Member McHenry, and members of the committee, it is my privilege to appear before you today to speak on behalf of the multifamily rental housing industry, the National Multifamily Housing Council, the National Apartment Association, and our nation's 40 million apartment households on the urgent reforms needed to the Emergency Rental Assistance Program, or ERAP.

My name is David Schwartz, and I am CEO and chairman of Waterton, headquartered in Chicago, Illinois, with regional offices throughout the United States. Waterton is a real estate investment and property management company with a focus on U.S. multifamily properties.

I am also the current chair of the National Multihousing Council, or NMHC.

Our country has faced unprecedented challenges for the past 18 months, creating significant hardships for America's renters and jeopardizing the stability of the housing sector. We commend the work of this committee in creating the Emergency Rental Assistance Program, and appreciate your continued work to ensure the ability of ERAP to serve those in need.

Throughout this crisis, rental housing owners and operators have continuously worked to address the needs of our residents, employees, and communities, deploying various means to accommodate the housing challenges presented by COVID-19, despite their own financial uncertainty and economic losses.

The apartment industry knows better than anyone the importance of providing a safe, secure place to call home, and it is a responsibility we do not take lightly.

But the housing industry cannot shoulder COVID-relief efforts alone. Moreover, housing providers were severely impacted by evic-

tion moratoriums which just merely shifted the economic hardships of the pandemic to housing providers.

One-size-fits-all Federal moratoriums were, and are, unsustainable, and fail to address the underlying financial distress of residents.

Instead, ERAP is a critical stabilizer for residents and housing providers alike, and the most effective mitigation tool at our disposal. This is why it is urgent to focus on implementing workable solutions for renters and housing providers facing barriers and delays in the distribution of vital rental assistance funds.

The apartment industry is playing a key role in helping execute the Rental Assistance Program and to secure benefits for their residents. Given the widely varying nature of rental assistance programs, and the multijurisdictional footprint of many apartment firms, this necessitates a significant commitment of resources and staff to vet dozens, or even hundreds of programs, with differing eligibility, application, and distribution policies.

We applaud this committee's focus on reforming the program, and appreciate that H.R. 5196, the Expediting Assistance to Renters and Landlords Act of 2021, and H.R. 3913, the Renter Protection Act of 2021, address many of our concerns.

My written testimony provides detailed recommendations for unlocking the flow of ERAP funds and addressing barriers to the delivery of relief to those in need.

In particular, we support efforts to help jurisdictions ramp up delivery of rental assistance benefits, including streamlining onerous application documentation requirements, ensuring eligibility aligns with those residents in need of support, leveraging housing provider capabilities to assist with application processes, and embracing practices and technologies with proven operational success.

Importantly, we caution against the imposition of new program requirements unrelated to the accelerated distribution of funds that further or create new barriers to participation in ERAP programs.

Instead, we urge a singular focus on those efforts that can lessen the burden of program administrators and applicants while improving the outflow of benefits.

There is also a pressing need to address the ability to secure ERAP funds when residents are unwilling or unable to cooperate with the application process. Congress must enable housing providers to apply for rental assistance on behalf of residents who are unresponsive, have vacated units, or are otherwise unavailable.

Without action to address ERAP's current limitations and increased participation in the program, renters are faced with further uncertainty and a mounting debt cliff, while housing providers are forced to address rental losses through foreclosure, bankruptcy, removal of the property from the rental stack, and other measures with long-term market impacts.

We are dedicated to working in partnership with policymakers at all levels on addressing the challenges of COVID-19, while advancing proven solutions for long-term housing affordability.

This committee's attention to addressing the root causes of housing instability is vital, and we are committed to efforts that would bolster housing assistance to renters, increase housing provider

participation in Federal housing programs, break down barriers to provision of rental housing, and increase housing of choice for renters.

[The prepared statement of Mr. Schwartz can be found on page 83 of the appendix.]

Chairwoman WATERS. Thank you, Mr. Schwartz.

Ms. Yentel, you are now recognized for 5 minutes to present your oral testimony.

**STATEMENT OF DIANE YENTEL, PRESIDENT AND CEO,
NATIONAL LOW INCOME HOUSING COALITION (NLIHC)**

Ms. YENTEL. Thank you. Chairwoman Waters, Ranking Member McHenry, and members of the committee, thank you for the opportunity to testify today.

When the Supreme Court lifted the Federal eviction moratorium, it eliminated the last Federal protection keeping 6.5 million families who were behind on their rent stably housed. The unprecedented resources that Congress provided for emergency rental assistance has yet to reach many of them. Now, they are at risk of losing their homes as the Delta variant surges.

The urgency of getting assistance to tenants and landlords cannot be overstated, but many communities are spending their ERA allocations much too slowly. Just \$7.5 billion of the first \$25 billion of ERA has been spent or obligated. While ERA helped nearly 1 million households through July, at least another 1.2 million submitted applications but have yet to receive aid.

Many others struggle to complete applications due to complexity, inaccessibility, or documentation requirements. Some programs are successfully scaling up. New Jersey, Virginia, Texas, Massachusetts, and Washington, D.C., have all spent over half of their ERA 1.

Six States have spent more than 30 percent, and several States have made major recent improvements. Dozens of cities have spent over 70 percent of their ERA 1. These programs make clear that success is possible.

But they are outliers. Seventeen States and many localities have spent less than 10 percent of their first ERA allocation. Some were slowed down by State legislatures or city councils. A few received more ERA than needed due to Congress' faulty formula allocation. Many struggle with landlords' refusal to participate in programs.

But the primary issue with slow ERA spending is that many programs are not following clear Treasury and White House guidance and are not adopting evidence-based best practices.

Slow-spending ERA programs tend to do little outreach. They don't hire enough staff to process applications. They have long and complicated applications with overly burdensome documentation requirements.

For example, fewer than 17 percent of programs explicitly allow renters to use self-attestation to document income or housing instability, this, despite Treasury guidance that has, since March, allowed self-attestation for all eligibility criteria.

Only 28 percent of programs explicitly allow direct-to-tenant assistance, despite it being permissible and critical to keeping renters housed when landlords refuse to participate.

It is unfortunately clear by now that if flexibilities and best practices remain optional, many programs will not adopt them. So, the Biden Administration should continue to use all available tools, including their ability to recapture and reallocate ERA funds, to require best practices in all programs.

And Congress should consider statutory changes to turn flexibilities and best practices into requirements.

Legislation introduced by Chairwoman Waters builds off of existing Treasury guidance, and addresses the root causes of slow ERA spending.

NLIHC has deep reservations about allowing landlords to receive ERA without tenant involvement. The legislation provides important protections in such cases to lessen fraud or tenant harassment. These protections must remain and be expanded as the bill moves forward.

Congressman McHenry's legislation would halt most program spending by first requiring Treasury to rescind and redo guidance, then requiring programs to make changes counter to best practices, and by prohibiting use of ERA funds for needed staffing or technology. The bill would ensure that the needs of many landlords and renters go unmet.

There are proven and simple ways for ERA programs to expedite assistance: hire staff; do robust outreach; simplify applications; use self-attestations; and provide direct-to-tenant assistance.

The best programs are already doing this. Those that aren't should course-correct as Texas, California, New York, and Connecticut have done, and as South Carolina and Arkansas announced recently that they will do.

For those that don't or won't, both the Biden Administration and Congress should require these improvements.

Thank you again for the opportunity to testify. I look forward to your questions.

[The prepared statement of Ms. Yentel can be found on page 107 of the appendix.]

Chairwoman WATERS. Thank you very much, Ms. Yentel.

And Mr. Winn, you are now recognized for 5 minutes to present your oral testimony.

**STATEMENT OF GILBERT WINN, CHIEF EXECUTIVE OFFICER,
WINNCOMPANIES**

Mr. WINN. Good afternoon. Chairwoman Waters, Ranking Member McHenry, and members of the committee, it is my privilege to appear before you today to speak on behalf of our organization, WinnCompanies, and the more than 300,000 residents who call our apartment communities home. Thank you for this invitation.

My name is Gilbert Winn, and I am the CEO of Winn, a developer, owner, and manager of multifamily housing founded in Boston 50 years ago. WinnCompanies is the largest operator of affordable housing, and the sixth largest multifamily operator of housing in the country.

We manage over 600 rental communities, on behalf of a diverse range of clients—private owners of all types, nonprofit groups, community development corporations, tenant-owned affordable co-ops, and even public housing authorities.

We manage mixed-income communities with local housing programs or Federal programs like Section 8, or low-income housing tax credits. We manage naturally occurring affordable housing as well. We also manage more than 10,000 unrestricted market ratings.

WinnCompanies works in 23 States, in diverse geographies, from the Northeast, to the South, to the West. Our company is also one of the nation's largest providers of housing-based community services.

Why is this background important? Because it illustrates that we bring an informed firsthand perspective, covering nearly all constituencies of what is and what isn't working on the ground when it comes to emergency rental assistance, and the goals generally of housing stability and eviction diversion.

As both an owner and an operator, we play a direct role on the ground in fulfilling the dual intent of the ERAP program, which is both to assist renters and to assist landlords.

Today, I will first talk about our housing stability goals and the fundamental importance of rent collection in that endeavor. I will then detail the specific successes and challenges we faced in accessing the ERAP program.

And I will conclude with our proposed revisions that we think should be urgently implemented to make it more efficient.

While we are here to discuss the ERAP program, we all understand it is but one component of housing stability. In early 2020, WinnCompanies launched a holistic national housing stability program. The goal was to reduce non-payment rent evictions by 50 percent across our portfolio through a combination of upstream, consistent interventions.

The result is that WinnCompanies has had zero evictions for nonpayment of rent since the start of the pandemic. These results, and our program, have been recognized by my fellow witnesses here at NMHC, and the National Low Income Housing Coalition.

As we are all gathered here today, it should be no surprise that emergency rental assistance is the single-most important component of that housing stability program in avoiding evictions. We know this from experience, and we applaud this committee for recognizing the need for reforms.

We understand that this \$46 billion program was designed to assist both tenants and owners. This is not a choice between renters and profits. Rent is fundamental to the ability of our company and our clients, particularly our nonprofit owners, to operate and maintain existing apartment communities and to build affordable housing in the future. It is a virtuous ecosystem.

In addition to mortgage payments and real estate taxes, as rent goes uncollected, variable operating costs that affect everybody's quality of life must be decreased, such as preventative maintenance, landscaping, security, trash pickup, and resident services.

Staff hours at each property are cut if this happens, which means the paychecks of frontline workers are decreased.

All in all, I am very proud of how the multifamily industry has stepped up during this pandemic. The vast majority of owners and operators are on the front lines, keeping homes safe and occupied.

Now, in terms of ERAP, we have extended tremendous time, effort, and resources in order to make the rollout of the program as successful as possible.

We have participated in 20 working groups across the country to design and administer the funds. We have participated in forums held by the apartment industry and the legal services community.

At the State level, we have worked with leadership to address program glitches in portals and application processes. At the local level, we help convene our peers to share best practices.

We have held 54 separate, 2-hour trainings to walk our team members through every step of their areas' individual ERA processes.

In terms of tenant communication and partnership, we have established contacts with administrative teams, created marketing materials, and begun a near-constant tenant outreach campaign in every apartment community, including engaging with local churches, schools, youth organizations—

Chairwoman WATERS. Mr. Winn, your time has expired. Thank you very much for your testimony.

[The prepared statement of Mr. Winn can be found on page 99 of the appendix.]

Chairwoman WATERS. I now recognize myself for 5 minutes for questions. Mr. Schwartz, Ms. Yentel, I am troubled by the number of landlords and renters who remain unaware of the availability of rental assistance. According to the Urban Institute, more than half of renters and 40 percent of landlords are still unaware of Federal assistance.

I would like to share with you a little story about something that I was involved in just a week or so ago. I know a landlord with 5,000 units. I went to him to ask him what was going on with his rental units. He told me that only 40 percent of his renters had applied. I asked him why, and he said he did not know.

And then I asked him, Have you ever thought about using your community rooms with a person, or persons, and a computer or so, to invite your renters to come to get assistance in applying for rental assistance? He said, no, they had not done that.

I went a step further. I called Legal Aid, I put them together, and I taught him how to do the notices to pin to the doors to let people know that assistance was available now in the community area of one of the largest of his complexes, for them to come.

On the first day, 90 renters showed up. Legal Aid showed up with organizers and one or two lawyers, and they assisted everybody who came that day in applying for rental assistance.

Now, you talk a lot about what you have done, Mr. Winn. Have you seen anything like the operation that I just described to you?

Mr. WINN. I'm sorry, Chairwoman Waters. Can you repeat that?

Chairwoman WATERS. Okay. Would anyone else like to respond to that? Ms. Yentel?

Ms. YENTEL. Yes, Chairwoman Waters, thank you. I have seen some communities doing that kind of robust and equitable outreach that you mentioned. That is exactly the kind of outreach that is needed in local communities.

But there are many communities where that is not happening, and as you say, we are seeing a significant number of both land-

lords and tenants not being aware that emergency rental assistance is available in their communities, or not knowing how to access it.

This could be a result of language barriers. It could be challenges with various access to technology, or it could be simply that the education, the outreach, is not happening.

So, we urge program administrators to work with community-based organizations who have trusted relationships in some of the more marginalized communities where some of the greatest—

Chairwoman WATERS. Okay, Ms. Yentel. Thank you very much. I want to move on to—Mr. Schwartz, have you seen the kind of operation that I just described to you, where the landlords use their community rooms, or their space, to invite in the renters with notices that they put on their door, and then they get the assistance?

I added to it Legal Aid, because I brought Legal Aid in to do it, but I think the landlords ought to be thinking about doing it. What do you think?

Mr. WINN. Yes. With our own experience, and I know our peers, other operators in our industry are opening up business centers. The people in most need, the lowest income, may not have access to computers or WiFi.

The application process is very cumbersome. In your State of California, there are 18 pages of manual input, and it is very complex. A lot of our residents only speak Spanish, and a lot of the forms are only in English, so we have to bring bilingual employees on our team to help them translate it.

A lot of the forms or the websites require downloading paperwork, like proof of loss of job, or paycheck stubs. A lot of the residents don't have scanners, so we have to help them scan it into the system—look, we are all motivated as landlords to assist our residents because we benefit from the ERAP as much as they do. But the system is so cumbersome that it involves a lot of manhours, and our industry is doing a great job shouldering that—

Chairwoman WATERS. Thank you very much, Mr. Schwartz. Do you think the self-attestations will help? And this is something we have worked on very closely with the Treasury. Do you think that will help?

Mr. SCHWARTZ. Absolutely. We are big proponents of it, with respect to proof of tenancy, where they don't have to download a copy of a lease—that is hard for a lot of our residents—housing instability, self-attestation income, which means you would have to download a paycheck stub. All of these are barriers, and slow the system down.

Chairwoman WATERS. Thank you. Thank you very much, Mr. Schwartz. I'm sorry, my time is up.

And now, I will recognize the gentleman from North Carolina, Mr. McHenry, the ranking member of the committee, for 5 minutes.

Mr. MCHENRY. Thank you, Madam Chairwoman. Last December, Congress enacted the rental emergency assistance program in a bipartisan way. And then in March, the Democrats did their partisan bill, and had a new rental assistance program.

We have two separate rental assistance programs at this point, and Treasury has a set of rules that are different on implementing these programs.

So my question to you, Mr. Winn, is, given how disastrous the rollout has been and the slow spending rates of getting money out the door to help renters, do you think it is better to combine these programs, number one; and number two, do you think the focus on getting people's back rent paid should be the primary view or the primary goal of the program?

Mr. WINN. Yes, I agree on both. I think the consolidation of the programs will remove a lot of busy work and a lot of uncertainty for both the landlords and the residents.

Also, the point of back rent is critical. A lot of landlords don't wish to participate in the program if they are only getting paid for the current delinquency. If somebody moved out and they can't get paid for that past delinquency, they are not going to be utilizing the program.

And that is, in fact, what has been happening. There are many residents, who, when it comes time, are leaving with unpaid balances and are not able to complete applications.

Mr. MCHENRY. Ms. Yentel, under this bill, H.R. 5196, I would ask how imposing both new regulatory and statutory conditions on landlords actually speeds up assistance to renters?

Ms. YENTEL. There are many ways that Chairwoman Waters' legislation would speed up assistance—by requiring self-attestation, by requiring direct-to-tenant assistance, by getting at the root causes of slow ERA spending. Unfortunately—

Mr. MCHENRY. So, how is that different? Direct-to-renter assistance, how is that different now than under this new bill?

Ms. YENTEL. It is currently optional, and only 28 percent of programs utilize it. So when landlords refuse to participate in a majority of programs—

Mr. MCHENRY. Okay. So, under this bill, Ms. Yentel, under 5196, how do you encourage landlords to participate when you are putting in place new hoops to get money that they are legally owed? How does that actually help?

Ms. YENTEL. The only place where new hoops, as you call it, are put in place—I would call them essential protections for tenants—are where we are changing the program to allow for direct-to-landlord assistance without any tenant involvement at all. These protections are essential to—

Mr. MCHENRY. Okay. But that is one change.

Ms. YENTEL. —limit tenant harassment.

Mr. MCHENRY. So, how about another change here? The bill requires grantees to provide information to renters on how to sue a landlord if a landlord follows the rules and receives the assistance on their behalf. How does that actually encourage landlords to participate?

Ms. YENTEL. Well, it doesn't at all. What the legislation would do, again, only in cases where we are changing the programs to allow landlords to receive assistance without any tenant involvement at all, it would require assurances that the landlord is using those resources to pay the arrears that are owed, and that the ten-

ant is no longer responsible for those arrears, which is why assurances—

Mr. MCHENRY. So what you are saying is that providing information on complaints against landlords helps expedite the distribution of assistance to households and families? Is that what you are saying?

Ms. YENTEL. What I am saying is that in cases where we change a program and allow for a landlord to receive assistance without the essential protection of tenant involvement in that application, that there be protections for those tenants and that there be protections against fraud.

Mr. MCHENRY. And in the real world, landlords would think this is a great new program to participate in, to encourage the people renting from them to sue them.

Ms. Yentel, I know you have a significant involvement with my Democrat colleagues on housing. Were you or any of your staff involved in the technical drafting of H.R. 5196?

Ms. YENTEL. In the technical drafting of it? No. That is certainly not our job. We have advised Chairwoman Waters—

Mr. MCHENRY. Advised, sure.

Ms. YENTEL. —and her staff about recommendations—

Mr. MCHENRY. Okay. And as president and CEO of your organization, I am curious if your organization stands to benefit financially if this bill is enacted?

Ms. YENTEL. No.

Mr. MCHENRY. So, your organization would not receive any dollars under Section 6 of this bill?

Ms. YENTEL. I can't speak to what Section 6 is off the top of my head, but we receive zero Federal funding. We have no Federal contracts. We don't contract with States or localities—

Mr. MCHENRY. It is not a contract. And under this bill, it would change to nonprofit entities that primarily provide housing services would be eligible for these moneys. And so—

Ms. YENTEL. We would be eligible, and we recommended that—

Mr. MCHENRY. —it raises the question. If you have certified—if you have testified that you will not receive a dime under this bill, we will make sure that we note that in the record.

With that, Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you very much. Let us remember, the centerpiece of this program is such that it allows landlords for the first time to be able to apply for the rental assistance, and they have 10 days in which to notify the tenant. And they can talk in that time, and maybe during that time, the renter will say, "Well, I will do it," but this is—

Mr. MCHENRY. Madam Chairwoman, is this your time or my time? Is this your time or my time to debate?

Chairwoman WATERS. The Chair now recognizes the gentleman from New York, Mrs. Maloney, who is also the Chair of the House Committee on Oversight and Reform, for 5 minutes.

Mrs. MALONEY. Thank you. Thank you all for your testimony today, and thank you, Chairwoman Waters, for holding this timely and very important hearing.

As we have discussed, Congress provided nearly \$50 billion in December, and in the American Rescue Plan, to help residents stay safely housed, and to be able to afford their rent.

This was necessary relief, 100-percent essential, not just for the health and safety of these residents during a pandemic, but because a mass eviction crisis would have inflicted needless damage to our economy and to our families.

Last week, New York Governor Hochul signed into law additional protections for New York residents, and included new resources for landlords and tenants to access rental assistance. New York law also extended the State eviction moratorium until January 15th.

It is no secret that the rollout of the rental assistance programs hasn't gone as smoothly as Congress would have wanted, which is why I am so glad we have a great panel, to hear about your experiences and ways we can further improve and streamline the program to better serve renters and landlords alike.

One of the issues I have been hearing about from my constituents is the dual nature of the application. In effect, you need both the landlord and the tenant to complete the application to receive assistance.

Specifically, I have heard from constituents that many have tried seeking assistance, but that their landlords were not willing to apply. And I know the reverse has also been true.

So I would like to ask Mr. Morris, we will start with you, you are on the front lines helping tenants with this program. Is this an issue you are seeing in Philadelphia with the tenants you are assisting?

Mr. MORRIS. Thank you for that question. It has presented as an issue. There are two portions of the application: the landlord application; and the tenant application. If the landlord applies on behalf of a tenant, it generates an affidavit that the tenant has to sign.

I do believe that creating the additional flexibility where the landlord would not need to go to the tenant to get the affidavit signed and then submit it will allow that landlord to get a direct payment themselves once they have made the necessary efforts to inform their tenants that the program exists and to get them to apply for funding. But it has been an issue.

Mrs. MALONEY. Thank you.

Ms. Yentel, can you add, or can you speak to how this issue presents a problem, if it does, for tenants seeking assistance, and how the bill introduced by Chairwoman Waters would help address this problem?

Ms. YENTEL. Thank you. Requiring a program to have both landlord and tenant involvement when getting emergency rental assistance provides important safeguards against fraud and against tenant harassment, really important safeguards for the tenant.

We have heard of cases where tenants are not able to complete their applications, and certainly, there have been cases where landlords have been refusing to accept emergency rental assistance when the application is approved and the money is presented to them.

So, the solutions on incomplete applications by tenants comes back to simplifying applications, using self-attestation wherever possible, and requiring that all programs do these actions.

On the landlord side, there is a whole variety of reasons why landlords seem to be refusing to participate. A solution to many of those challenges is to provide the assistance directly to the tenant, so that the tenant can pay the rent, and the landlord, if they don't want to be involved in a government program, doesn't have to be involved at all.

Only 28 percent of programs are currently using direct-to-tenant assistance explicitly, and all should be required to use this essential safeguard as would happen under Chairwoman Waters' legislation.

Mrs. MALONEY. Thank you. My time has almost expired, so I yield back, and I thank you, Chairwoman Waters, for your leadership on this important program. We are working very, very hard to implement it on the ground across the country. Thank you. I yield back.

Chairwoman WATERS. Thank you very much. The gentlewoman from Missouri, Mrs. Wagner, is now recognized for 5 minutes.

Mrs. WAGNER. Thank you, Madam Chairwoman, but we are not working very hard to get this administered. Because you know what, the money is not getting out the door to the people who need it, after months and months and months and months.

For far too long, struggling Americans, both renters and landlords in Missouri's 2nd Congressional District and beyond, have not received the assistance that Congress authorized.

From what little data—I think the last was in July—that Treasury provided us since Congress has approved nearly \$50 billion in rental assistance, only \$4.8 billion, or 10 percent, of these funds have made it into the hands of those who need it most.

It is clear to the American people that the Biden Administration has failed to distribute billions in rental assistance.

Months ago, Republicans introduced legislation to cut through the bureaucratic red tape, to streamline this rental assistance program to get this money out the door to support hardworking Americans.

However, Democrat leadership completely ignored this good-faith effort, and I think it is critical that Treasury Secretary Yellen take responsibility for the program's failure, and appear before this committee as we have requested on several occasions, to no avail, so that we can better understand what is keeping so many of America's tenants and landlords from receiving these funds in a timely manner.

Instead of working in a bipartisan fashion, and incorporating the much-needed provision of Ranking Member McHenry's legislation, Democrats have been trying to shove through a bill, in the 11th hour, that is full of bureaucratic red tape without any input from across the aisle, and are needlessly putting families at risk of eviction and pushing mom-and-pop landlords out of business.

We are not helping renters, and we are actively hurting landlords.

Mr. Schwartz, Mr. Winn, COVID hit in March of 2020, which was 18 complete rent cycles ago. This means there may be some

landlords who have not been paid a full month's rent in a year-and-a-half. What financial impact has COVID had on landlords to date, Mr. Winn?

Mr. WINN. Thank you for that question. Currently, there are \$37 million in accounts receivable and delinquency rents across our portfolio. Despite all of the efforts I testified about that we have done, only half of the residents have actually received the funding that they are eligible for, and the tenant-consent aspect of that, we feel is the largest barrier.

We have done the communication. We have met with them. We have filled out the applications. We have handed them the complete applications, and, yet, 15,000 of our residents who are eligible have not received the assistance.

Mrs. WAGNER. And yet, we are sitting on over \$40 billion, much of which was in the CARES Act back in last December that is still sitting there in this fund, not distributed. It is disgraceful.

What incentives do you think, Mr. Winn, would make a meaningful impact in helping to deliver this emergency rental assistance to repay those debts?

Mr. WINN. Very quickly, it would be informed consent as opposed to signatures by the tenant so that landlords can apply on their behalf. It would be bulk applications that landlords are able to submit and that are mandated to be approved by the ERAP administrators rather than just encouraged, a combining of the two programs to cut out bureaucracy.

Mrs. WAGNER. Yes.

Mr. WINN. And I would say, really, the fourth one would be to make sure that when a unit is vacated, that that unit is still eligible for rental assistance, because that is where a lot of the outstanding delinquencies are.

Mrs. WAGNER. Thank you. The December effort, which was a bipartisan CARES Act to get the money to eligible households quickly and efficiently, was hastily undone with the creation of the Democrats' Emergency Rental Assistance 2 Program in March. And that, and the Dems' bill, that \$1.9 trillion bill, was a second parallel program with similar purposes but different rules, timelines, and incentives. And most of all, what is most egregious, is that it pushed the end date of the Biden Administration's mismanaged program out to 2025—2025. We need rental assistance now, not in 2025.

We have to fix this program's bureaucratic problems and come together, Madam Chairwoman. I yield back my time.

Chairwoman WATERS. Thank you. The gentlelady's time has expired.

The Chair now recognizes the gentleman from California, Mr. Sherman, who is also the Chair of our Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, for 5 minutes. Let's get beyond political talking points. Let's legislate.

Mr. SHERMAN. Absolutely. I think this is the hearing we should have, not a theatrical hearing where we bring in big names. And what we need is people who are on the ground who can help get this program to work better.

That being said, this program is not the best example of government working together to help people. And those of us who want

government to help people in need bear the rhetorical burden of showing that government can be effective.

It is an emergency program, and an emergency program is one where you are trying to build a plane while you are flying it. It is not that easy to put something together in an emergency, but we should have done better, and I think with this hearing, we will.

Mr. Schwartz, perhaps briefly you could tell us, what are the impediments faced by property owners when trying to utilize the Emergency Rental Assistance Program that have led some owners to not even participate in the program?

Mr. SCHWARTZ. Yes. We have talked about one of them, which is that owners would like to participate, but the resident doesn't want to participate, and so having that ability to apply on behalf of the resident is super important.

Also, what we have seen is strings attached, like additional moratoriums that you accept assistance but you are subject to a new moratorium. Landlords are very reluctant to sign up for more strings attached to accepting the assistance. Another one is rent—or debt cancellation, where you receive assistance that is below what you are owed and that settles the debt.

We don't want to add barriers, and those are two things that are in this bill that we think will make landlords reluctant to participate in the program. And the best solution to solving this is getting the ERAP dollars in the hands of the residents and the landlords.

Mr. SHERMAN. I think, also, this crisis will determine whether other people get involved in investing and building new apartment buildings. And to put people in a position where they have to pay the mortgage and they can't collect the rent is not going to encourage people to go into this business.

Ms. Yentel, we have almost half of the renters in this country paying more than 30 percent of their income on rent. We need to build 328,000 new apartments every year. We are not even close to that. The COVID crisis has slowed construction.

What policies would you suggest to create an environment that incentivizes additional housing development and the preservation of housing we have now?

Ms. YENTEL. You are absolutely right that the pandemic exacerbated a preexisting affordable housing crisis. Many of the same renters who struggled to keep up with rent during the pandemic, also struggled pre-pandemic, and they will continue to struggle post-pandemic, unless and until Congress invests in long-term sustained solutions to build a housing social safety net in our country.

And many of the investments that are included in the reconciliation bill that Chairwoman Waters released are the kind of investments that are needed: a major expansion of rental assistance to preserve our country's public housing infrastructure; to build more apartments affordable to lowest-income people through the National Housing Trust Fund; and to incentivize or require local governments to reduce or remove, eliminate restrictive local zoning that inhibits the supply of any kind of apartments and especially affordable apartments and drives up costs for everyone.

Mr. SHERMAN. Everybody is for more apartments, but not near them. It is a problem that local government faces.

Mr. Schwartz, many owners from large to small have been carrying these rental balances that they haven't collected. They still have to pay their mortgages, et cetera. What does that ultimately mean for the solvency of property owners, their ability to continue to be in the rental housing business, and should we be concerned about the overall market and systemic effects?

Mr. SCHWARTZ. Yes, we should be concerned. There have been no reciprocal moratoriums with property tax bills, or garbage collection bills. Those are all due in full. The solution to that is the ERAP and getting that in the hands of the landlords, because there is financial distress. And we have seen that the most with smaller landlords who can't pay their bills.

Chairwoman WATERS. Mr. Schwartz, the time has expired.

The gentleman from Texas—

Mr. SHERMAN. Thank you.

Chairwoman WATERS. —Mr. Sessions, is now recognized for 5 minutes.

Mr. SESSIONS. Madam Chairwoman, thank you very much. And the opportunity to have our witnesses here today is appreciated.

Mr. Morris, I would like to perhaps engage you first, if I could. The legislation, when it passes Congress, is given to an Administration who then offers and makes the legislation conform to their ability to offer guidance for things to work the way the legislation is designed.

Can you please tell me your working relationship on a local basis with the Administration people, whether it be in HUD or whether it be in Treasury, about the guidance that you have received and what feedback you have given back to them?

And the reason why I am asking this is because we have no one from the Administration who can defend themselves on this, so I am interested in your answers about that guidance and what you have told them back about making this work better.

Mr. MORRIS. At least from the perspective of rental assistance here in Philadelphia, there was an existing Philadelphia eviction prevention project that had been working on these issues from at least 2017.

So when the pandemic hit, we started engaging both our local city council and State legislative leaders and the Pennsylvania Housing Finance Authority, who had the first round of rental assistance, on making the program more effective, eliminating barriers that would basically discourage participation.

So, we have been involved in that process through and through. And at least in building out rental assistance, every time an issue is brought forward to us by tenants or landlords with whom we engage, we provide that feedback to the agency and see how we can address that.

Self-attestation has been a major issue, and we have gotten to the place where landlords or landlords' counsel can now provide letters to agencies that verify tenancies and show how much is owed without additional barriers being put in place. So, we have been working in constant communication with our local representatives to try and improve the program every step of the way.

Mr. SESSIONS. Mr. Morris, in your locality in Pennsylvania, were you given the flexibility to amend what we have heard would be

the paperwork that we heard in California is not in any language but English—were you given that authority and responsibility ahead of time to change that, or was that just part of the bill that said, only provide this in English for the application?

Mr. MORRIS. I believe we were given that authority, and we also requested additional guidance from the Federal Government through Treasury for additional flexibility around how we administer the program. So we are in constant communication to make those flexibilities happen.

I believe, just generally, in terms of language access, we are required to provide the application in more than English. We also work with the Neighborhood Action Council to make sure that there is an agency out in the community that can target individuals or create another location where someone can go and apply and get that assistance.

Mr. SESSIONS. Yes, and thank you. And, Mr. Morris, perhaps you are providing the feedback today to us, which is why not only Mr. McHenry but also Mrs. Wagner are saying that we believe that what should have happened today is that we actually heard from the program administrators about the flexibility that they are providing across the country and following the Federal law when they see, for instance, in California, where the applications are in English only, as the testimony today was given to us.

And this is disturbing to us, because in the State of Texas, and I am sure that what has happened is Ms. Yentel's feedback helps us to see who is successful, and there are characteristics of success that the Administration would see or those administering these programs, and then to know specifically what they were doing from receiving feedback after they see perhaps those that were more effective than others.

And, Mr. Morris, I just want you to know that you and Ms. Yentel and Mr. Schwartz are providing us information, but we are interested in a follow-up on this. I am personally interested in what kind of success you are finding with feedback from the Treasury Department in making this work, and whether they actually are a hindrance or a help, whether they are attempting to provide you with the needed feedback that I would say would come from the guidance that they would need to have and see from across the country.

So, Madam Chairwoman, I would request that, as Mr. McHenry and Mrs. Wagner have suggested, that we need to dig down with information about providing the guidance from a national perspective of not only the Secretary of the Treasury but their feedback about—

Chairwoman WATERS. Mr. Sessions, your time has expired.

Mr. SESSIONS. —how we would make this work.

I thank the gentlewoman, and I will yield back my time.

Chairwoman WATERS. Thank you.

The gentleman from Texas, Mr. Green, who is also the Chair of our Subcommittee on Oversight and Investigations, is now recognized for 5 minutes.

Mr. GREEN. Thank you, Madam Chairwoman.

Madam Chairwoman, I am very proud to associate myself with your legislation. Your legislation does what I have been calling for,

which is to ensure that the rent is paid. The tenants will have the opportunity to access funds, but also, the landlords will have an opportunity to access these funds, and they can access funds for back rent.

Some things bear repeating, Madam Chairwoman—Landlords can access funds for back rent. I think this is exceedingly important for, yes, all landlords, but especially for the mom-and-pops who have had to bear the burden of maintaining property over so many months now.

So, I proudly associate myself with this program, and I would thank you for also looking into how we can inform people. A good many of the people I represent are not knowledgeable about programs. This program that you are providing now, this legislation, would inform people of what is available to them. I think this is most beneficial.

And, finally, the landlords will have an opportunity to not only get back rent, but rent for some time out into the future. The total sum of months can be up to 24 months. So, this is an outstanding program.

I would like to, if I may, Madam Chairwoman, mention one additional thing. There are many people who are still suffering as a result of the Community Development Block Grant Disaster Recovery (CDBG-DR) funds that have not been properly allocated, and Ms. Yentel has some knowledge of what is going on with CDBG-DR, because she happens to be associated with some 800 national State and local organizations calling for codification of a program.

So, Ms. Yentel, I would like to yield time to you to explain why there is such broad support for the codification of CDBG-DR and to a statute at this time.

Ms. YENTEL. Sure. Thank you, Congressman Green. The CDBG Disaster Recovery Grant Program is one of the most essential resources that communities receive after disasters, but the program is not permanently authorized, which means that every time there is a disaster, it needs to be reauthorized essentially through the appropriations bills, the supplemental bills that provide funding.

This slows down the process pretty significantly of getting resources to communities, and it means that very often, the rules for the program get rewritten each time, creating a lot of uncertainty to local communities when what they most need is certainty and money to start helping people repair and get back on their feet after disasters.

The Reforming Disaster Recovery Act, your legislation, would permanently authorize the bill, which would in and of itself mean resources would reach communities faster. It would also require data sharing across programs, which would help to identify gaps in need and ensure that those are being met. And it would allow for much greater public participation in disaster recovery efforts. Altogether, it could help to lead to more equitable and complete disaster housing recovery in communities hit by natural disasters.

Mr. GREEN. A second question for you—

Ms. SALAZAR. Excuse me, Mr. Green? If I may jump in on that, Mr. Green. I am so sorry to interrupt you.

Mr. GREEN. I will yield to you.

Ms. SALAZAR. Thank you so much, Mr. Green. I just needed to note that the residents of Oregon are still waiting for disaster recovery dollars from last year's historic and tragic wildfires. So, I just wanted to lend my support to Ms. Yentel's statement.

Mr. GREEN. Well, let me extend my sympathies to the people that you represent, as well as the people in Texas whom I represent. We have a similar circumstance, and I believe Mr. Cleaver would attest to a circumstance that he is having to negotiate as well.

But let me just ask this of you, Ms. Salazar, since you are now speaking to me. This self-attestation seems to be pretty important, and it seems to be something that the chairwoman has placed in this legislation. Explain how important this self-attestation is?

Ms. SALAZAR. Thank you so much, Mr. Green. You are absolutely right that tenant self-attestation has proven to be incredibly helpful to expedite the delivery of rental assistance. I will also note that it is a big shift for many program administrators who are charged with the important work of preventing fraud and running these programs with Federal and State and local oversight.

And so, that is why we are supportive of the safe harbor provision in Chairwoman Waters' legislation that would provide that assurance to program administrators that self-attestation is appropriate, useful, and encouraged in the program.

Mr. GREEN. Thank you, Madam Chairwoman. As I yield back, on a scale of 1 to 10, I would give your program, your legislation an 11. I yield back.

Chairwoman WATERS. Thank you, Mr. Green.

The gentleman from Florida, Mr. Posey, is now recognized for 5 minutes.

Mr. POSEY. Thank you, Chairwoman Waters.

Mr. Winn, you were talking about your outreach, I guess through some church groups and others in your opening statement, and you got cut off. If you would like to finish it up now, I would be proud to give you the time.

Mr. WINN. I appreciate that, and I will do that. So, despite all of that outreach, these are the statistics. To date, WinnCompanies has been able to work with 15,000 households to apply for \$22 million of ERAP support. Of this amount, \$17 million has been formally approved.

And I recount all of our efforts not to boast about what we did, but to make the point that despite all of these herculean efforts that a company of our size can actually perform, we still have 15,000 additional households who are eligible for ERAP financial support, but who have not yet participated because of program inefficiencies. It leads me to conclude that smaller landlords, without the possibility of the resources that we enjoy, must find themselves in an even more untenable and more unfair position. It leads to the conclusion that something needs to change.

Despite our efforts, we, as I mentioned, and our clients are still carrying \$37 million in delinquent rent. Within that universe of households, 2,400 households who are eligible for the assistance otherwise are not able to participate because of more restrictive income guidelines in certain States.

On top of this is the 15,000 eligible households that I mentioned who are noncommunicative, despite our best efforts, and for good reasons and for understandable reasons—traumatized by medical or financial hardships, language barriers, sometimes fearing insurmountable rental delinquencies, or technology barriers. Some are confused by mixed messaging on eviction moratorium. Some simply just don't trust the system. Regardless, the unfortunate result is that too many of the very folks that the ERA Program seeks to help are those who are not benefiting from the program.

So, the real-world solutions are the direct tenant applications with informed consent to the tenants for 10 days. But we also believe there shouldn't be additional restrictions placed on that without matching funding. Said differently, if there were to be an agreement that if you take these funds, you have to stably house residents for 120 more days, we ask for a requirement as rather than a suggestion that rental assistance funds be made available to match that obligation.

We also want to make sure that this happens, so it is not a major deterrent for landlords across the country to enter into what is otherwise a great program. We should mandate the allowance of landlords to directly apply for funds and make sure that those are processed quickly.

We want to make sure that the programs are combined and that the eligibility is raised to 24 months rather than 18 months. And we want to make sure that there is an implementation mandate for bulk applications by landlords rather than just the allowance of it, because we have seen across the States we work in that many of the ERAP administrators will not allow bulk applications even though it is permitted by the legislation.

I just want to end by saying that I believe that the work of this committee has been excellent. I believe these amendments are required. I don't believe this is a political issue. I believe this is a practical issue. And if we can reach more people, we are all better for it.

Mr. POSEY. Thank you.

Mr. MORRIS. Mr. Posey—I'm sorry, Mr. Posey, if I may just add to that really briefly. While I support all of the proposed changes that Mr. Winn has just highlighted, I think it is critical that tenants are informed, as the bill proposes to do, that something has been done on their behalf so that they can govern themselves accordingly and that the landlord-tenant relationship can be preserved on a forward-going basis.

Thank you.

Mr. POSEY. Do any other witness want to weigh in on this?

I have just wondered from the beginning, and I even mentioned it at the last hearing, why we wouldn't turn to the Department of Housing and Urban Development, that has a network in place already to deliver assistance.

I wonder why we would create a new program in the Treasury to distribute rental assistance through a network of guarantees that are yet to be put in place. If we were going to start giving out free petroleum, I think the place to start would be through existing gas stations.

And I see my time has expired. I yield back. Thank you, Madam Chairwoman.

Chairwoman WATERS. Thank you very much.

The gentleman from Missouri, Mr. Cleaver, who is also the Chair of our Subcommittee on Housing, Community Development, and Insurance, is now recognized for 5 minutes.

Mr. CLEAVER. First of all, thank you, Madam Chairwoman, for introducing this legislation that is so desperately needed.

And, Mr. Morris, in your statement, there is a part in there that I think everybody should make sure that they focus on, where you say something like, all around the country tenants and landlords are experiencing widespread delays in processing the rental assistance application. And you go on and you talk about the number of people in Philadelphia whose applications have not been processed and so forth. Do you remember that statement?

Mr. MORRIS. Yes.

Mr. CLEAVER. Okay. The reason I want to focus on that is I think what you are suggesting, and very strongly, I think, and it fits in with what we are doing here, that we have to reduce the delays, all of the barriers. And one of them, I think that my experience is that the cities are trying to get the money out the door, but you have to make sure that the grantees and their partners are able to complete the application process, and sometimes that is a challenge.

I think, and you may or may not agree, that anything that we can do to help get the money out the door, including, in some instances, for example, maybe getting the Hispanic Chamber, the Black Chamber, and the Asian Chamber all working to help interpret the application process for people.

Here in Kansas City, we have run into people who say, "I don't know what"—"I didn't understand that. I don't know how to do this." Or in one case, one of my staffers and I had a huge meeting, and somebody said, "I didn't apply because I didn't know I was supposed to apply, or I thought somebody else would apply."

Shouldn't we do everything possible to make sure that—I think you are at 55,000 more. I don't know the exact number of unprocessed applications. Do you think that there are some things that we should include in this legislation, that I think are absolutely a necessity if we are going to get this program running at the optimum level? What do you think, sir?

Mr. MORRIS. There are a few things that I would say. At least in the context of Philadelphia, we have already spent 85 percent of our ERAP funding over several allocations. So, there is the need for more money to flow into the City to address those applications that are still yet to be processed, and that is a significant financial constraint that the program is going to face.

In addition to that, making the program more flexible through self-attestation, which we have already talked about. I believe the first version of rental assistance required income to be verified through the Department of Labor on a Federal level, which created significant delays, so a lot of that money was not spent in a meaningful way, so to the extent that we can eliminate those barriers and that additional paperwork and create additional sites and points for people to interact with the program.

Outreach is going to be very critical in this process, and the best way to reach people is in their communities, and that might require that programs invest in having someone go out to apartment complexes and inform them that there is a process available to you to apply. It might involve putting mailers—digital mailers in everyone's inbox, because most landlords use portals to communicate with their tenants at this point in time.

So, there is a lot that can be done in terms of outreach, and there should be a kind of a no-wrong-door policy. If someone shows up to apply, they should be assisted. And documents are harder to get at this point in time, because a lot of the Federal agencies—the Department of Health and Human Services, Social Security, all of those agencies are now remote. So getting paperwork is a significant barrier to tenants, which leads to delays on the side for landlords.

So, to the extent that we can eliminate any red tape and make it easier for both parties to apply and no one gets turned away and any lapse of information is not necessarily held against the tenant or a landlord, that is the best way to go forward, and make the program easier to use and not harder.

Mr. CLEAVER. Thank you very much. Very quickly, it is in the language of our legislation—not this legislation but the overall legislation—that municipalities can eliminate some of the normal requirements in order to get this out quickly.

Many cities, including my own, I think—you can't expect the head of a department to do something and later be criticized for it—end up saying, okay, we need a 60-day period for a response to an RFP or something.

There has to be a way that we get the word to all of the municipalities. Maybe the mayors could be the ones who actually sign for the participation of this program so they can understand that the regular processes are relaxed in order to get the money out quickly. Is that—

Chairwoman WATERS. Thank you so very much. Thank you, Mr. Cleaver. Your time has expired.

Mr. CLEAVER. Thank you, Madam Chairwoman. You get a 13 from my perspective. Mr. Green didn't go high enough. It is a 13.

Chairwoman WATERS. Thank you so very much.

Mr. Huizenga, you are now recognized for 5 minutes.

Mr. HUIZENGA. Thank you, Madam Chairwoman.

And I appreciate my friend, Mr. Cleaver, getting into some substance of these bills. And I do want to commend the Chair for attempting to deal with some issues that we have some mutual concerns about, and I want to start off with what I think are some unified views of some of the problems.

We all agree that in 2020, when Congress appropriated this money for the ERA 1, it was to eliminate rental arrears accumulated by COVID-impacted low-income households. And then there is, of course, the additional \$21.55 billion in ERA 2 in March of 2021.

I think we actually all pretty much agree as well that there was a failure to get money out the door that not only put renters at risk of eviction, but it also hurt mom-and-pop landlords, who are more likely to own and operate affordable rental units.

The other thing I think that is pretty unifying is that Treasury—we all understand Treasury has failed to responsibly administer more than \$46 billion of Congress-appointed funds and to eliminate these arrears. That is why we are sort of in this spot.

Here is where maybe we diverge and we don't agree as much. Many of us view that the changes made in this program by the Biden Administration actually may have punished landlords and, frankly, scared many of them out of the program. Many of us also believe that Secretary Yellen has failed to take responsibility for the program's failures and shortcomings, disregarding requests to have opportunities to have these questions addressed to her by this committee and by others and by allowing her to bypass the statutory obligations to testify.

And, frankly, many of us believe that, instead of fixing the program, the proposed changes would create even more bureaucracy, add new burdens, and will scare off more landlords, steer funds away from COVID-impacted low-income households, and remove protections to combat fraud.

Now, I understand that there is a real need that we all have to deal with this, and I will take the Chair's request to say that we need to legislate. I will note that I can see if the Trump Administration had so badly bungled this program, there would be a natural desire of my friends on the other side to hold them accountable, and that is what we are here trying to do with the Biden Administration.

So, let's talk a little bit about the bills themselves. And, again, I commend the Chair for addressing specifically the ability of landlords to go and get some remuneration when their tenants won't sign off. Now, here is the key: Some remuneration. And in my view, I believe this has been a legal taking. The takings clause, the takings concept is, you forced me to do something that legally I didn't have to do, but you forced me to do it, so therefore, you need to owe me and you owe me the obligation of what I legally own.

In the Chair's particular bill, it requires landlords who submit applications without a signature of a tenant to accept any amount awarded to them as satisfaction of the entirety of the back rent that is owed back to March 2020.

It requires landlords who accept assistance, including arrearages, without renter consent to agree to an individual 4-month eviction moratorium for that tenant beginning upon the date the assistance is received, so an additional 4 months.

It binds landlords who do not accept assistance without renter consent to comply with, "any conditions," imposed by the Secretary to ensure that renters, "remain stably housed," with no end date for such conditions. It requires grantees to prioritize applications of tenants over those of landlords submitting with no-signature applications.

It requires landlords who receive assistance to, "set aside and vacate any past eviction order from an assisted tenant," and to, "agree to seal any eviction filing, meaning it never happened." We can't acknowledge that.

It removes accountability in protections that exist to combat fraud. It prohibits grantees from requiring applicants to submit proof of a written lease. It removes the tenant income verification

by a landlord. We could go on and on. And, again, while I commend the other side for realizing we have an issue, it seems to me these handcuffs really are not going to get to that final goal and objective.

Chairwoman WATERS. Thank you. Mr. Huizenga, your time has expired. Thank you so very much.

The gentleman from Illinois, Mr. Foster, is now recognized for 5 minutes.

Mr. FOSTER. Am I audible and visible here?

Chairwoman WATERS. Mr. Foster, we can hear you.

Mr. FOSTER. Thank you.

Mr. Morris, I was glad to learn that Philadelphia is proudly one of the cities that has legislated a right to counsel for tenants facing evictions. This is obviously monumental in a city where over 90 percent of tenants facing evictions were legally unrepresented, compared to 81 percent of landlords who typically have attorneys.

So, although the pandemic has cast an unforeseeable and incomparable skew on the success of such a program, I imagine that ensuring legal representation for tenants facing evictions would greatly reduce the level of unjust evictions or evictions in general.

So, Mr. Morris, can you speak about the extreme importance of having legal representation in eviction cases? And more broadly, could you explain why organizations like Community Legal Services, Inc., or the Legal Services Corporation nationally, are vital to protecting marginalized people, especially during times like this?

Mr. MORRIS. Thank you for that question, and I would be happy to. I think it is critical, especially now in the context of the COVID-19 pandemic, that tenants be informed of their rights and protections that exist in any sort of eviction case.

Evictions have long-term consequences for tenants beyond just being displaced. If you displace a family, you displace a child out of school, you potentially displace an adult out of work, and you can pack a family in poverty for generations to come, because the cost of a forced move is both what you owe to the landlord that is evicting you, the cost of relocation and the cost of finding new housing, and any collateral consequences that come from being displaced in that period.

To the extent that a tenant can be informed and given the ability to self-advocate just as a bare minimum, to know that you have rights as it relates to funds that have been received on your behalf, your landlord has been paid and made whole and you are allowed to stay, that is critical information that tenants otherwise often don't know unless they are connected with legal services or other representation.

Sometimes, there are city protections or ordinances that come into play that require landlords to meet certain standards of housing, just like minimum housing standards that tenants have to live in and then pay rent. If those standards are not being met, then the landlords should not be able to use the court to both collect rent and evict a tenant out of those types of housing units.

And with the affordable housing crisis that is going on in the United States, it is critical now more than ever that tenants are equally as informed or have access to representation, because a courtroom is a traumatic place. You enter a courtroom where you

know that you owe someone a debt. Your perspective is, I don't have the ability to pay this money, but I also have nowhere to go with me, my children, and everyone else in my household on a normal day, and then you add the pandemic to that and that is significantly more of a pressing issue.

And as has been shown, and as I put in my testimony, the majority of people facing evictions in the City of Philadelphia are single parents, most predominantly Black and Brown females who are already living in poverty, and the poverty is exacerbated by the loss of income. They are more likely to work in industries where there is sporadic unemployment or these industries have been directly impacted by the pandemic. They are forced to be frontline workers or workers who are at a greater risk just by health morbidities for getting COVID-19 and taking that into their household where they may have vulnerable family members.

So the goal is always to empower tenants to be able to make decisions, and to the extent that we can balance the playing field and create greater flexibility for those tenants, that is always the goal. No one knows more than an individual who is—

Mr. FOSTER. Yes, excuse me. So, you would consider that adequate funding for Legal Services Corporation for the explicit purpose of assisting tenants during this sort of situation is really an essential element for ensuring fair housing infrastructure?

Mr. MORRIS. It is essential, and it is highly critical for the continued success of the rental assistance program, because someone has to be there to assist tenants in holding landlords accountable, not from the perspective of making sure that landlords can't use the court system, but making sure that they comply with any requirements that have been put in place that protect tenants and allow them to remain housed in the long-term.

Mr. FOSTER. Yes. And do you think that having an expectation of legal representation on both sides of an eviction dispute is likely also to be a useful gate in preventing fraud, just that you have a lawyer who has his law license on the line if he aids and abets fraud? Are we likely to get a lot of the fraud concerns addressed that way as well?

Mr. MORRIS. I believe you will get a lot of the fraud concerns addressed that way, and you will avoid a tenant feeling unsure or unsafe about trying to communicate with their landlord with the threat of a large balance hanging over their head if they have an advocate that can stand with them and ensure their legal protection.

Mr. FOSTER. Thank you.

Chairwoman WATERS. Thank you very much, Mr. Foster. Your time has expired.

The gentleman from Kentucky, Mr. Barr, is now recognized for 5 minutes.

Mr. BARR. Thank you, Madam Chairwoman.

And I would like to echo the sentiments of Ranking Member McHenry and some of my other colleagues that I am troubled that Secretary Yellen is not here to testify on this program. The Majority invited Secretary Fudge to testify before the committee almost 2 months ago, which was somewhat informative but gravely insufficient for the gravity of the situation.

Here we are today with another hearing on the same topic to discuss why less than 11 percent of the funds appropriated by Congress almost a year ago have been used to support renters and landlords, yet the responsible party remains absent from our witness lineup.

Congress directed Treasury to be the primary steward of these funds and to operate the program in such a way that it is just struggling renters and landlords. Yet, despite her direct responsibility for this bungled operation, Secretary Yellen has not testified before this committee, and the Majority has not even invited her to do so.

While I am sure our witnesses today will be able to provide some helpful insight, we do need answers from the ultimate decision-maker and the party responsible for this total mess, and that is Secretary Yellen.

Another preliminary comment, and this is maybe a different take from my colleagues on both my side of the aisle and on the other side of the aisle, yes, we need to expedite the emergency assistance. That is why Congress passed it. But I hear a lot of talk in today's hearing about landlords, about tenants, and they have very important interests. But there is someone that nobody has been talking about here in this hearing, and that is the hardworking taxpayer and the taxpayers' sons and daughters and granddaughters and grandsons who are incurring mountains of debt with this exploding welfare state.

And I think what we are really talking about and hearing about today is not just the incompetence of the Biden Administration itself, but this program proves that big government welfare programs are ineffective and they are a recipe for waste, fraud, and abuse. The breathtaking incompetence that we see here and the waste and the delays and the open invitation for fraud is a direct indictment of expansion of the Federal welfare bureaucracy.

Now, I want to ask Mr. Winn a question here. Feedback we have heard from landlords across the country, including small landlords who own only a handful of properties, suggests that the ERA programs are difficult to access because of bureaucratic red tape and preconditions that disincentivize participation.

Mr. Winn, how can we improve the ERA programs to make them more accessible for small landlords? How might the changes under the Majority's bill, which actually adds reds tape for landlords, affect participation in the program?

Mr. WINN. I believe that, as always, there is some solution in the middle. And I believe that the changes in the Majority bill by and large can help as long as we are not also adding restrictions. What I mean by that is, the bulk application processes where a landlord can say, a small landlord can say, all of my eight tenants can apply for assistance, I can submit as a landlord directly self-attestation about things like income. That will greatly cut down on the red tape.

Mr. BARR. Yes, I hear you, and I am sympathetic to bulk applications and landlord applications. But, again, I am going to return—and I want to expedite these funds. And you haven't heard this today from any Members on either side of the aisle, but I am con-

cerned about the taxpayer. This self-attestation idea concerns me a lot.

The taxpayer is—we are talking about nearly \$50 billion, and we are going to just allow landlords and tenants to just self-attest without any documentation of income or job? We have 10.5 million unfilled job openings in America, and the reason is that we are paying people to not work.

We can't just continue to ask the taxpayers to subsidize people to live on the taxpayers' dime. Why can't we have just simple documentation, allow landlords to apply for tenants, have sole protections for taxpayers who are getting fleeced?

Mr. WINN. I would say, one of the aspects of the original bill is also audits that are allowed at the State or administrative level. So to your point of fraud, I think that if people are committing fraud, those audits hopefully will catch that.

Mr. BARR. Let me just say, in conclusion, that the solution to the Biden Administration's incompetence is not to dishonor taxpayers by making waste, fraud, and abuse in this program even easier. Taxpayers need to have confidence that the renters who can afford rent are not just taking advantage of this program, reducing funds available for those who actually are eligible and who actually are experiencing housing instability. And I think some of these reforms in the chairwoman's bill make fraud not just likely but guaranteed.

And, with that, I yield back.

Chairwoman WATERS. Thank you very much. Paying these landlords is not waste, it is not fraud, and it is not abuse.

I will now call on Mr. Casten, the gentleman from Illinois, who is now recognized for 5 minutes.

Mr. CASTEN. Thank you, Madam Chairwoman.

And thank you to our witnesses. I have learned a ton through this hearing, and I appreciate you all taking the time to do this.

Some of my questions are COVID-specific, and some of them are about sort of the broader sort of landlord-tenant issues that are going on. And, Mr. Winn, I would like to start with you, if I could. If I have heard you right, you said you have \$37 million in accounts receivable delinquency in your books?

Mr. WINN. [Nonverbal response.]

Mr. CASTEN. I see you nodding, okay. I will take that as a yes. Help me understand, how much did that increase during COVID? How much were you carrying 18 months ago compared to the \$37 million now?

Mr. WINN. That is a good question. It has fluctuated. The \$37 million that goes across our entire portfolio, including our clients, has fluctuated. It is definitely higher post-COVID than it was pre-COVID. We have seen statistically about a 5-percent drop in rental receipts because of COVID, and on a portfolio of 100,000 apartments, that can add up pretty quickly.

One of the interesting things to note is that the average balance of a tenant in our portfolio is \$1,400 of delinquency, which is interesting because it is a fairly low number, but that is also because of the affordable nature of our portfolio. I would imagine if someone's portfolio was skewed to the market, that probably doubles to about \$3,000.

Mr. CASTEN. I seem to be frozen. Can you all hear me still?

Chairwoman WATERS. We can hear you now.

Mr. CASTEN. Can you all still hear me?

Chairwoman WATERS. Mr. Casten, you are on.

Mr. CASTEN. Sorry. We were frozen there for a second.

Can you estimate—are we talking about a 5-percent increase? A 10-percent increase? How much has it gone up during COVID, just a quick answer, if you could?

Mr. SCHWARTZ. Yes. And I can answer too from our portfolio's experience, but one thing I would say is our delinquency is about 3 times as high during COVID as it was before.

Mr. CASTEN. Okay. Since you picked up, Mr. Schwartz, and I apologize for my IT issues here, how much of that are you carrying on your books? When you borrow, you have this asset on your books for whatever that receivable is. How much is either your bank or your auditor—how much are they typically writing that down? Are you carrying 80 cents on the dollar, 50 cents on the dollar? How much are they writing off?

Mr. SCHWARTZ. We have the job, our accounting department, of how much do we write off. We are being optimistic that we won't have to write much of it off because of emergency rental assistance, and so we are reluctant to write off that right now. But if we don't get the assistance, we will have to write that off.

Mr. CASTEN. Okay. Ms. Yentel, then, speaking broadly, beyond COVID, particularly for low- and moderate-income tenants, let's say they get behind, they miss a payment, they have lost their job and then they get it back, how often are they able to become current, and how often are those tenants just sort of carrying that debt sort of in perpetuity even though they are staying current on their rent?

Ms. YENTEL. Right. It is a really good, important question, because many of the tenants who are behind on rent are very low or extremely low income. They worked before the pandemic, during the pandemic, and will be working after the pandemic. They are many of the frontline workers who initially lost their jobs or lost hours of work. They lost wages. They fell behind on rent.

Even as they are employed now, it is difficult even pre-pandemic. Many of them work at the lowest-wage jobs. They are not able to make rent. They are certainly not able to pay back arrears that are owed without assistance.

Many tenants during the pandemic made a lot of really difficult tradeoffs. They borrowed money. They paid rent on their credit cards. They stopped buying store-bought food, which is why we saw such an increase in food pantries.

Mr. CASTEN. I am sorry to interrupt, but I want to get just two more questions in.

Either Ms. Yentel or Mr. Morris, just quickly, can you comment on what impact does that have on their credit score? If they are carrying this rent that they can't pay even though they are staying current going forward, is that a permanent hit on their credit score when they first prepay utilities, and what does that mean practically?

Ms. YENTEL. Yes. Yes, there are all kinds of harmful impacts that come both from carrying debt and having poor credit scores. It makes it more difficult for them to get loans that they might

need in the future. They use credit cards again to pay for things that they don't have the cash for. And evictions as well are—a single eviction filing on a tenant's record stays with them for years and harms their ability to get affordable housing in the future.

Mr. CASTEN. I am out of time, but as you can just tell, and I would welcome all of you to follow up, I am trying to make this connection, and I don't know what this is, but for all of you on both sides of this, if the landlords are carrying bad debt that is affecting their ability to get credit, and the tenants are carrying credit scores that are affecting their ability to get credit, how do we bridge that gap from a policy perspective?

Thank you very much. I yield back.

Chairwoman WATERS. Thank you very much.

The gentleman from Texas, Mr. Williams, is now recognized for 5 minutes.

Mr. WILLIAMS OF TEXAS. Thank you, Madam Chairwoman.

I want to thank all of you for coming here today and answering all of these questions. And I can tell you that every landlord I talk to about this pot of money has been frustrated with how slowly it has been getting to people in need. As much as we need to ensure that renters are taken care of, we cannot forget the landlords. They have financial obligations to handle as well. This money could be a lifeline, but so far it has failed to live up to what it was supposed to do.

So, Mr. Schwartz, could you talk—and you have done so well today—about some of the hardships that your member companies faced as a result of this eviction moratorium?

Mr. SCHWARTZ. Sure. And one thing I would just point out is that Texas is a model State for distributing—

Mr. WILLIAMS OF TEXAS. Yes, I am going to talk about that here shortly.

Mr. SCHWARTZ. Okay. Good. Yes, the moratorium has created a lot of problems in our industry. One problem I would point out is it is a contributor to rent inflation. Someone suggested there could be 1 million units out in the country that are non-rent paying. That has been taken out of the supply when demand is surging. Economics 101 says you are going to get big price increases, and that is an unintended consequence of the moratoriums.

They have caused landlords to have an inability to pay all of their bills or to have to cut back on maintenance and keeping up their properties. It has been a very challenging environment, when you have residents who haven't paid in 18 months.

And there is some confusion with moratoriums. The residents, in some cases, think it is a rent holiday, and so they choose to spend their money elsewhere rather than pay their rent.

And so this bill, we think, is important if the effect of the bill is emergency rental assistance in the hands of people who have arrearages and want to stay in the community so they can continue to pay rent. But the moratoriums ultimately causes housing instability and creates massive debt on behalf of the residents and problems with the landlord.

Mr. WILLIAMS OF TEXAS. Okay. Thank you. I am also concerned that all of the government interference into mom-and-pop landlords during the pandemic will lead to a greater consolidation within the

industry. Most landlords that I talk to are not massive corporations, and do not have access to huge lines of credit when things get tough, but only have a few apartment units they are able to maintain and rent out to the public. So when these people stop receiving rent payments, and with the Federal assistance stuck in bureaucratic limbo, many will not have any other option but to sell their properties.

Mr. Winn, how will the speed of these funds getting out the door help prevent industry consolidation and ensure that mom-and-pop landlords can once again thrive with their property?

Mr. WINN. I think it is a great point and a real concern. And nobody wants to see ma-and-pa landlords go under because of bureaucracy or because of process. So I really do think, as you have said, the answer is in your question, which is the sooner we can get the money to those who need it, the better. And I think the bills that are being discussed do a good job of that. But they do not do a perfect job of that.

And one of the things that we need to figure out is how to incent those small landlords to actually use this program, not to layer on restrictions that are burdensome to them, such as making sure that they would forgive rents or partially forgive rent that isn't covered by the rental assistance funding. I think that would disincent small landlords, and that might have the effect that you are discussing.

Mr. WILLIAMS OF TEXAS. Thank you.

I have limited time here. Mr. Schwartz, I will keep this one simple. What is my great State of Texas doing right that other States around the country should mimic and copy?

Mr. SCHWARTZ. I have this information from my team on the ground in Texas. You are using a software called Neighborly Software, which is a best in class, and so I would advise the committee to follow some best-in-class best practices. It is a user-friendly platform. It can bulk load applications, so landlords who have a large number of units can bulk load it. It has great technical support, and you can actually get someone on the phone there pretty much anytime, so they have been great to work with. And it has real-time tracking of the status of the payment, so you can see what has been paid and what hasn't real-time.

Mr. WILLIAMS OF TEXAS. Thank you, and God bless Texas. And I yield back, Madam Chairwoman.

Chairwoman WATERS. Thank you very much.

The gentlewoman from Iowa, Mrs. Axne, is now recognized for 5 minutes.

Mrs. AXNE. Thank you, Madam Chairwoman. And thank you to our witnesses for being here.

I want to start with a little bit of background for our witnesses. We have a couple of main rental assistance programs here in Iowa, and there is a local program that has been doing a really good job. It has Polk County and the City of Des Moines working together on it, and they have actually allocated all of the funds from the first round. But, at the same time, Iowa's State program has not done very well with getting out this aid, and as a matter of fact, has used less than 6 percent of the money.

I see a lot of this coming down to just the choices that are being made as to how the program is being limited, including things like the State did, which was refusing to allow tenants to apply for 3 months of forward rent that is clearly allowed under the rules.

So, Ms. Yentel or Mr. Morris, can you share a little bit of what you have seen that really separates the programs that have done better with this from the ones that haven't?

Ms. YENTEL. Sure, I would be glad to. Thanks for the question. And I couldn't agree with you more that the fact that some programs are doing so well in sending ERA quickly and getting the money to the tenants who need it most is proof that it is possible to do it, and we should look to those programs to learn what is working there and implement it across other programs as well.

And what successful programs are doing is having simple, accessible applications. They are using self-attestation for eligibility wherever possible. They are hiring the number of staff that they need to handle the deluge of applications that they are receiving. They are using direct-to-tenant assistance when landlords refuse to participate. They are doing robust and equitable outreach to make sure that tenants and landlords know these resources are available and how to access them.

And programs like the example of Texas is a good one. Some programs are course correcting. They are recognizing that they got off to a bad start, or something is not working well, and they are improving their programs as they go. Those are the signs of successful programs in ERA.

Mrs. AXNE. Well, I very much appreciate that.

Mr. Morris, let me ask you then, if we have a State Government that isn't inclined to get the aid out to the renters who need it, do you think that the changes that we are talking about here today are going to be sufficient to help get the funding into those people's hands, or do you think both renters and landlords in Iowa would be better served by a group that is willing to really help them?

Mr. MORRIS. I can't speak directly to the existence of a government that is not willing to help tenants and landlords who are struggling in this process. But I do think what bears saying is that all of these States have existing networks to help vulnerable households, and there is no reason why we should be reinventing the wheel and not using those networks. As you mentioned, they are systems that are set up to help vulnerable populations access resources and they should be the ones that State Governments consult at the frontline to set up programs.

And there should not be an opportunity for States to create additional barriers or different rules for programs that make it harder for renters and landlords to participate. If a Federal law says something is allowable, it should be allowed. The legislation should probably say 3 months of forward rent, "should be paid," not, "can be paid." Just any additional flexibility to make renters and landlords access funds is welcome.

Mrs. AXNE. Absolutely. I appreciate that.

Mr. WINN. I just want to say—

Mrs. AXNE. What is that?

Mr. WINN. I totally agree with what Kadeem just said. I think that was a great point that we have encountered as well.

Mrs. AXNE. I appreciate that.

Let me shift a little bit here to ERA 2. Iowa has already said that they are not intending to apply for the funds, despite the fact that we continue to see renters evicted and landlords without unpaid rent, as, of course, I have mentioned, only about 6 percent of the funding has gone out.

Both landlords and tenants lose when this rental assistance is not delivered.

Mr. Schwartz, I am wondering, with the second round being available to help both renters and landlords for an additional 3 years, what are your thoughts on how it is going to affect landlords by turning this down?

Mr. SCHWARTZ. The reason landlords are turning that down is that it doesn't prioritize arrearages, and we think that is an important fix in this bill, and the McHenry bill takes a look at that.

Arrearages are so important because the resident would like that arrearage cleaned up. Even if they are not living there anymore, they still hold that debt, and the landlord is still pursuing collection. It could impact that resident's credit, and the landlord still has their bills to pay and needs that money to keep going. So we think that is really important, and we hope that the committee can fix that. It is an important fix.

Mrs. AXNE. Thank you. My time has expired.

Chairwoman WATERS. Thank you very much.

The gentleman from Arkansas, Mr. Hill, is now recognized for 5 minutes.

Mr. HILL. Thank you, Madam Chairwoman. I appreciate you and Ranking Member McHenry, even though you are not quite on the same page—this issue is important, and it has just dragged on for too long, which is why I was proud to support Mr. McHenry's bill to advance this funding, simplify it, and get it out. Because that is the main issue here, that we help the people who are in arrears on their rent.

That is what Congress wanted to do last December. If you are in arrears due to losing your job, or a terrible impact from COVID-19, that is what we are trying to do with these bills.

All of this other stuff, forward rent or whatever, is not the core mission. The core mission is to help those families, starting last April, who were brutalized in the economic collapse of shutting this economy down, and haven't gotten back on their feet.

And so it is frustrating, not only to tenants and landlords, but it is frustrating to Members of Congress that here we are, in September, and we are still talking about how this could be a better program and help the people that we intended to help last December.

I heard some discussion that was very interesting to me, and I would like to try to get a little bit of data. I know it will be anecdotal, I know it will be dealing with Mr. Schwartz and Mr. Winn's testimony. But you have raised something that, in meeting with my mom-and-pop landlords here in Arkansas, I have certainly picked up on, which is, someone is impacted by COVID-19 and is in arrears—April, May, June, July, last year—they haven't gotten the benefit of this rental assistance, and they moved, they left.

And, so, both of you referenced an interesting concept, which is, of the rent in arrears that you have talked about, and Mr. Winn cited \$37 million, how much of that is in a unit that is connected to a tenant who left months ago? Mr. Winn?

Mr. WINN. A significant portion, and I don't have the exact number in front of me, but it is very significant. In fact, you can make a connection between the uncommunicative residents, the ones that we have not been able to reach, with the ones who are more likely to leave, because they don't believe that the system will help them, or they don't believe that the program is for them, but they do know that their balances are accumulating.

So I do think that there is that connection, and that there is significant nationwide back rent owed for vacated apartments for folks who don't believe they have a way out.

Mr. HILL. Yes, and that makes this even more complicated.

Mr. Schwartz, let me hear you on that issue, if I could, please?

Mr. SCHWARTZ. Yes. I don't have the exact number. Our total 30 days or greater past due is \$8.5 million in our portfolio. I don't know what percent of that is past due for someone who doesn't live there. I would say, I don't think it is significant. I think it is 10 to 20 percent, and that is a guess, but it is a meaningful amount.

Mr. HILL. But I think it is a key point here, that there is no tenant to fill out paperwork. The tenants walked out on the lease and left. And so, that is a whole other complex and we are not, per se, suggesting they be gone after, but we suggest that we be able to process that money and get that vacant unit paid off, and make that less of a problem here.

So, I hope that we will put some priority on that as we talk through these issues. I thought that one was an important one to highlight today, Madam Chairwoman.

Also, Mr. Winn, you have talked about—you described some of the speeding provisions, like bulk applications, and informed consent, that are in Madam Chairwoman's bill were helpful, but that they are not as helpful because then we extend this eviction moratorium.

So, you are arguing, Mr. Winn—and I will get you to respond too, Mr. Schwartz—that these are useful items to help speed up the McHenry effort of getting this money out, but it is a contradiction to extend that eviction moratorium. Is that your view, Mr. Winn?

Mr. WINN. I would say, yes, I think there should be a middle ground. I believe as you mentioned, there are provisions in the bill that are both necessary and will be very effective. I do think they are burdened by more restrictions that will have the unintended consequences of having landlords not wish to participate—

Mr. HILL. Okay. Mr. Schwartz, can you give a quick response?

Mr. SCHWARTZ. Yes. There are two things in the bill that could cause landlords not to participate. The first one is an 120-day eviction moratorium if you accept the ERAP funds, and the second is the cancellation of debt if you accept ERAP funds, even in the ERAP funds don't pay all of the debt. We think that will impact landlord participation.

Mr. HILL. I really appreciate those candid short responses.

Madam Chairwoman, thanks, and I yield back to you.

Chairwoman WATERS. Thank you very much. The gentlewoman from Massachusetts, Ms. Pressley, is now recognized for 5 minutes.

Ms. PRESSLEY. Thank you, Madam Chairwoman. I know firsthand the fear and the trauma that comes with an eviction notice on your door. Evictions are disruptive and violent. These are violent events which destabilize families, but make it more expensive and challenging to rent safe housing in the future, to apply for credit, to borrow money, or to purchase a home.

Currently, almost a third of Black renters are at risk of eviction. This eviction crises is exacerbating economic injustice for Black families across America.

Ms. Yentel, while there is a clear economic-justice case to support eviction moratoriums, wasn't the legal justification of the CDC eviction moratorium always to help us get COVID-19 under control?

Ms. YENTEL. Yes, absolutely. The purpose of the CDC Federal eviction moratorium was to slow the spread of COVID-19 and contain the virus. And research has since shown that expired eviction moratoriums led to as many as 400,000 cases of COVID-19, and as many as 11,000 deaths.

Ms. PRESSLEY. That's right. So when I say eviction is policy violence, that is not just some catchy turn of phrase. We know that when 27 States lifted their eviction moratoriums during the pandemic, again, it led to some 433,000 preventable cases of COVID-19, and 10,700 preventable COVID-19 deaths. This policy failure has ended the lives of more than 10,000 Americans.

Now, earlier this summer, before its expiration, some Democrats, including our chairwoman, Maxine Waters, and I, fought hard to explore every option to extend the eviction moratorium including passing legislation.

Now, while we were successful in securing a targeted CDC extension for a month, at the time there were not enough Members of Congress who were willing to vote yes to help pass this common-sense legislation to prevent a public health crisis within a public health crisis.

Somewhere along the line, the conversation about the eviction moratorium shifted from it being a reasonable public health measure into an argument that Congress was anti-small landlord. That is not it.

This is about saving people's lives. That was a ploy to divide and pit working families against working families. Every proposal before Congress has provided relief for renters and small landlords alike.

Then, I discovered that the National Association of REALTORS was the largest political action committee (PAC) donor to candidates in the last election cycle, and suddenly, that shift made sense.

The fight to extend the Federal eviction moratorium has been derailed too many times because the single largest PAC donor is the organization who was fighting, from Congress to the Supreme Court, to ensure that renters are put last, which means they are putting the public health last.

So, let me be clear. Our advocacy is about saving lives. Congress has provided \$46 billion to get landlords out of debt, and now we need to protect renters too. Renters may not have a multimillion

dollar PAC behind them, but they have a growing number of Members of Congress in their corner.

Ms. Yentel, yesterday, Dr. Fauci said that COVID-19 rates are 10 times too high to consider the spread under control. Do you think that the Federal housing agencies are doing everything in their power to get COVID-19 under control by protecting renters from eviction?

Ms. YENTEL. I think they can and should do more, and Congress should as well. Clearly, Congress should implement a Federal eviction moratorium, as long as the Delta variant is surging and people are dying.

But as you said, Congress doesn't have the votes to do so, and so Federal agencies should act. We have urged HUD to implement an eviction moratorium for all federally-subsidized properties, which we believe they have the legal authority to do now, and we have urged the Federal Housing Finance Agency (FHFA) to consider what authorities it might have to similarly implement an eviction moratorium on federally-backed properties. Those two actions could protect about 30 percent of renters nationally.

Ms. PRESSLEY. Thank you. And we know there are an estimated 750,000 renters who could be evicted in the next few months. This is an all-hands-on-deck moment. This is a public health emergency. I urge every level of government to take urgent action to keep people safely housed. And I yield back.

Chairwoman WATERS. Thank you very much. The gentlelady yields back.

Mr. Kustoff is now recognized for 5 minutes.

Mr. KUSTOFF. Thank you, Madam Chairwoman. Thank you for calling the hearing today. And thank you to the witnesses for appearing. I think one thing we have heard is that we are all frustrated by the lack of funds that have been distributed by the Federal Government, and I think many of us have concerns that we have not heard from Secretary Yellen about the process and that she should be here.

But with that said, Mr. Winn, can you talk about the practical effects, if you will, of the problem of getting in touch with past tenants who have already moved out and have outstanding payments? Practically, are you able to get their consent, and how would you go about doing this?

Mr. WINN. Yes. As I alluded to earlier, this has been a real challenge for us. And I made a point of describing all of our outreach efforts, at local levels, State levels, and Federal levels, working with churches, and community organizations.

And yet, we still have been unable to reach about half of the tenant population, despite having filled out the applications, and knocking on doors. As I alluded to, there are many reasons that a tenant may not feel comfortable signing that document.

And this is not meant to demonize any tenants. In fact, it is meant to recognize that that problem exists, and to make sure that landlords can apply with informed consent on behalf of those tenants, or else I just simply believe the money will not get out there. It will not get to those tenants. Those balances will chase those tenants to the next place they live on their credit report. It is bad for everybody.

I don't think we could have done anything more than we have done, and I still think that we are only 50 percent successful. I worry about the smaller landlords without our resources. They would have been less successful.

Mr. KUSTOFF. I think you answered this, but I am going to ask it in a different way. Prior to the pandemic, prior to 18 months ago, and I rightly applaud everybody who tried to work with people, because there was no playbook, there was no historical guide on how to deal and how to navigate through this.

But with the tenants' outstanding balance during the pandemic, what would that balance be where, essentially, they would pass the point of no return? In other words, they couldn't pay back a past balance and have to work on evictions?

Mr. WINN. I'm sorry. You were breaking up a little. Can you say the last part of that question again?

Mr. KUSTOFF. Sure. I was talking about, prior to the pandemic, what level of back rent would you say was past the point of no return, that the tenant would be unable to pay back, and you would have to begin eviction proceedings?

Mr. WINN. Yes. I would say from a statistical point of view, generally speaking, we, as a developer and as an owner, would underwrite 1 percent to 2 percent of bad debt as an allowance. We look at the entire rental. You might have an allowance for 1 or 2 percent. That number has increased significantly because of COVID. And one of the things that I think everybody on this call is worried about is that it is mounting. It is not getting smaller. There continue to be folks who suffer job losses, and have largely not rebounded because the COVID epidemic is still with us.

Mr. KUSTOFF. Thank you, Mr. Winn.

Mr. Schwartz, I think that Mr. Hill was asking you about the Expediting Assistance for Renters and Landlords Act, the 4-month eviction moratorium. Can you talk about, again, the practical effects of the proposal in general, what is good, and what is bad, following on your testimony?

Mr. SCHWARTZ. Yes. The best eviction mitigation tool is the ERAP funds getting in the hands of the landlords. If you tie that to an 120-day eviction moratorium, what is going to happen is the landlords have shouldered the burden of this pandemic over the past 18 months, and have large rental balances due to them. And now that that is gone, at least the Federal moratorium, and they are told you have to sign up for a new moratorium if you accept the emergency rental assistance, there is going to be a lot of reluctance, and I think you are going to kind of do the opposite of what the bill is intending to do. You are going to contract the number of landlords who want to participate in the program by including that in the bill, and that is our concern.

Mr. KUSTOFF. Thank you, Mr. Schwartz.

My time has expired. I yield back.

Chairwoman WATERS. Mr. Lynch is now recognized for 5 minutes.

Mr. LYNCH. Thank you, Madam Chairwoman. Thank you very much. First of all, thank you, Madam Chairwoman, and I appreciate all of your efforts to get this money out. We are facing some difficulty here, but I do support your solution.

I actually know Mr. Winn personally. He is a friend of mine. I actually worked with his dad back in the day, developing a lot of the affordable housing in my district, and I want to just say a couple of things about the WinnCompanies before I ask my question.

Number one, when this pandemic first hit, and there was great, great anxiety out there, as there is now, the WinnCompanies came out right away and they did two things. Before Congress could act and before the CDC could act, the WinnCompanies came out and they announced to their tenants—well, first of all, they announced to all of their workers—in our district, we have union carpenters, union electricians, union plumbers, and union laborers who maintain the housing, and they do a great job. And the WinnCompanies came out right out of the box when COVID hit, and jobs were shutting down all over the place, and people were being asked to hunker down, and announced publicly that they would not lay off any of their workers and that they would continue to pay them to do the plumbing jobs and to maintain the properties.

So, that lowered the anxiety level among a lot of the workers.

The second thing they did—and, again, this is before the CDC moratorium—is they came out and announced to the tenants that they would not evict anybody for nonpayment of rent, and they have thousands of units.

And that did wonders for the phone calls that I was getting in my office regarding my folks in public housing.

I know most of the members on the committee realize I grew up in public housing, lived there for almost 20 years, myself, my mom, my dad, and my five sisters. The local housing project that we grew up in is now renamed after my mom, the Anne M. Lynch Homes at Old Colony. We are very proud of that, so I am all in on public housing. Look, if we didn't have public housing, my family and I would have been homeless. I know what that fear feels like.

We had some tough times growing up. My dad used to say that we had to save up to be poor. We had real difficulty. And I am proud of my dad and my mom for pulling us out of that. They both worked really, really hard, and I realize the opportunity that public housing gave us.

So, I am going to ask you, Mr. Winn—look, you and I know that we have been trying to develop affordable housing in the City of Boston, which is a high-rent location, for years, and we have a couple that are coming up that we are making progress on, which is good, thanks to Chairwoman Waters. Thanks to Chairwoman Waters, we are finally getting back into the business of affordable housing. We have been retrenching at the Federal level for the past 20 years, and now Maxine, God bless her, has pushed a lot of initiatives to help people in public housing and to create more of it.

But what is the biggest obstacle to us? Even when we have land available, we are having difficulty developing affordable housing and workforce housing that would help the people that we work for. What are some of your thoughts on that?

Mr. WINN. Thank you, Congressman Lynch, and thank you for those kind words, and for being such a great advocate for the City of Boston and your district. Really, I think what Congress can do is to concentrate more resources on public housing.

The Low-Income Housing Tax Credit Program has been wonderful for creating new low-income housing, but there is aged infrastructure in public housing across the country, and for years it has been underfunded.

So, I want to thank the committee, and I want to thank Chairwoman Waters and Congressman Lynch and everybody else who fights for HUD resources, because people are living in substandard conditions, not because of management, but because of a lack of funding.

And so, I think if we could increase the Choice Neighborhoods funding, the HOPE VI funding, I think we are going to be better off as a community.

Mr. LYNCH. Thank you. And Mr. Winn, I just want to say that I know that you do a lot of work on military housing—Ft. Hood, Camp Lejeune, a lot of our bases. And this is probably not appropriate at this hearing, but I would love to sit down and talk to you about how we can do a better job of housing our men and women in uniform and their families.

Thank you. I yield back, Madam Chairwoman.

Chairwoman WATERS. The gentleman from Ohio, Mr. Gonzalez, is now recognized for 5 minutes.

Mr. GONZALEZ OF OHIO. Thank you, Madam Chairwoman, for holding this hearing today, and I certainly want to thank Ranking Member McHenry for all of his work on this important topic. Mr. McHenry has been talking about the importance of getting this right for months now, and he should be commended for his advocacy on behalf of renters and landlords throughout the country.

The fact of the matter is that this program has been poorly designed from the beginning, and we should take next week's scheduled markup and include Mr. McHenry's comments and his legislation to streamline Federal dollars.

We have put in a lot of programs since the pandemic has started, and I will contrast this one with the Paycheck Protection Program (PPP). When you have insatiable need, and a well-designed program, the money flows, it gets out quickly, and it gets into the economy in the right way.

That is what happened with the PPP. It wasn't perfect, but there was a big need, and the program was designed for speed, and it got out.

When you have a poorly-designed program or a lack of demand, you get this outcome, which, in Ohio, is that only 6.8 percent of our money has actually been distributed. I do believe there is demand, but it is blatantly obvious when you look at the numbers that this program is poorly designed.

And I would at least suggest we think about educating people, as more than 50 percent of renters and 40 percent of landlords are unaware of the Federal assistance. But today, we are talking about the trouble that renters and landlords have had in accessing Federal assistance, and this is all within the backdrop, of course, of the eviction moratorium which was in place until just last week.

Mr. Winn, I want to start with you. Just briefly, what has been the financial impact on landlords, and how have we seen landlords respond to the moratorium by putting in restrictions on new units

as they come available that may be a barrier to some lower-income Americans?

Mr. WINN. I think that the repercussions are significant. And I think we are, as an industry, very excited to see these changes to the ERAP program, because so many of the hardships that are currently outstanding among the landlords would be resolved through a better administration of these funds.

So, we are talking about the right thing, but if the administration of these funds is not improved significantly, then the \$37 million of owed rent in our case, the billions of dollars across the country, is literally going to be lost, because again, tenants are going to move on, landlords are going to lose their properties to foreclosure, and they will never recover.

So the effect has been significant, but there is a wait-and-see attitude to see if we can figure out this ERAP program, because that will make a huge difference.

Mr. GONZALEZ OF OHIO. Thank you. And again, Mr. Winn, in Chairwoman Waters' bill, it contains a provision which states that if a landlord receives rental assistance without the consent of the renter, even if this is payment only partially covering the renter's debts, that this payment will satisfy all monetary claims against the renter. Are you concerned that this provision specifically will deter landlords from seeking out emergency rental assistance, should that provision be enacted?

Mr. WINN. Yes, it is a subset of the provision, yes, is a requirement to write off partial balances if only partial funds are received. I do believe that is a disincentive.

And I don't know that it is necessary. I believe a bill could create other incentives to stably house folks that don't entertain these funds, that don't require write-off of past-due debts. There can be requirements to accept rental assistance program funds as an example in the future.

That might be a better way to incent landlords to do it than to say, "If you accept our money, you are writing off a 30-percent loss." I am worried how that will affect the outroll.

Mr. GONZALEZ OF OHIO. Thank you. I share that concern. And before I yield back, it just seems like we have a poorly-designed program. I think that is very obvious, given the bottlenecks, again, 6.8 percent of money distributed in my home State of Ohio. It's a very poorly-designed program, and then we have a bad idea to fix a poorly-designed program.

So, I oppose that bad idea, I support Mr. McHenry's legislation, and with that, I yield back.

Chairwoman WATERS. Don't forget, we had to correct the problems with PPP also. The big banks created their own portals and took care of their concierge clients. We had to put more money in it to straighten it out. It was not a perfect program. We made it work, as we are going to make this work.

Mr. GONZALEZ OF OHIO. That is what I said. I did say it wasn't perfect, but the money got out.

Chairwoman WATERS. Ms. Dean is now recognized for 5 minutes.

Ms. DEAN. Thank you, Madam Chairwoman. Thank you for convening this important hearing and for being focused on solutions and success in making sure we protect people from evictions. And

I say that with a special twist this week, because in my area of Montgomery County, Pennsylvania, we were shockingly hit by Hurricane Ida, associated tornadoes, and devastating losses to housing, to tenants and their tenancies, to landlords, to homeowners, and to businesses small, medium, and large.

We had Biblical-level flooding in my district, and tornadoes that we have never, ever, ever seen, losing a lot of our housing stock. So I offer that as a backdrop to say, we have to find a solution.

I wanted to start with you, Mr. Morris, and I know you have been talked with a lot, but with good reason. I am from suburban Philadelphia, so I have heard about your program, and I am thrilled with its level of success. It is always good to have a Philadelphia presence on our panels.

I read your testimony and learned more of the details of the Eviction Diversion Program and Emergency Rental Assistance Program in Philadelphia. I was hoping you could offer us a little bit more granular details as to the success: specifically, how many tenants have participated; how many landlords have participated; and in what proportion of cases did mediation result in a good outcome or some agreement?

Your high percentage of being able to deliver relief is just to be commended. So, can you offer us a little more specifics on that, so that we might learn from it?

Mr. MORRIS. Sure. I can try my best to offer you specifics with the data that we have. I can tell you so far, across all phases, we have spent \$165 million in rental assistance dollars that have gotten out the door.

In phase 4 alone, there have been about 13,454 households who have been assisted. So far, I think there are 50,000 applications that are still pending, due to a resource limit, and also, just that the time to process the applications is not there.

And we are working as hard as we can. We have spent 86 percent of the money that has been allocated to us across all phases of the Emergency Rental Assistance Program. So, we are spending the money.

And in terms of the average amount of assistance that is being paid out, we are paying out 8 months on average to households. The utility assistance we are paying is about 4 months on average to households that have applied.

I don't specifically have the number of landlords and tenants that have applied separately because we track them as households. The way our system is designed, there is a portal by which a landlord can go in and pre-register, and some have been registered since April when Phase 4 actually opened in Philadelphia, and then a tenant can apply with their applications and those applications are synced on the back end and processed as one.

So for every household, I would not consider that a landlord in and of itself, because landlords do own several properties. But we measure them by households that have applied, and there are about 50,000, as I said, that are still outstanding, and we just don't, right now, have the financial resources to help all 50,000 of those, because we have spent 86 percent of our funding thus far.

But in terms of demographic data, I can provide that over 74 percent of the households that we have helped have been below 30

percent of the area median income. So, those are very poor households that would otherwise not have any funds left over to help them deal with any sort of crisis. Never mind an ongoing COVID pandemic; they wouldn't have \$500 to pay on a bill that they are not expecting. So, we are helping the most vulnerable. And our clients are also predominantly female; over 66 percent of the applicants have been female.

Ms. DEAN. I wanted to ask you very quickly, how did you spread the word? And then, I want to get one more question in if I have the chance.

Mr. MORRIS. We had an existing network of housing councils from the 2008 housing crisis. The City has also done a lot of advocacy around the program. And we have tenant advocates who have been on the ground working, and as someone contacts us about an eviction or has an instability, we provide information that rental assistance is available, and the courts have also cooperated with us in that process.

Ms. DEAN. Thank you. Thank you for that extraordinary success, and I hope we send you the resources you need.

Mr. Schwartz, I just have a little bit of time left, but from the landlord perspective—because our committee and our Congress is always concerned with tenants and landlords, what successful outreach have you participated in?

Mr. SCHWARTZ. Outreach as far as promoting the programs, the ERAP program?

Ms. DEAN. Exactly.

Mr. SCHWARTZ. Yes. In our communities, we make all of our residents aware of rental assistance. Even before the pandemic, if anyone had trouble paying rent, we connected them with local charities or other programs. So nothing has changed.

With the ERAP program, as I mentioned earlier, this has been an all-hands effort to help our residents.

Chairwoman WATERS. The gentlewoman's time has expired. I am so sorry, but we have to move on.

Ms. DEAN. Thank you.

Chairwoman WATERS. The gentleman from Wisconsin, Mr. Steil, is recognized for 5 minutes.

Mr. STEIL. Thank you very much, Madam Chairwoman. I would like to dive in and follow up from right where my colleague, Mr. Gonzalez from Ohio, left off. Mr. Schwartz, I would like to ask you about the impact of landlords being forced to take a haircut. Maybe on the surface, it sounds like that might be a productive thing, it is anything to help renters, but I think in—not in a static model but in a dynamic model, where are those costs going to go?

And, so, I would love your insight, in particular, if you think that there are going to be landlords across the country that are going to take those losses in one place, and then reach out to other renters in their pool, and try to recoup those costs, and what the impact would be on other renters who were not the beneficiary where the landlord took a haircut? Could you just start there? And then I have a follow-up question to that, if you would, Mr. Schwartz.

Mr. SCHWARTZ. Yes. One thing I mentioned is, we have rental inflation going on now that we probably all have read about, and one

of the contributors is kind of the costs associated to the industry with moratoriums and haircuts, as you suggest.

In California, when ERAP first came out, there was a blanket 20-percent haircut to the landlords by the State, and thankfully, that was changed, because the flow of funds from ERAP was going very slowly because of that haircut.

Mr. STEIL. So you are seeing the causation of some of these increases being—well, you take a haircut on the left, but ultimately you are raising prices on the right. Does that uniquely impact low- or moderate-income renters?

Mr. SCHWARTZ. I believe it does. Low- and moderate-income renters have a higher percentage of their income going to rent, and the rent—

Mr. STEIL. Okay. Trying to move quickly, I appreciate your insight on that. Let me shift over to you, Mr. Winn, if I can. In southeast Wisconsin, we have a lot of really small landlords. I lived in a duplex before I bought the house that I am in today. I was a renter there.

Often, it's the case here in southeast Wisconsin that you will have somebody who owns a duplex where they live in one side of the duplex, and they have a tenant in the other. That is how they are covering their mortgage.

Could you provide some insight as to how these policies have different impacts between the really big landlords that are out there versus these true mom-and-pops? I can't tell you how many landlords in a technical sense, but often they think of themselves as just a homeowner—they own a duplex, they are trying to rent out the other side—have been negatively impacted either by the eviction moratorium, or the ability to obtain funds and what the impact is, in particular, on some of these smaller families who are just trying to build some equity for themselves, of this policy would be, Mr. Winn?

Mr. WINN. Yes. In Congressman Lynch's district, we call them triple deckers. So, yes, I understand what you are saying. No, the impact has to be severe. I think at this moment, we know the statistics are that 10 to 20 percent of the funds have reached their intended recipients.

For a small landlord who has four or five units, or one or two, that is the real estate tax bill, that is the mortgage payment. That is it. So, we know that they don't have any wiggle room. They don't have any ability to go get a line of credit to cover these gaps.

So, urgency is just as important as the actual amount of money for those small landlords. I think the committee is doing the right thing. We are here talking about it. We are here seeing how we can get the money out. But I can only imagine the hardships that small landlords are going through.

Mr. STEIL. I can't tell you how many of them have called my office, frustrated with the policies put in place by Washington, frustrated with how poorly-run and operated this has been in getting the funds out.

There are a lot of people who are looking at their home's mortgage. If you own a duplex, your home is on the line when the other half of that duplex is truly paying zero rent, and you have no abil-

ity for recourse. It is a really serious problem, and I appreciate you providing those insights, Mr. Winn.

With that, Madam Chairwoman, I will yield back.

Chairwoman WATERS. Thank you very much. The gentlewoman from North Carolina, Ms. Adams, is now recognized for 5 minutes.

Ms. ADAMS. Thank you, Madam Chairwoman, and I appreciate the opportunity to share with you today. Ms. Yentel, Mr. Schwartz, thank you both for being here.

During today's hearing, we have heard plenty about provisions in our legislation that allow landlords to directly apply for back rent. Specifically, we have heard about landlords' hesitancy regarding the requirement that accepting ERA funds would mandate them to house for an additional 120 days.

I think it is absolutely critical, though, that we tackle that hesitancy, and I want to talk just a moment about a solution that my local nonprofit is employing with a great deal of success.

I represent Charlotte, North Carolina. Ramp CLT, as we call it, is, beyond any doubt, one of the most effective ERA administrators in the nation, serving the entirety of the City of Charlotte and Mecklenburg County in North Carolina.

They have been accepting self-attestations since the early days of the pandemic, and they work mostly with our County, our City, and other nonprofits to distribute ERA funds rapidly and accurately and critically. And in addition to any arrears they award, they also provide an additional 3 months of funding to ensure that tenants will remain stably housed.

Now, those additional funds immediately help landlords and tenants come to the table, and have made Ramp CLT one of the most effective distributors of ERA dollars in my State.

So, Ms. Yentel first, and then Mr. Schwartz, as a way to help bring reluctant stakeholders to the table, do you believe that ERA administrators should consider automatically providing several future months of rent along with any arrears?

Ms. YENTEL. Yes. Thank you for the question, but first, I think it is important just to clarify, as you did, that the prohibition on eviction for a short period of time is only for landlords who receive funds without any tenant involvement. That is a very important protection against fraud, against potential tenant harassment, against housing stability of tenants.

I agree that the program that you named is a very strong program, and has been from the very beginning. They were very early to get started in spending with their ERA program. They set up a program that was very accessible for low-income tenants and for landlords, and they have been doing a great job in getting the money out.

I think the solution that they came up with is a good, creative one that can be helpful in many cases. Certainly, it provides additional housing stability for those low-income renters, and it provides assurances for the landlords that those months of rent will be paid.

So, I think it is a good solution that should be considered. The only caution I would make is that in some communities, they would need to first be sure that they have enough ERA to cover the ar-

rears of all of the tenants in need before making this future 3-month rent payment automatic for all applicants.

But I certainly think that in some cases, and in cases where the tenant needs that additional assistance, I think that is a very good component to a successful program.

Ms. ADAMS. Thank you.

Mr. Schwartz?

Mr. SCHWARTZ. Yes. I agree with Diane. I think you need to make sure you have enough money to pay the arrearages and what has been owed before committing to go forward.

I think it would work on a voluntary basis. I think legislating it would, again, create this effect of reducing participation in the program that we don't want to happen, but I do think landlords would take advantage of it on a voluntary basis.

Ms. ADAMS. Okay.

Ms. Salazar, I want to just speak for just a moment about COVID-19's impact on women of color. In my conversations with the Ramp CLT administrator, I was disturbed to hear that the highest number of ERA applications were coming from African-American women between the ages of 20 and 35, who had at least one child.

So, how can Congress ensure that the outcomes of the Emergency Rental Assistance Program do not exacerbate existing racial inequities in housing?

Ms. SALAZAR. Thank you so much, Ms. Adams. It is such a critical issue. We knew from the start that this pandemic would have a disproportionate impact on Black, Indigenous, and People of Color (BIPOC) communities, communities of color, and we are seeing that play out, of course.

In our program here in the State of Oregon, we have contracted with the local community-based organizations to do outreach specifically in communities of color, with translated materials, to get the trusted relationship with community-based organizations to help folks apply for rental assistance. So, that outreach is critical.

And the other piece that we are employing in our State is—

Ms. ADAMS. I think I am out of time.

Ms. SALAZAR. —priority within the queue. So, I would say that there are some reforms in the proposed legislation that we are talking about today—

Ms. ADAMS. Thank you very much.

Ms. SALAZAR. —to increase that technical assistance—

Ms. ADAMS. Madam Chairwoman, I am yielding back. Okay, thank you.

Chairwoman WATERS. The gentlewoman's time has expired. Thank you.

The gentleman from Texas, Mr. Taylor, is now recognized for 5 minutes.

Mr. TAYLOR. Thank you, Madam Chairwoman. I appreciate this hearing. I will comment that it is clear to me from all of our colleagues, the importance of trying to get this program to work properly and the frustration with it. And I certainly appreciate the bipartisan consensus that this needs to work well.

What I have to admit I am frustrated with is, where is the Administration? They have been trying to operate this program for

months and months and months, and they are not here. They are not providing the suggestions.

I know, Madam Chairwoman, that you are very passionate about protecting renters, advocating for essentially the eviction moratorium. The President, only at the very last minute, advocated for it and then ultimately tried to do it by rule. And we knew that was unconstitutional, knew that it was illegal. It was struck down in court.

He could have been here, “here,” meaning in this building, in Congress, advocating for change months and months ago, but he hasn’t been. And so here we are, here you are, Madam Chairwoman, working to try to address this and, “clean up the mess.”

And so, I wanted to just say that one thing that is concerning to me in this legislation is the idea of self-attestation. I know that nobody here wants to see limited government resources, limited taxpayer resources wasted, squandered, used in a way that is fraudulent. And I think that I speak for all of us when I say that none of us want to see that.

I am concerned that self-attestation opens the door for fraud. And so, I really hope that we would revisit that. I know we want to go expeditiously, and I certainly concur with that general sentiment of, let’s move quickly, let’s make sure we get these dollars out.

And I think that you have heard Republicans and Democrats talk about the slowness of the process in terms of getting the dollars out. And that is why we are here, we are here to talk about why it is slow, and how can we improve it.

I think it is a little late to be having this discussion. We should have been having this discussion months and months ago. But nevertheless, here we are today.

Ms. Salazar, a question for you, you indicated earlier, a few hours ago I think, that you had participated, or been consulted about the drafting of the legislation in front of us today. Did I hear you correctly?

Ms. SALAZAR. Thank you so much, sir. Yes. The National Council of State Housing Agencies (NCSHA) has been engaged in these dialogues around the legislation.

Mr. TAYLOR. And was that consultation by the Legislative Branch or the Executive Branch?

Ms. SALAZAR. It was the Legislative Branch.

Mr. TAYLOR. Okay. So, has the Department of Housing and Urban Development or the Secretary of the Treasury reached out to you? Has there been any effort by the Executive Branch to try to reach out to you to ask about the implementation of this program?

Ms. SALAZAR. Certainly, Representative. We have had dialogues with officials at the U.S. Treasury. They have been helpful dialogues. NCSHA proposed, for example, the bulk payment process to get bulk payments out to landlords, and the Administration was receptive.

I think where we stand at this point is that the guidance from Treasury has been helpful, but we need those statutory changes to really codify the reforms necessary to be able to expedite the pro-

gram. Sox, really building on some of the early dialogues we have had with Treasury.

I will just say one other piece is that we are in dire need of guidance from Treasury around how they will approach the reallocation issue. We are rapidly coming up on September 30th.

Programs like ours in Oregon are pulling out all the stops to expedite payments getting out the door, and we need to understand clearly from Treasury that they will take into account things like the strong demand for the program on the ground, and the efforts that States like ours are making to expedite payment.

That is one area where we have not received the guidance that we need.

Mr. TAYLOR. Sure. Are you testifying here today that you are still waiting for guidance from the Administration in order to implement these programs?

Ms. SALAZAR. I would say, in some regard, the guidance has been forthcoming. For example, the recent guidance to—

Mr. TAYLOR. But I think you just said you are waiting for guidance—is that right, you are waiting for guidance?

Ms. SALAZAR. We are waiting for guidance, sir, specifically on the issue of how Treasury will address the September 30th—

Mr. TAYLOR. Again, I guess I will just express frustration, individually, and I think I speak for my colleagues—I am really frustrated that the Administration isn't really coming to the table, isn't really offering legislative solutions, isn't really leading on this.

I am glad to see the chairwoman and the ranking member working, in slightly different contexts, but trying to come up with solutions. And I really think that the Executive Branch needs to be part of this and part of these discussions.

Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you very much. And we are all working toward finalizing some of these issues and concerns. I am working with the Treasury, working with the Administration, and offering to work with the ranking member. So thank you very much.

Next, we will hear from the gentlewoman from New York, Ms. Ocasio-Cortez. You are now recognized for 5 minutes.

Ms. OCASIO-CORTEZ. Thank you so much, Madam Chairwoman, for hosting this hearing, and as Representative Dean had mentioned earlier, we just experienced devastating floods for which my district was ground zero, in New York City, for the floods from Hurricane Ida.

And this has been a travesty in my district. We have lost 12 people in these floods, and the connection here is that in almost every person lost to the floods, it was related to our housing crisis. The lack of available housing stock and the fear of eviction existed even prior to the pandemic, and the pandemic has only made it worse, to the point that people are seeking alternatives to the housing stock that are often dangerous.

Now, that being said, speaking about those long-standing inequities, many low-income renters struggled to make ends meet even before the pandemic. And with the lapsing of unemployment, the striking of the eviction moratorium, all of these things have placed renters in an even more perilous position.

We have discussed some of the difficulties, and the committee has addressed some of the difficulties in State implementation. But I also want to talk a little bit about the difficulties in getting these funds out with the segment of landlords who are refusing to participate in emergency rental assistance.

Ms. Yentel, is there evidence that lack of tenant participation is a widespread problem for the Emergency Rental Assistance Program?

Ms. YENTEL. I have not seen any evidence or data to show that there is a widespread problem of tenants not participating.

Ms. OCASIO-CORTEZ. Okay.

Ms. YENTEL. There is clear evidence of tenants not completing applications, which points to inaccessible and overly complicated applications that need to be simplified.

Ms. OCASIO-CORTEZ. Okay. I see. And would you say that in relation to tenant participation, is lack of landlord participation in the program more of a frequent problem that we are noticing?

Ms. YENTEL. We have seen evidence of this, yes. In a survey that we and others did, about 44 percent of program administrators said that landlords refusing to participate in ERA programs was a challenge. And from some of the more recent conversations, I would say that number has likely grown.

Ms. OCASIO-CORTEZ. So that means that when landlords refuse to participate, some Emergency Rental Assistance Programs are not required to provide assistance directly to tenants, and they could face eviction or homelessness if their landlord vetoes the application. Is that right?

Ms. YENTEL. That is right. Unfortunately, it is optional for program administrators to utilize direct-to-tenant assistance if landlords participate, and we are seeing that only about 28 percent of all ERA programs are explicitly allowing direct-to-tenant assistance. That means there are many tenants who are having their application closed, who are not getting any of the assistance they need because the landlord has refused to participate.

Ms. OCASIO-CORTEZ. And this is consistent with something I have been seeing. If you are a tenant and you want to make right on your back rent, and you apply for the Emergency Rental Assistance Program, if your landlord has been trying to get you out, they can refuse, in the majority of programs, to accept your rental assistance and evict you and use that as grounds to evict you. Is that correct?

Ms. YENTEL. That is correct, and we are seeing some very egregious cases of tenants showing up in eviction court with the emergency rental assistance in their hands, and the landlord saying, I don't want it, and the judge allowing the eviction to move forward.

Ms. OCASIO-CORTEZ. It seems as though we have a very urgent issue, and I am so thankful to see Chairwoman Waters address these issues.

Now, my last question is, what types of enforcement mechanisms should we be exploring to ensure that the tenant protections in this bill are adhered to by landlords?

Ms. YENTEL. That is a really important point, and we strongly recommend that the legislation be very clear in identifying a Federal agency, the DOJ or the CFPB, and give them clear authority

and responsibility to ensure that the tenant protections in this legislation are followed and adhered to.

Ms. OCASIO-CORTEZ. Thank you so very much.

Ms. YENTEL. Thank you.

Mr. SCHWARTZ. I would like to just chime in on this topic, because I am a landlord, so I can give you some reasons we have seen landlords not want to participate. In a State like New York, there are conditions imposed by participating, like rent freezes, not being able to charge late fees, and extended protracted moratoriums. That makes it hard for the landlords to participate with all of those conditions.

Chairwoman WATERS. Thank you. The gentlelady's time has expired.

The gentleman from Georgia, Mr. Loudermilk, is now recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Madam Chairwoman.

First, I would like to recall how we arrived at this point. First, the CDC established an eviction moratorium despite having no statutory authority to do so. Then, after Congress established a bipartisan rental assistance program in December, Democrats created an entirely new partisan program with a conflicting set of rules.

Because of that incompetent law-making or policy-making, the funds are now stuck in an administrative mess, and only a fraction, a small fraction has been distributed.

When HUD Secretary Marcia Fudge testified before this committee 2 months ago, she said if we get the rental assistance programs to actually work, then there is no need for an eviction moratorium. But instead of focusing on getting the rental assistance program to work, Democrats tried to pass legislation to extend the eviction moratorium.

When that failed, the President then directed the CDC to extend the eviction moratorium, which he knew was unconstitutional, and the Supreme Court struck it down.

The HUD Secretary also said that streamlining the rental assistance program would help get the funds out more quickly, and unlike the Members of the Majority who are just now turning their attention to this, Republicans proposed a bill to fix the rental assistance program 3 months ago.

There are more than 10 million jobs available right now, more than at any other time in the history of this country. There are more open jobs than there are unemployed people, but instead of focusing on getting people back into the workforce, the Majority now wants to remove any requirement for renters to have a hardship in order to receive rental assistance, and make taxpayer-funded rent a long-term entitlement regardless of whether people actually need it.

Mr. Winn, one of the items in the Majority's bill is that it would require landlords who apply for rental assistance on a tenant's behalf to accept any amount they receive as satisfying the entire rent debt, even if the amount they receive is thousands of dollars short of what is owed. Does that provide any incentive to the landlords to apply for these funds?

Mr. WINN. Thank you for the question. And I would answer that in two ways. One is, I think we would appreciate more clarity on what the proposal actually says, because read in its worst way, it could be true that by accepting \$3,000 in rental assistance, you could be foregoing \$6,000. And that doesn't help anybody.

So, I think it would be very important to clarify what those rules are, and frankly, don't make them so burdensome that landlords can't participate.

Mr. LOUDERMILK. I appreciate that.

Also, the government is the reason why so many property owners have been unable to collect rent and evict non-paying tenants. Should the government make landlords whole by allowing the rental assistance funds to reimburse property owners even if the renter has moved? That is for Mr. Winn.

Mr. WINN. Yes. I think—and I mentioned this earlier—that is a critical aspect of this. And it is only going to happen more as we go through the pandemic. There are going to be tenants who see insurmountable balances of rent delinquency, and just say, I have to move. And so it is almost an effective eviction, but it is somebody deciding to move, and unless the program explicitly allows rent on those vacant units, the landlords are the only ones left holding the bag. So the proposal really should, and I hope does, address that.

Mr. LOUDERMILK. Okay. Thank you.

Mr. Schwartz, do you agree that consolidating the two Emergency Rental Assistance Programs under the ERA 1 program rules would get the funds out more quickly?

Mr. SCHWARTZ. I agree with respect to focusing on arrearages, arrearages with respect to vacant units like you just spoke about, and occupied units, and by consolidating them, because ERAP 1 did prioritize arrearages, and we think that is very important.

Mr. LOUDERMILK. Okay.

Madam Chairwoman, I have no other questions, so I will yield back. Thank you.

Chairwoman WATERS. Thank you very much.

The gentleman from Illinois, Mr. Garcia, is now recognized for 5 minutes.

Mr. GARCIA OF ILLINOIS. Thank you, Madam Chairwoman, and thank you for your leadership on this issue. Good afternoon to all of our panelists.

The majority of the constituents I represent are renters, so this issue is very personal to me. Millions of people across the country lost their homes after the last financial crisis 10 years ago, but working-class communities like mine never recovered. Families got evicted and priced out. In Chicago, this is a racial-justice issue.

The Logan Square neighborhood in my district lost over 10,000 Black families and 20,000 Latino families in the last decade. I can't stand by and let this happen again, and that is why I fought for an eviction moratorium, and why I fought for emergency rental assistance, and now, I am fighting to make sure that the program works for neighborhoods like those in my district.

The whole point of rental assistance is to keep people in their homes, and it is our job to make sure that happens. So, I want to

thank the chairwoman and the ranking member for convening this important hearing, and say thanks to all of our witnesses today.

I do want to direct a couple of questions to Ms. Yentel. You talked about the importance of tenant protections in the Rental Assistance Program. I know firsthand how landlords have a lot of different tools to get rid of tenants they don't want. Filing an eviction in court is only one of them.

Can you briefly talk about how landlords might get rid of tenants without formally evicting them, and is this common?

Ms. YENTEL. Yes. And it is important to recognize too that there are multiple reasons why landlords might refuse to participate in programs, and we have heard that concessions required of them is one.

Another reason why we are seeing some landlords not wanting to participate is because they are in hot rental markets and there is a financial benefit to actually evicting the current tenant, increasing rents, and making more money in the long run. There is also a challenge of landlords who have unlicensed or otherwise illegal units who can't access the emergency rental assistance funds.

We do see during the pandemic and at other times as well, unfortunately, ways that landlords harass or push out tenants. It is not a formal eviction filing and it is illegal in most places, but they might put a lock on the door and just not let the tenant back in; they might turn off utilities, turn off water, and force that tenant out; or, in less explicit ways, they use harassment to push that tenant out.

It is part of the reason why it is so essential that these protections be included if ERA is given directly to landlords without any tenant involvement. It is certainly not all landlords who will act this way, but we have to prevent creating perverse incentives for landlords to potentially harass tenants, to push them out, receive the emergency rental assistance, without having to agree to any of these other requirements that we are hearing are considered so onerous for landlords.

Mr. GARCIA OF ILLINOIS. Thank you for that. And I have a follow-up question. How can Congress improve the rental assistance program to prevent landlords from unreasonably getting rid of tenants and claiming funds anyway?

Ms. YENTEL. Again, in most cases, landlords and tenants are applying for assistance together, and the landlord gets paid for the arrears that are owed to them. In those cases, there are ways the programs need to be improved; they need to be simplified; there needs to be self-attestation used; they need to do outreach to get that money out faster.

In cases where the committee considers allowing landlords to receive assistance without involvement of the tenant, there have to be strong protections in place for that tenant to remain stably housed. And many of those protections are included in the chairwoman's legislation—protections against eviction immediately after receiving the funds, protections against going back and claiming more funds from the tenant in the future—and are really important protections to ensure that we are not increasing tenant harassment or housing instability.

Mr. GARCIA OF ILLINOIS. Great. Thank you very much.

Madam Chairwoman, I yield back.

Chairwoman WATERS. The gentleman from South Carolina, Mr. Timmons, is now recognized for 5 minutes.

Mr. TIMMONS. Thank you, Madam Chairwoman.

We all voted for the CARES Act back in March of 2020. That legislation, of course, included an eviction moratorium which would last until July 24, 2020. I think that most people thought that was reasonable. It was the right thing to do. We needed to help people who needed help. But I don't think anyone on this committee would have anticipated or supported such a moratorium going on for another year, but that is exactly what happened, and even that wasn't long enough for some people.

I also think it is fair to say that, at that time, most of us serving on this committee truly believed that renters who are economically disadvantaged because of economic lockdowns often imposed by State and local governments should not have been evicted from their homes. That is just straightforward common sense.

But so much has changed between then and now, primarily the development and distribution of safe and effective COVID vaccines for anyone who wants one. This allowed the economy to largely reopen over the spring and summer months of 2021, making jobs available literally almost everywhere. There are 10.9 million jobs available in this country today.

I talk to employers of all different sizes and industries, and a common refrain is always, we need more people. We need more people working. Jobs are available, and thanks to the vaccine, it is safe to return to the workplace.

On top of this, as we all know, Congress has shelled out close to \$50 billion in rental assistance funds to help renters cover back rent they may owe. These two developments, vaccines allowing for the economy to reopen and the Emergency Rental Assistance Program, made an eviction moratorium completely unnecessary many months ago.

If the last few months have taught us anything, it is that the current Administration is completely incapable of putting a plan in place and executing it, with the primary examples being the disastrous Afghanistan debacle, and this emergency rental program.

We have also learned that President Biden has zero qualms about abusing his power. I think at the other end of Pennsylvania Avenue, we have forgotten that in our system of government, Congress writes the laws and the President executes them. He doesn't get to just do whatever he wants or gets pressured into doing when people camp out on the Capitol steps. The Supreme Court has already knocked down this illegal moratorium extension, and will surely do the same for the vaccine mandates we saw last night.

What is sad is that this was all avoidable. A competent White House would have had ERAP up and running, and been working with State and local governments to distribute dollars in a productive way that would have made the eviction moratorium debate a moot debate.

I know everyone on this committee wants to help people in this country who need help, but we need to be thoughtful in the manner in which we deliver that help, and make sure that it is not counter-productive.

One of the biggest problems we have had implementing any new program, particularly ones that are quickly stood up and quickly send money out the door, is with making sure that only the intended eligible recipients get funds, and fraudsters get locked out.

I think that we need to really be careful that we are not going to do more harm than good. We have to get back to work. We have almost 11 million jobs available, and the only way that we are going to get out of this—the only way we are going to get our economy back on track is by getting back to work.

Mr. Winn, I know hindsight is 2020, and it is easy to be a Monday morning quarterback, but looking back over the last 18 months, if you knew all this was coming, what is the one step you wish we could have taken to weather the storm that was/is COVID, and why?

Mr. WINN. I would say—I feel like I am repeating myself so I apologize, but I do believe it would be the informed consent model for tenants rather than the wet signature. I do believe that would have doubled the amount of resources we could have given to tenants on that basis.

Mr. TIMMONS. Thank you. I just want to remind everybody that we have \$30 trillion in debt and we are talking about spending trillions and trillions of dollars we don't have. Our kids, our grandkids, and our great grandkids are going to have to pay this money back. It is not just funny money.

We have to get serious and we have to help people who need help, but we have to get our economy back open and get people back to work, because that is the only way that we are going to be able to help the people who need help the most.

And, with that, Madam Chairwoman, I yield back. Thank you.

Chairwoman WATERS. Thank you very much.

The gentlewoman from Texas, Ms. Garcia, is now recognized for 5 minutes.

Ms. GARCIA OF TEXAS. Thank you, Madam Chairwoman. And thank you once again for your leadership on this issue and for prioritizing this very important piece of legislation that will help many constituents in my district and all across America stay housed this winter.

During the pandemic, our county has faced unimaginable challenges. In Houston, many families were still trying to recover from Hurricane Harvey when COVID hit. As of now, hundreds and thousands of Houstonians are behind on their rent, and since April 2020, Harris County landlords have filed almost 34,000 cases for eviction—34,000 just here in Harris County.

With our dollars that we have received through the ERA 1, as page 10 of Ms. Yentel's paper suggests, Harris County is at 81.9 percent, almost 90 percent of the dollars. I understand anecdotally that the dollars are gone, and I can tell you that if there is any city or State or county that has extra dollars, we will take them, because the need is great in Houston and Harris County. We must also make sure that all of the measures that we are taking here do not adversely impact on any renter's ability to apply for any of these funds.

My first question is for Ms. Yentel. Ms. Yentel, in your testimony, you highlighted that among those behind on their rent, 31

percent of the households were forced to use debt instruments such as credit cards to make ends meet. And last month, the New York Fed reported that household debt is at an historic high of almost \$15 trillion, that is, “trillion,” with a “T,” marking the largest nominal household debt increase since 2007.

This, of course, concerns me because some people did pay their rent, they just put it on their credit card, and now they are stuck with credit card debt. So what can we do to make sure that we aren’t forcing people to take on more risk than they are ready for? And could you elaborate on any of the ripple effects that any of these financial hardships due to housing—what that does to consumers and the economy in general?

Ms. YENTEL. Yes, and it is one of, I would say, the very unfortunate consequences of Congress having delayed action on finalizing emergency rental assistance for so long. As you know, in the House of Representatives, emergency rental assistance was passed 3 times, in May, June, and July. If the emergency rental assistance had been enacted in that time, it could have been used as it was designed, which was to keep low-income renters current on their rent, to help them pay the rent during the pandemic and not fall behind.

The legislation was held up in the Senate under Republican leadership, and it wasn’t enacted until December of 2020. By then, tenants had accrued an estimated \$50 billion in rent arrears, and it became a different need that the program was trying to serve, which was to help pay those rent arrears. So, that is one of the more unfortunate outcomes of how long it took for Congress ultimately to enact this.

As you said, in the meantime, most tenants did everything they could to stay current on their rent during the pandemic. And some of them had to make tradeoffs in not buying store-bought food or paying for internet, despite their children needing it for virtual school, and many of them took out loans or used credit cards to pay for the rent.

The data is very clear that there was an increase in the number of tenants using credit cards to pay the rent, and, in fact, many landlords were in communication with tenants, encouraging that to keep the rent payments current.

It is unfortunate now that many of those tenants hold that debt but are not able to be paid back through the Emergency Rental Assistance Program for the debt that they owe. And I would encourage the committee to consider ways to enable tenants who can prove that they used credit cards or otherwise took out loans to stay current on their rent, to access emergency rental assistance to make them whole as well.

Ms. GARCIA OF TEXAS. Thank you.

And quickly, Mr. Morris, I had a question for you about translation services and interpreters. I think it was you who testified that some of the delay and some of the concerns from the renter side is not having the forms and the information, the outreach information in the language of their own. Is this a problem nationwide that we also need to address?

Mr. MORRIS. I believe this is a nationwide problem, and all of our applications in Philadelphia are available in several languages based on demographics for the populations.

Ms. GARCIA OF TEXAS. But should this be a mandate in the bill itself? Because obviously—

Mr. MORRIS. It should.

Ms. GARCIA OF TEXAS. —we are hearing that in some cities, in some programs, that is not the case. So, the only way that we can make it uniform and that we make the program accessible to everyone would be to put it in the bill. Would you agree?

Mr. MORRIS. I agree. Even if the bill itself has not changed, there should be a person who can interpret on behalf of someone in a different language available.

Chairwoman WATERS. The gentlelady's time has expired.

Ms. GARCIA OF TEXAS. Thank you, and I yield back. Thank you, Madam Chairwoman.

Chairwoman WATERS. Thank you.

The gentlewoman from Georgia, Ms. Williams, is now recognized for 5 minutes.

Ms. WILLIAMS OF GEORGIA. Thank you, Madam Chairwoman, and thank you for holding this hearing today.

Too many renters, through no fault of their own, have fallen behind on rent payments during this pandemic due to economic hardship, forcing people on the streets during a pandemic that is still raging, and I have seen it firsthand.

Back in early June, when a local eviction moratorium expired, I posted pictures on social media from my district where people's belongings had been tossed out on the street, and this was with the CDC eviction moratorium still in effect. That is because people didn't know how to access the actual moratorium, let alone the rental assistance associated.

Those pictures were a stark reminder that we must keep working to find a Federal solution to keep people in their homes. I knew that we had to pull every lever to protect tenants from eviction and give them a leg up in recovering from this pandemic.

For one, the CDC eviction moratorium protected countless families, which is why I was quick to cosponsor Chairwoman Waters' bill to extend it through the end of the year. Unfortunately, some Members of Congress stood in the way of this extension despite the tireless work of Chairwoman Waters, Speaker Pelosi, and so many other Members of Congress working to protect our constituents.

However, like Chairwoman Waters, I knew that we couldn't stop fighting. We still have to address the fundamental problem of getting folks out of rental debt. The key is efficiently distributing the rental assistance already provided by Congress, which has gone out too slowly in many localities.

This week, I was proud to join Chairwoman Waters, and co-sponsor the introduction of the Expediting Assistance to Renters and Landlords Act, which will make the rental assistance Congress approved go out more efficiently. And today, I am glad to talk more about how we get rental assistance to the people.

Ms. Yentel, in your testimony, you noted that my home county of Fulton County, Georgia, has distributed 76 percent of the ERA 1 funds that were allotted; however, the rate is not that high in

every county nearby. In fact, you noted that Georgia as a whole has only distributed 3.6 percent of its funds.

If enacted, to what extent will the Expediting Assistance to Renters and Landlords Act help to reduce distribution disparities in places like my home State of Georgia? And in addition to pushing for passage of this legislation, what should Members of Congress be doing to help more localities get assistance out the door more quickly to people in need?

Ms. YENTEL. Thank you. The legislation that Chairwoman Waters has introduced and that you cosponsored would speed up the assistance of emergency rental assistance in several ways, and it would build on lessons learned and best practices during the pandemic.

We have learned by now very clearly what makes some programs so successful and what makes some programs much less so. Some of the reforms that are included in this legislation, for example, would require that all programs use self-attestation for all eligibility requirements. This would drastically streamline applications, and speed up the delivery of funds. It would also require that all programs utilize direct-to-tenant assistance when landlords refuse to participate, ensuring that tenants aren't penalized for their landlord's lack of action.

It would redefine eligible grantees for emergency rental assistance to go beyond State and local government entities to include the community-based nonprofit organizations that are doing the door-knocking and outreach to get tenants engaged in the process.

It would prohibit the requirement of written leases, which has also been a barrier for some landlords and for many of the most marginalized tenants who have informal leases but still owe rent to their landlords. So, there are a number of really important changes and protections in the legislation, which we support.

In terms of what more Members of Congress can do, I think this legislation is a very good start, but I also think taking the actions that you have taken in your community to help improve and encourage improvement of these Emergency Rental Assistance programs, the example that Chairwoman Waters gave of the actions she has taken in Los Angeles, to connect legal aid attorneys with the emergency rental assistance with the landlords, this is really important leadership that all Members of Congress could take that could help educate constituents about the availability of resources and then help them to access them.

Ms. WILLIAMS OF GEORGIA. Thank you, Ms. Yentel. And not knowing what the future holds, do you think it would be useful to study the implementation of the Emergency Rental Assistance Program, including any changes to the program, to see how we might improve other programs, going forward, across the country?

Ms. YENTEL. Absolutely, we should be constantly studying, learning, and improving as we go for this and for any future programs that are set forth.

Ms. WILLIAMS OF GEORGIA. Thank you, Madam Chairwoman. My time has expired, and I yield back.

Chairwoman WATERS. Thank you.

The gentleman from West Virginia, Mr. Mooney, is now recognized for 5 minutes.

Mr. MOONEY. Thank you, Madam Chairwoman.

We understand that last month, the White House essentially caved to political pressure from the left and unilaterally extended the eviction moratorium, even though they knew it was unconstitutional for President Biden to assume this power to himself, the power that is rightly placed in the legislature, the Congress.

After the court struck down the moratorium and once again told the White House that it was unconstitutional, Democrats in committee here, in Congress, finally decided to propose changes to the Emergency Rental Assistance Program. The Republicans had already proposed changes to the Emergency Rental Assistance Program months ago, well before the eviction moratorium standoff took place.

Instead of going to the President to abuse his powers, we should have worked with committee members on common-sense reforms. Now, the Democrats are rushing to do a rental assistance program through this process. We are scheduled to mark up this bill on Monday of next week. And we are having a hearing on the bill Friday, today, the week before.

Hearings are supposed to give us a chance to step back and assess legislation well before they are marked up or make it to the House Floor. But there are zero business days between our hearing and this legislation and the scheduled markup vote. That is unfortunate, because I think this bill has some very significant problems.

I am concerned that the legislation could open up the Emergency Rental Assistance Program to waste, fraud, and abuse. One of the most irresponsible provisions in this bill, which appears to be a completely one-sided partisan Democrat bill, which we have seen too much of in this Congress, is it requires self-attestation from a renter to be considered as proof of eligibility for the program.

That means an applicant could self-report their income and receive rental assistance from the United States taxpayers with no documentation, and no verification. If someone simply tells the government they are income eligible for the program, we just take their word for it. This bill would say, take their word for it and give them the hard-earned taxpayer dollars.

I was pleased that my colleague, Congressman Andy Barr of Kentucky, mentioned earlier in his comments that we are talking about the use of hard-earned taxpayer dollars here, not money that grows on trees that the government just has; the government doesn't have any money that they don't first take from the United States taxpayers. It is their money we are watching over here.

So, my question is directed to you, Mr. Winn and Mr. Schwartz. When a potential resident begins the process of moving into one of your units, can they self-attest their income level or do you use some means of verifying their income level?

Mr. WINN. I can answer that as it relates to governmental programs that we help administer, like the Low-Income Housing Tax Credit or Section 8. Yes, there has to be verified income for those Federal programs. So by and large, we do have that information in our own portfolio. For market-rate renters, for renters who are not under those programs, we are not in the business of verifying their income necessarily, so I just wanted to point that out.

Mr. MOONEY. Mr. Schwartz?

Mr. SCHWARTZ. Yes, we do income verification for our residents. I guess my only point with self-attestation is the download of these forms, particularly for lower-income residents, has been a big barrier to getting the emergency renters assistance, and we do our best to help them, but self-attestation would streamline the process. And I do think there is a capability of the Federal Government to audit the self-attestations through the tax returns and information the government has and catch people who are committing fraud.

Mr. MOONEY. Okay. Thank you for that.

A quick follow-up to both of you, if you were forced to accept self-attestation as proof of income, would that cause you to be concerned about the tenant's ability to pay rent?

Mr. WINN. I just want to say, I think that the issue that we are encountering now as a country is not landlords getting paid too much out of ERAP; it is landlords getting paid too little. So, I do believe that if the attestation can help get the money out—the flip side of that argument is that smaller landlords are often unable to have the follow-up required to verify incomes themselves, to make sure that the tax returns are properly dated, to make sure that they have filed it correctly. So, I do believe there is a need to simplify the process.

And to your question of, would it put us in a position to take somebody as a tenant that we otherwise wouldn't have, I think the issue is that they are already there. They are already in our units, and we can't find a way to get them ERAP.

Mr. SCHWARTZ. Yes. And I would just follow up—I know you are out of time—that we only verify once. We don't know after the tenant moves in what their income is. They could be with us for 10 years, and we wouldn't know.

Mr. MOONEY. Okay. I don't know if I am out of time, but I have a closing statement if I am not out of time. Thank you for your comments.

I want to say, I think it would be irresponsible—

Chairwoman WATERS. Thank you. The gentleman's time has long expired.

The gentleman from Massachusetts, Mr. Auchincloss, is now recognized for 5 minutes.

Mr. AUCHINCLOSS. Madam Chairwoman, thank you for the opportunity to work on this bill.

I have heard a number of my colleagues on the other side of the aisle talk about the unconstitutionality of President Biden's actions. And while I appreciate that everyone in Congress needs to be laser-focused on protecting the Constitution and holding the Administration to account, I have to say that these words would resonate more with me if we had seen this same kind of attention on the Constitution in the last 4 years, after the most egregious deprecations of the Constitution in the history of the United States, by President Trump. So, I would encourage everybody in Congress of both parties to continue to hold Presidents of both parties to account for protecting and defending the Constitution.

I am also hearing a tremendous amount of frustration, again from both sides, about the bureaucracy and the paperwork around

if it was grounded in good intentions and was really directed towards an extreme need. And it has made me think a lot about the Child Tax Credit.

And the connection here is that we have seen over and over again empirically with Federal policy that when we directly transfer money to working families, whether it is through the Child Tax Credit or the Earned Income Tax Credit, they spend it on what they need and they spend it on a better future for their kids.

And so, the expansion of the Child Tax Credit and making permanent the tremendous gain in childhood poverty reduction that we will achieve in the American Rescue Plan and reconciliation can be viewed not just as expanding and improving social welfare, but also, in the long run, obviating the need for some of these programs that I know my Republican colleagues get frustrated with for sometimes being inefficient or bureaucratic or increasing red tape. Just give money directly to people [inaudible] Needs [inaudible] Without being market distortions or even without creating a new level of Federal bureaucracy. So, I would encourage you to think about the Child Tax Credit in that lens.

I will pivot now towards the program in question. And, again, Madam Chairwoman, thank you for the work that you have done to help correct some of the flaws we have had in the distribution of these funds.

Earlier this week, a local news station, WBUR, [inaudible] Renters in the southern part of the district I represent in Bristol County were twice as likely to have been evicted during the pandemic. And they have actually seen more authorizations for evictions in two cities, Fall River and New Bedford, than in Boston, which is a city 6 times their size.

There are a lot of reasons for this, but one of them, as the article pointed out, is that some renters do not even learn of the rental assistance at all until they are actually in eviction court itself, and sometimes learn of rental assistance even in eviction court. They are literally getting evicted through the court process and never had been told about it.

So, I would like to focus on housing courts and their role as the last tripwire in this whole process for making people aware of their rights. Ms. Salazar, if you could start by saying if you have seen any programs that are effective, where the courts are doing their job?

Ms. SALAZAR. Thank you, sir, for that question about the role of courts and eviction diversion. Certainly, our hope is to be able to respond quickly to get rental assistance into the hands of tenants before we reach that point.

But one of the things that we are seeing work really well is that our local program administrators on the ground are collaborating with the court systems to intervene and directly get rental assistance into the hands of folks who have received a filing. And so, it is those kinds of relationships and cooperation that are absolutely critical.

And I would say that one of the things that is helpful in the chairwoman's bill is being more focused on administrative dollars, technical assistance, and the support for local community-based or-

ganizations so that we can set up those kinds of effective programs to engage [inaudible] Solution.

Mr. AUCHINCLOSS. And in my final minute, Ms. Salazar, again, perhaps you could, and with each witness [inaudible] Say for the sake of the record whether you support self-attestation as programmed in this bill.

Ms. SALAZAR. Thank you for the question. Self-attestation certainly speeds the provision of rental assistance. What we have seen in our own program in Oregon is that some of our local administrators have been quick to adopt self-attestation as part of the process and some have been slower to adopt it for various reasons. And when we see it utilized—

Mr. AUCHINCLOSS. Ms. Salazar, I apologize for interrupting, but I only have about 20 seconds. I want to let the other witnesses quickly say if they support self-attestation or not.

Mr. MORRIS, perhaps you next?

Mr. MORRIS. I do support self-attestation.

Mr. AUCHINCLOSS. Thank you.

Mr. Winn?

Mr. WINN. Yes. It is not a perfect solution, but I do think it is required at this time to get the money out effectively.

Mr. AUCHINCLOSS. Thank you.

Mr. Schwartz?

Mr. SCHWARTZ. Yes, I support self-attestation.

Mr. AUCHINCLOSS. Okay. Thank you.

Ms. YENTEL. And we strongly support it as well.

Mr. AUCHINCLOSS. Thank you all.

Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you. The gentleman's time has expired.

Do we have any more Members on the platform who have not yet participated?

If not, I would like to thank all of our witnesses for being here today and for providing us with very valuable testimony.

The Chair notes that some Members may have additional questions for these witnesses, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

And, with that, this hearing is adjourned.

[Whereupon, at 3:44 p.m., the hearing was adjourned.]

A P P E N D I X

September 10, 2021



Testimony to the House Committee on Financial Services
September 10, 2021
Kadeem Morris, Esq.
Community Legal Services of Philadelphia

Hello. My name is Kadeem Morris, and I am an attorney in the Housing Unit of Community Legal Services of Philadelphia. Community Legal Services of Philadelphia helps more than 10,000 people each year with legal problems that threaten their homes, health, incomes, and families, including more than 2,300 tenants facing eviction during the pandemic. I would like to thank Chairwoman Maxine Waters and the members of the House Committee on Financial Services for inviting me to speak today.

The COVID-19 Pandemic has greatly exacerbated the housing crisis that has existed across the United States for several years. The ability to access safe and affordable housing is not guaranteed. However, the collateral consequences faced by a family when they are evicted are clear and immediate.

As a direct response to the ongoing eviction crisis that has existed in Philadelphia for decades, the City of Philadelphia launched the Philadelphia Eviction Prevention Project in 2017. The innovative project was designed to equip tenants with the resources and information necessary to level the playing field in landlord tenant court. Every year, nearly 20,000 residents in the City of Philadelphia are subject to an eviction filing and the risk of the collateral consequences that come with being evicted. The faces of the evicted are the faces of the vulnerable members of society. Studies have found that single mothers, most commonly those who are Black and Brown, make up the majority of those affected by evictions and forced moves.¹ It has been shown across the country that eviction records have a disparate impact on Black women and their families, causing dangerous cycles of generational poverty and instability. This grim reality is reflected in Philadelphia, where 71% of annual eviction cases are filed in communities of color. The pandemic has significantly exacerbated difficulties facing Black communities and other communities of color, seniors, people with disabilities, and LGBTQ+ people. These communities are most likely to have lost income during the pandemic, putting them at greater risk of eviction filings, and therefore putting them at risk of homelessness and instability beyond the pandemic.

The COVID-19 Pandemic significantly altered the lives of every American. Businesses were shuttered, homes became offices and classrooms, and vulnerable populations were once again among those most affected by COVID. The health consequences combined with the financial hardship of having your job disappear shattered the foundation on which vulnerable families were standing. People who were already struggling to make ends meet before the pandemic were faced with a bitter choice: risk the health of their families by working during the pandemic and potentially contracting the virus, or shelter

¹ *Breaking the Record: Dismantling the Barriers Eviction Records Place on Housing Opportunities*, Community Legal Services of Philadelphia, January 2021, available at <https://www.phillytenant.org/eviction-records/>.



at home and risk the financial consequences of long-term unemployment and increased household expenses. And these are just the workers who had a choice. Many workers in America lost their jobs and their incomes, which caused millions of people to fall behind on their housing bills.

In Philadelphia, effective delivery of rental assistance to vulnerable households has prevented displacement and, as a result, prevented community spread of COVID-19. The City of Philadelphia started a nationally recognized Eviction Diversion Program in September 2020 to help support landlords and tenants stabilize during the pandemic. The Philadelphia Eviction Diversion Program partners with the City's Emergency Rental Assistance Program (ERAP) to ensure that people are able to access rental assistance, to the benefit of both landlords and tenants. Through targeted outreach and supportive services, Philadelphia was able to build a rental assistance program that could preserve the landlord tenant ecosystem. The demographic data provided by the City of Philadelphia demonstrates that the rental assistance dollars was reaching vulnerable communities. 65% of the families assisted are Black or African American and 66% of the applicants for assistance were female.² Additionally, the over 70% of families served had a household income below 30% of the Area Median Income.³ Landlords who struggled with their mortgages were paid and tenants who were behind on their rent were not displaced. Philadelphia's Eviction Diversion Program is a pre-filing program and provides a forum where landlords and tenants can resolve issues and access resources without the pressure of court. The Eviction Diversion Program uses highly-skilled impartial mediators to create a forum where landlords and tenants can resolve their issues outside of court. When a landlord contacts the program, the tenant is automatically assigned a housing counselor who works with the tenant to see what resources are available to avoid an eviction. The majority of eviction cases are related to nonpayment of rent. Philadelphia's diversion program has a direct line of contact to the Emergency Rental Assistance Program. A housing counselor can assist a tenant in completing and submitting the rental assistance application. The housing counselor and the mediation session also assist in resolving other issues that may have arisen in addition to the non-payment issue. If the mediation results in an agreement, both parties have the ability to move forward without the impact of an eviction case or a judgement.

For a rental assistance program to operate effectively, the program administrator cannot create additional barriers for tenants and landlords to jump through. If the stated goal of the program is to prevent evictions for vulnerable households during the pandemic, then municipalities and other administrators should limit the amount of paperwork and forms of verification that a tenant and or landlord has to submit. Additionally, programs should work to eliminate delays in processing of applications and payments to landlords. Now that the world has shifted to mostly remote work, it is more difficult for vulnerable household to obtain things such as income documents and proof of benefits. Self-certification of income or benefits removes a significant hurdle for tenants seeking assistance. The requirement that participants have a current lease document can also be a barrier to

² <https://phlrentassist.org/dashboard/>

³ Id.



participation. Most frequently, a lease that is entered into by a landlord and tenant has a renewal clause that allows the lease to continue past its initial term. A lease that has been automatically renewed should be acceptable proof of residency. In Philadelphia, we have gotten around that barrier by allowing landlords to submit a letter verifying that the applicant is a tenant and their current rental amount. Additionally, under the American Rescue Plan, households that may not have experienced a change in income but have experienced an increase in expenses are eligible to apply for assistance. This opens the door for a significant portion of the population, particularly the elderly, to participate in the program. Increased expenses during the COVID-19 pandemic include the increased costs of food and transportation; the cost of supporting other family members who may have lost work; or the cost of burying a family member who has died due to the pandemic. These vulnerable households are bearing these increased costs without an increase in their income. Market rent in most of the United States far exceeds the average SSI benefit payment of \$783. This means that any increase in expenses to the household will create a rental arrearage that can balloon over several months because the household income is unchanged.

Another particularly vulnerable group is households with young children who are not eligible to be vaccinated. The adults in those households may be unable to return to work because of risk of bringing COVID into their home. They are forced to choose between the health of their families and working to cover the cost of rent. For most of these households, the only choice is the health of their family and as a result, the rent goes unpaid and debt balloons.

Sadly, the impact of an eviction is not temporary. Although an eviction record is often just a brief snapshot of a person going through a difficult period, the impact is permanent. Tenants can recover from an illness, job loss, family death, or domestic violence issues, but the eviction record will follow them around, trapping them in substandard housing or preventing access to better job opportunities that require them to relocate. Vulnerable households are given the explicit message that they are only deserving of substandard housing for the rest of their lives, despite changed circumstances that make it unlikely that they should have any trouble paying rent or meeting the obligations of their lease in the future.

Landlords and private tenant screening companies have developed a system for disseminating tenant screening reports which feature screening criteria, such as credit history and eviction history, to assist landlords in evaluating prospective tenants. Unfortunately, such screening tools are often used pretextually, or are arbitrarily formulated and applied without reference to common, agreed upon standards. Increasingly, landlords use tenant screening companies, internet searches and other methods to screen tenants. The tenant screening companies running background checks cannot always ensure that eviction records are completely accurate. Or, the companies will use algorithms with mysterious scoring and weighting methods based on these incomplete records to make suggestions to landlords about whom to accept for housing. That means that even if a tenant was never evicted – even if a tenant wins their eviction case in court – they can still be denied housing on the basis of the eviction filing alone, making it nearly impossible to find new housing. Eviction records can also lead to the loss of



housing subsidies, ineligibility for public housing and being essentially barred from safe, affordable, and habitable private housing. The result is that otherwise worthy applicants are being denied access to critically-needed housing, often severely limiting their housing options and subjecting them to possible homelessness.

Sadly, HB 3913 proposes to limit the usage of the unspent funds that were allocated for rental assistance under the American Rescue Plan. Getting the money into the hands of landlords and tenants should be the top priority. The Federal Government should not take any steps to eliminate the flexibility given to grantees to administer their programs and set up the supportive services needed to ensure that the money paid out to tenants and landlords can have a lasting impact. Additionally, the proposal to shorten the timeframe for which ARPA funds can be used to December 31, 2021 instead of September 2022, goes against the stated goal of the original legislation. All across the country tenants and landlords are experiencing widespread delays in the processing of rental assistance applications. At this time in Philadelphia there are 55,595 unprocessed applications. Even though the program is doing a great job of getting money of the door and prioritizing households that may be partially vulnerable i.e. households facing pending evictions or lockouts, it is unlikely that all of the unprocessed applications will be processed and paid out in the next four months. Moreover, the COVID 19 Pandemic has not ended. The resurgence of the Delta variant has brought back the issues and concerns that created widespread unemployment for the greater part of the 2020 and 2021. Until all Americans can be vaccinated and safely return to the workforce without the threat of spreading Covid-19 to their family members, no steps should be taken to place additional limitations on the timeframe in which ARPA dollars can be spent or issues it can cover.

The proposed changes to the Emergency Rental Assistance Program outlined in HB 5196 titled "Expediting Assistance to Renters and Landlords Act of 2021" are vital to the survival of the landlord tenant ecosystem. Providing flexibility for landlords to apply on behalf of tenants with arrearages who may be non-responsive will ensure that landlords are able to continue to meet their financial obligations. Additionally, requiring the Grantee to inform those tenants that their arrears have been paid and that they are covered by the proposed 120-day eviction prohibition places both the landlord and tenant on equal footing by providing the tenant with the information needed to self-advocate. The satisfaction of outstanding money judgments and the sealing of cases is vital. As previously stated, evictions are like a scarlet letter that have the potential to limit a tenant's ability to access safe and affordable housing for years to come. The removal of the requirement that the parties provide a written lease acknowledges that many tenants and landlords may be operating under lease renewals or oral agreements. These agreements are valid and enforceable and should not limit tenants' or landlords' ability to participate in the rental assistance program. The proposal to use self-attestation of eligibility for households removes a significant barrier to tenant participation. Obtaining proof of income and benefits can be a long and tedious process that involves visits to agencies that are now closed or spending several hours on the phone with a representative. This is compounded by the delays in the mail delivery experienced nationwide. The expansion of the numbers of places where a tenants or landlord can apply for ERAP will greatly increase the program access to low income and remote



communities. Providing the option for landlords or tenants to apply for rental assistance through their local library or public schools is a great solution. For landlords or individuals who may not be able to use online application, scheduling an appointment to complete an application in person if available can often be a barrier for participation. The program grantee's office may not be located in their county or near their place of residence. The time spent and cost of the travel may be prohibitive to vulnerable households who may otherwise want to participate in the program. Use of public entities will only enhance the ability of tenants and landlords to participate in this program.

The federal government should move quickly to adopt the proposed changes outlined in "Expediting Assistance to Renters and Landlords Act of 2021" giving grantees greater flexibility in the administration of their rental assistance programs. It is vital that vulnerable households are given every opportunity to access the assistance that they need and that barriers to participation are removed. Additionally, grantees should be encouraged to partner with or adopt their own diversion program to create a forum to resolve landlord tenant issues without the long-term consequences of an eviction case.

Thank you for this opportunity to present testimony and for your time and attention to this important issue.

Testimony On
“Protecting Renters During the Pandemic:
Reviewing Reforms to Expedite Emergency Rental Assistance”

Margaret Salazar, Executive Director, Oregon Housing and Community Services;
Vice Chair, National Council of State Housing Agencies

September 10, 2021

Introduction

Chairwoman Waters, Ranking Member McHenry, and members of the Committee, thank you for this opportunity to testify on behalf of Oregon Housing and Community Services (OHCS) and the National Council of State Housing Agencies (NCSHA) on protecting renters through the Emergency Rental Assistance (ERA) program.

My name is Margaret Salazar, and I am the Executive Director of OHCS, Oregon’s housing finance agency. We envision a future where all Oregonians can live free from poverty and pursue prosperity. OHCS administers federal and state programs that provide housing stabilization across the housing continuum — from preventing and ending homelessness, to assisting with utility costs, to financing affordable housing, to providing homeownership resources. I also have the privilege of serving as the Vice Chair of NCSHA, which is a nonprofit, nonpartisan professional trade organization created by the nation’s state Housing Finance Agencies (HFAs) more than 40 years ago.¹

OHCS, like 27 other state and territorial HFAs, serves as a statewide administrator of the Emergency Rental Assistance Program. Overall, state HFAs are responsible for roughly 30 percent of the total amount of funding Congress has appropriated for the program. NCSHA has included the other statewide ERA agencies in all its technical assistance, best practice exchange, and policy activities related to the program.

Background: ERA Is Working Better Every Day and Can Improve with Federal Reforms

This hearing and Chairwoman Waters’ proposed “Expediting Assistance to Renters and Landlords Act of 2021” come at an inflection point for ERA. Through tremendous effort every state and hundreds of local jurisdictions and tribal governments are providing ERA funds to vulnerable renters and landlords in need. The recent end of the federal eviction moratorium, the lack of similar moratoria in most states, and the expiration of expanded unemployment benefits just this week means millions of low-income renters face imminent and grave financial and health risks that are neither their fault nor in their power to fully overcome. While the ERA program cannot completely avert this national emergency on its own, it can and must be a big part of the nation’s response to continuing economic fallout from the pandemic.

¹ NCSHA is a nonprofit, nonpartisan organization. None of NCSHA’s activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

The positive news is that ERA has already provided a lifeline to more than a million vulnerable renters and made thousands of landlords whole. Hundreds of state and local ERA programs, hardly any of which existed as recently as six months ago, have launched and evolved. Many have made significant improvements in response to regularly revised rules from the Treasury Department and recommendations from the National Low Income Housing Coalition, the National Multifamily Housing Council, and other program stakeholders. That process continues, and state programs welcome it.

State ERA programs overall have consistently accelerated their distribution of ERA funds since the spring. Every month, state grantees have increased their pace of progress. With program infrastructure fully in place, states have delivered more than \$1 billion in each of the last three months. NCSHA estimates state ERA programs provided more than \$1.6 billion in emergency rental assistance in August, the highest monthly amount to date.

For example, the Oregon Emergency Rental Assistance Program (OERAP) launched in May 2021 after OHCS launched \$200 million in state rental assistance in early 2021. In just over three months, OHCS and our local program administrators have allocated nearly \$35 million in ERA dollars to more than 5,500 households. This represents double the amount of rental assistance typically allocated by OHCS in a typical year. In the last month, our agency has implemented bold surge efforts, hiring more than 60 temporary and contract staff and bringing on an outside vendor to boost capacity and speed application processing. OHCS is seeing the results of surge efforts at the state and local level. Over the last month, local OERAP program administrators have processed approximately 3,893 applications, nearly 3.5 times the total applications processed in July. This work is in addition to administering \$200 million in state funded rental assistance to tenants and landlords in the six-month period of January to June 2021.

To be sure, there is still room for improvement in some state ERA programs. NCSHA is supporting the efforts of state administrators to continue to make their programs more widely available and easily accessible, especially for the most vulnerable, without sacrificing accountability. NCSHA is also assisting state administrators in more widely and effectively marketing their assistance programs, again with a focus on renters and landlords who are hardest to reach: those of color, in rural communities, and in the smallest rental properties.

But beyond what state and local ERA administrators have the power to do, there are limits to what ERA can achieve as currently authorized and regulated. We agree with Chairwoman Waters that “legislation is needed to further reform this program to greatly strengthen its effectiveness.”² We also believe the Treasury Department has the ability with its current authority to accelerate the delivery of assistance — and have provided the administration with detailed recommendations in a number of key areas.³

² U.S. House Committee on Financial Services, [“Waters Details Plans to Reform the Emergency Rental Assistance Program and Expedite Aid to Renters and Landlords,”](#) August 27, 2021.

³ NCSHA, [“Steps the Administration Can Take to Accelerate Utilization of Federal Emergency Rental Assistance Funds,”](#) July 8, 2021.

In terms of legislative reforms, we strongly support Chairwoman Waters' proposal. The main provisions would make ERA more efficient and effective in the hands of state and local administrators. We also encourage the committee to make several additional statutory improvements that we believe would further strengthen the program.

All these proposed reforms reflect the fundamental balances that agencies at all levels of government must strike — the practical realities they must accommodate — in achieving Congress' goals for emergency rental assistance and the dire need for it on the ground. They are:

- The balance between renter protection and landlord participation;
- The balance between equity, efficiency, and accountability; and
- The balance between current and coming demand.

Balancing Renter Protection and Landlord Participation

The administration has recently framed ERA's ultimate metric as serving to help "prevent" and "create alternatives to evictions." In doing so, the administration recognizes that ERA itself is only one part of what needs to be a comprehensive set of interventions, as it has called for "the acceleration of ERA funds to renters and landlords in need *in addition* to an all-hands-on-deck effort by local governments, courts, community organizations, and the legal community to create alternatives to evictions" (emphasis supplied). The administration's approach aligns with research by the American Bar Association and Harvard's Negotiation and Mediation Clinical Program, which finds:

In fact, most stakeholders across these groups suggested that rental assistance is a necessary but insufficient condition of any eviction prevention program...[S]takeholders involved in eviction diversion programs also universally agreed that rental assistance acts best as a complement to other interventions and services which can holistically address the root causes of a tenant's housing instability.⁴

It is state HFAs' experience, having worked with thousands of landlords, in every state, that the overwhelming majority of landlords want to avoid evictions at all costs. NCSHA on behalf of state ERA administrators has repeatedly and publicly acknowledged the extraordinary and often unheralded efforts of landlords large and small to keep people safely housed during the pandemic and acknowledged their legitimate frustrations with aspects of some state programs.⁵

⁴ Deanna Pantin Parrish, "[Designing for Housing Stability: Best Practices for Court-Based and Court-Adjacent Eviction Prevention and/or Diversion Programs](#)," 2021.

⁵ National Council of State Housing Agencies, "[An Open Letter to America's Landlords](#)," July 15, 2021.

This said, it seems clear that eviction-related renter protections discourage some landlords from participating in ERA programs or accepting their renters' payments from these programs. In May, a survey of small landlords by Avail found 22 percent of landlords eligible for ERA assistance had not applied because of "having to waive evictions during the period of assistance." Last month, during a video conference NCSHA convened of hundreds of city, county, state, and tribal ERA grantees, 21 percent reported that in their ERA implementation experience to date "limiting assistance during evictions periods discourages landlords from participating." *The Wall Street Journal* has reported:

Many landlords say they have no wish to keep renting to tenants who have repeatedly shown them that they cannot pay. That sentiment has sometimes been a barrier in administering pandemic rental aid. Program rules often require landlords who accept rent aid, even in partial sums, to forgo evictions for a set period. Many property owners don't want to keep tenants with a history of not paying.⁶

Some rental assistance programs pay directly to tenants, cutting out landlords that refuse to acknowledge the program. But some tenants are finding that receiving the money directly doesn't always solve the problem, because some landlords are still unwilling to take it, according to housing attorneys and tenants.⁷

OHCS's experience mirrors these trends. OHCS initially structured OERAP with requirements for participating landlords not to evict tenants for 90 days as a precondition of accepting funds. However, we heard from landlord organizations that these tenant protections were manifesting as a barrier to participation. In an effort to do everything in our power to keep people housed, after conversations with partners we made the decision to be adaptive and flexible and removed that language in order to expedite funds out the door. We are continuing to work with landlords and are imploring them to remain patient in receiving the funds that are flowing out the door each week. Eviction should be a last resort.

We support the provisions in Chairwoman Waters' proposal to expand ERA's capacity to support comprehensive eviction protections while also encouraging more landlord participation by:

- Allowing landlords to apply for ERA on behalf of tenants, even if the landlord is unable to gain the renter's consent, either because the tenant is not responsive to the landlord or because the tenant has vacated the property;
- Adjusting eligibility requirements for households receiving "housing stability services" under the program; and
- Providing additional funding for outreach to tenants and landlords and so that Treasury may provide technical assistance to grantees.

⁶ Ackerman, Andrew and Will Parker, "[Eviction Moratorium's Renewal Squeezes Small Landlords](#)," *The Wall Street Journal*, August 9, 2021.

⁷ Will Parker, "[Why Some Landlords Don't Want Any of the \\$50 Billion in Rent Assistance](#)," *The Wall Street Journal*, March 19, 2021.

We also recommend:

- Further streamlining the requirements related to housing stability services so grantees may use ERA resources to stand up service programs, such as eviction diversion programs, without having to first ensure that all households receiving services through these programs are low income.

Balancing Equity, Efficiency, and Accountability

State, county, city, and Indian governmental administrators have been accused of unnecessarily prioritizing documentation requirements aimed at avoiding fraud over the urgent need to make rental assistance as accessible as possible for people who are unable to show their eligibility beyond their own attestation.

OHCS has been nimble in responding to the changing landscape of rental assistance and the changing expectations to meet necessary tenant protection policies. We remain committed to keeping Oregonians stably housed while being careful stewards of taxpayer resources. OHCS has taken bold steps to increase access to ERA funds while also maintaining fiscal responsibility. We have seen unprecedented demand for these resources, with more than 31,000 Oregon households applying for assistance.

To meet this need, our agency brought on support of an outside vendor to process applications and make payments, adding capacity to local program administrators and creating more uniformity in program administration. OHCS created self-attestation forms to ease the use of self-attestation while ensuring clarity statewide. We created user-friendly websites that provide tools such as the option for digital image uploads, and disseminated informational videos and website content translated into multiple languages. OHCS also partnered with community-based organizations to increase outreach and support to communities disproportionately impacted by housing instability. We are currently exploring additional opportunities to improve access to ERA-2 resources.

The fact of the matter is, even with the new flexibilities in the Treasury rules as of two weeks ago — flexibilities state and local ERA administrators had requested since May — the ERA statute and Treasury requirements still impose specific and significant accountability responsibilities on state and local ERA administrators.

This is what the law says:

The Inspector General of the Department of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of funds made available under this section... If the Inspector General of the Department of the Treasury determines that a State, Tribal government, or unit of local government has failed to comply with subsection (c), the amount equal to the amount of funds used in violation of such

*subsection shall be booked as a debt of such entity owed to the Federal Government. Amounts recovered under this subsection shall be deposited into the general fund of the Treasury.*⁸

Here is what Treasury's rules for the program say:

Grantees must also have controls in place to ensure compliance with their policies and procedures and prevent fraud. Grantees must specify in their policies and procedures under what circumstances they will accept written attestations from the applicant without further documentation to determine any aspect of eligibility or the amount of assistance, and in such cases, grantees must have in place reasonable validation or fraud-prevention procedures to prevent abuse.⁹

We appreciate verbal assurances from US Treasury and other senior Administration officials that ERA administrators need not worry about potentially punitive actions by auditors if they fail to properly use and document uses of taxpayer funds. Our experience tells us that these verbal assurances will not necessarily guide actual oversight, either under this administration, or another one, or through state or local audits.

State and local officials on the line for meeting this unprecedented emergency are acting in good faith when they work to balance urgency and accountability. We take exception to suggestions that our efforts to meet clear federal requirements and to follow longstanding commonsense procedures are inherently inequitable. Those assertions do a grave disservice to the public servants Congress charged with ERA administration on the ground.

We support the provisions in Chairwoman Waters' proposal that would enable ERA administrators to further reduce remaining administrative barriers while maintaining program integrity by:

- Providing safe harbor protections to grantees so they would not be subject to liability to repay assistance funds provided in good faith, relying on the attestation of the tenant, if they later discover the tenant did not meet the statute's eligibility requirements.
- Streamlining eligibility criteria for ERA 1 by conforming the requirements related to having experienced a hardship to what is allowed for funds made available through the second appropriation ("ERA 2"). (Proposals that would go the other way, to make ERA 2 more like ERA 1, would be highly counterproductive.)
- Increasing ERA 1 funds for administration to align with administrative funding under ERA 2 so that grantees will have the resources they need to increase the speed at which claims are processed while also preventing the funding of fraudulent applications.

⁸ [Consolidated Appropriations Act of 2021](#).

⁹ U.S. Department of the Treasury, "[Emergency Rental Assistance Frequently Asked Questions Revised August 25, 2021](#)."

Balancing Current and Coming Demand

While we fully understand the focus on state and local ERA spend-out as a share of total funds appropriated for the program, we believe it is incomplete at best and highly misleading at worst as an indicator of ERA grantee performance, for several reasons.

First, this committee and ultimately the Congress authorized the initial \$25 billion appropriation of ERA funding until September 30 of next year and the second appropriation of \$21.55 billion until September 30 of 2025 — and set those timetables with the expectation that the national eviction moratorium would expire long before the funding expiration dates. Second, the statutory funding formula resulted in some states (and presumably some localities) receiving amounts that probably exceed both demand and need for ERA, at least as currently designed — which Congress always anticipated and included in the law a “reallocation” process specifically to address.¹⁰

Third, not only has the pace of state program spending consistently increased since programs opened over the course of last spring, state programs on average have funded more than one-third of the applications they have received — with many funding 40 or 50 percent or more — which we would argue is a more valid measure of program efficiency than spend-out for a program that Congress authorized to exist for years.

Additional factors bear directly on the pace of ERA spending so far in some states. Several state programs, such as those in Alabama, Georgia, Nebraska, and South Carolina, are or have been until very recently intentionally not operating in some or all the large cities and counties that received their own allocations of ERA funding, so as to avoid creating confusion among landlords and renters in those areas. The result is that such state programs are available only to smaller, much-harder-to-reach pools of renters, often in remote rural communities.

It is also critical to view the ERA expenditures in the context of state and local rental assistance programs and eviction prevention efforts. Some HFAs are operating ERA in addition to state funded rental assistance programs. On the same day in December 2020 Congress created the ERA program, the Oregon Legislature created two new state rental assistance programs. As a result, OHCS received \$200 million in state general funds, which dwarfed any prior rental assistance received by the agency simultaneously to receiving an allocation of \$204 million in ERA funds.

Our state programs — the Landlord Compensation fund and the STARR program — were complex and highly visible and had spend down deadlines of June 30, 2021. Legislators expected speedy launch of these programs which by necessity drew focus from the launch of ERA. Our ERA program, OERAP, launched in May 2021.

¹⁰ NCSHA and the other national organizations representing state, county, city, and tribal governmental entities responsible for delivering ERA around the country have made recommendations to the Treasury Department for the reallocation process, [linked here](#).

Since the beginning of the calendar year, OHCS has obligated more than \$204 million in rental assistance to Oregon households. This is equivalent to our entire ERA 1 allocation, but it represents a combination of state and federal funds. Looking at OHCS' spend down of ERA in a vacuum misses the larger context: OHCS has allocated more rental assistance this year than our agency typically allocates in a decade.

The launch of ERA has truly been a start-up effort. Though many HFAs, including OHCS, administered rental assistance in 2020 using Coronavirus Relief Funds (CRF), it is important to note that the ERA program is distinct from CRF, with totally different and additional federal rules. For many of our agencies, the ERA program could not be viewed as a continuation of the programs run with CRF. This was certainly true for the state of Oregon; our local program administrators did amazing work to serve tenants with CRF last year, but the programs offered in 2020 did not align with the ERA program guidance.

Additionally, state HFAs and other administrators are navigating a changing landscape of eviction policies which have created important protections for tenants, and added complexity and competing priorities to the provision of ERA on the ground. As Oregon's statewide eviction moratorium neared its June 30, 2021 expiration date, the Oregon Legislature enacted Senate Bill 278. This law provides a 60-day "safe harbor" period. Tenants that apply for rental assistance can provide written documentation to their landlords of this application and may not be evicted for non-payment of rent for a period of 60 days. OHCS worked swiftly to build these protections into our administration of the ERA program, which was not part of the initial program design.

To be clear, state ERA administrators recognize the dire housing instability millions of renters face and are committed to moving more assistance more quickly in the weeks and months ahead. If anyone takes anything from my testimony today, it should be that I and my entire team in Oregon, and my colleagues at state HFAs and other ERA grantees around the country, are totally committed to helping as many eligible renters as quickly as possible with ERA and understand the urgency to do so.

In fact, we believe ERA will be needed more than ever in the months ahead. Even before the pandemic, millions of renters experienced significant housing instability and faced eviction risk for failing to pay small amounts of rent.¹¹ The unevenness of the economic recovery, and the specific weaknesses in parts of it that disproportionately employ low-income renters, suggests that ERA will become more needed in more states and cities in the months ahead as both a financial lifeline to families and an economic stabilizer for communities. These needs may well persist for the full period for which ERA 1 and 2 are authorized — any effort to shorten those statutory timetables would be deeply misguided.

Earlier this week, 7.5 million Americans lost unemployment benefits, and millions more lost up to \$300 a week in relief. As a result, according to the Century Foundation, "States need to prioritize messaging about rental assistance to unemployment insurance exhaustees, and whenever possible, work with state and

¹¹ Emily Badger, "[Many Renters Who Risk Eviction Owe Less Than \\$600](#)," *New York Times*, December 12, 2019.

regional housing agencies to share information about rental assistance to the unemployment claimant population.”¹²

There are also indications that utility arrearages, an eligible household expenditure ERA can and does cover, remain substantial and may be rising. Estimates of unpaid utilities range from \$10 billion to \$30 billion.¹³ In a survey last month, 24 percent of the low-income respondents indicated they had made a partial payment or missed a payment to a utility in the previous 12 months, and “almost half of the at-risk customers surveyed are clearly feeling high levels of anxiety over the prospect of paying their utility bills and possibly needing assistance.”¹⁴

While state and local utility disconnection moratoria are more widespread than rental eviction moratoria, an estimated 60 percent of Americans live in areas without a moratorium, according to the National Energy Directors Association, whose executive director said recently, “The sheer number of people affected by COVID-19 threatens to overload the existing private and public programs that have alleviated financial struggle over utility bills.”¹⁵

We support the provision in Chairwoman Waters’ proposal that would address the continuing and coming demand for ERA by:

- Extending the time period during which an individual household may receive ERA funds to up to 24 months.

We also recommend:

- Explicitly allowing grantees to use ERA funds for hotel and motel master lease agreements so grantees may assist evicted households with temporary housing while the households are seeking more permanent housing. While Treasury guidance allows the use of ERA for hotel and motel stays for individual households, Treasury has indicated that it does not believe it has the ability under the statute to extend this to master lease agreements, which have been shown to be more economically efficient and simpler to administer as a homelessness prevention strategy than covering individual hotel rooms on a one-off basis.

¹² Andrew Stettner, “[7.5 Million Workers Face Devastating Unemployment Benefits Cliff This Labor Day](#),” The Century Foundation, August 5, 2021.

¹³ Rachel M. Cohen, “[There Could Be an Energy Bill Debt Tsunami, Too](#),” Bloomberg CityLab, February 4, 2021.

¹⁴ DEFC, “[Millions of Americans Could Avoid Eviction but Lose Utility Service Going Into Winter](#),” PR Newswire, August 26, 2021.

¹⁵ Taylor Moore, “[Utility Bill Deferments Are Ending. Here’s a State-by-State List of Programs That Can Help](#),” Next Advisor, August 30, 2021.

Conclusion

The administration has accurately said the launch of ERA required building “a new national infrastructure for rental assistance and eviction prevention that did not previously exist.”¹⁶ Now up and running everywhere, the program is delivering better results by the day. Additional improvements to the ERA statute as proposed by Chairman Waters and recommended by NCSHA, along with ever deeper commitment by state and local ERA administrators, will get more help to more renters and landlords in the short and long terms.

¹⁶ US Department of the Treasury, [“Treasury Data: Amount of June Emergency Rental Assistance Resources to Households More Than All Previous Months Combined,”](#) July 21, 2021.



TESTIMONY BY
David Schwartz
CEO & Chairman
Waterton

ON BEHALF OF THE
NATIONAL MULTIFAMILY HOUSING COUNCIL
AND THE
NATIONAL APARTMENT ASSOCIATION

BEFORE THE
HOUSE COMMITTEE ON FINANCIAL SERVICES

FOR A HEARING ENTITLED
“PROTECTING RENTERS DURING THE PANDEMIC:
REVIEWING REFORMS TO EXPEDITE EMERGENCY
RENTAL ASSISTANCE”

SEPTEMBER 10, 2021

Chairwoman Waters, Ranking Member McHenry and members of the Committee, it is my privilege to appear before you today to speak on behalf of the multifamily rental housing industry, the National Multifamily Housing Council (NMHC), the National Apartment Association (NAA) and our nation's 40 million apartment households regarding critical reforms needed to the Emergency Rental Assistance Program (ERAP).

My name is David Schwartz, and I am the CEO & Chairman of Waterton, headquartered in Chicago, Illinois with regional offices throughout the United States. I am also the current Chair of NMHC.

Waterton is a real estate investment and property management company with a focus on U.S. multifamily properties. Founded in 1995, Waterton executes value-add strategies and manages a national portfolio of properties on behalf of institutional investors, financial institutions and family offices. Waterton's portfolio includes approximately \$7.7 billion in real estate assets with over 24,000 multifamily units in 20 markets across the United States.

For more than 25 years, NMHC and NAA have partnered to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of more than 149 state and local affiliates, NAA encompasses over 93,000 members representing nearly 10.5 million apartment homes globally. One-third of all Americans rent their housing, and 40 million of them live in an apartment home.

I appreciate the opportunity to provide an overview of what is needed to stabilize the multifamily industry and millions of American renters through reforms of ERAP. As the Committee evaluates potential tools to ensure ERAP delivery to those in need and remove barriers to success in many communities across the country, we believe it is imperative to understand the gravity of the challenge we are facing, its impact on addressing long-term housing affordability and the significant role rental property owners — of all sizes and scale — play in achieving both.

Overview: State of the Industry

The apartment industry plays a critical role by providing apartment homes to 40.1 million residents, contributing \$3.4 trillion annually to the economy while supporting 17.5 million jobs.¹ At the same time, the supply of housing is insufficient to meet the nation's housing needs. For decades, America has witnessed the escalating challenge created by demographic shifts, public policy decisions and economic factors culminating in the inability of families to rent, buy or maintain stable, affordable and safe homes. Today, in more and more communities, many hard-working Americans are unable to purchase or rent homes due to skyrocketing costs driven by a lack of supply, barriers to development and regulatory burdens. Working families are increasingly spending more than 30 percent of their incomes on housing costs or are priced out of their communities altogether. Meanwhile, the COVID-19 pandemic has made the housing affordability crisis substantially worse and further exposed the necessity of immediate, direct action. Comprehensive COVID-19 relief legislation provided a life preserver for the countless Americans facing financial hardship, but additional focus is needed to ensure the continued stability of America's renters and housing providers across the nation.

COVID-19 and Multifamily Rental Housing

¹ <https://www.weareapartments.org/>

Our country has faced unprecedented challenges due to the pandemic over the past 18 months—creating significant hardships for America’s renters and jeopardizing the affordability, availability and overall stability of the rental housing supply nationwide. The apartment industry knows better than anyone the importance of providing a safe, secure place to call home, and it’s a responsibility we do not take lightly.

From the start of the pandemic, apartment firms have been committed to keeping residents in their homes, while providing individuals and families with a safe and healthy environment to live, work and learn. Rental housing owners and operators have continuously worked to address the needs of our residents, employees and communities, deploying a variety of assistance and resources, despite financial uncertainty and economic losses in their businesses.

Still, the pandemic has led to levels of debt that individuals and businesses may never be able to repay, threatening the very stability of the rental market, straining the industry’s ability to manage hundreds of thousands of homes and jeopardizing the employment of millions of workers who make significant contributions to the economy. This is why our industry has worked tirelessly with policymakers at all levels of government to craft and enact solutions that promote housing security for renters and robust economic support and recovery for us all.

Multifamily Housing Operators Commitment to their Residents

At the onset of the COVID-19 pandemic, NMHC and NAA called on their members to work directly with residents in need. The industry set to work in supporting renters, which has come in many forms. For those residents hard hit financially by the pandemic, apartment firms have taken an active role in both connecting residents with social services and financial assistance opportunities and facilitating the rental assistance application process where allowable. And regardless of our residents’ economic situation, apartment firms have worked to provide quality housing to our residents and their families through the pandemic and beyond, giving them refuge to remain safe and healthy at home.

As the pandemic emerged, [NMHC issued principles](#) calling on its members to work with their residents to help them face the unprecedented hardships they were encountering. NMHC members remained committed to their residents and communities, working with individuals and families to find solutions that were right for them. And in June 2021, as the country transitioned away from COVID-19 emergency measures, NMHC again asked members to continue their efforts to work with residents during the wind-down period.

Many NAA member firms implemented similar policies and more, including rent forgiveness, flat renewal increases and even creating internal rental assistance programs months before the federal government created the ERAP. Others provided ongoing technical support and created pop-up computer labs to help their residents navigate ERAP-funded programs. Moreover, they often worked as a bridge to local non-profit service providers to assist with meeting critical needs beyond just rental assistance.

While there is no one-size-fits-all approach, a recent NMHC survey of apartment owners and managers shows that 100 percent of multifamily firms surveyed offered solutions to residents facing financial hardships since the onset of the COVID-19 crisis. ²

² <https://www.nmhc.org/research-insight/survey/the-nmhc-pulse-survey-on-eviction-mitigation-practices/>

Among the multifamily firms surveyed, the most widely offered assistance options included:

- Payment plans – 100%
- Waived late fees – 96%
- Deferred payments – 78%
- Extended, shortened or other changes to lease terms – 58%
- Cash for keys – 54%
- Fee-free ability to charge rent on a credit card – 50%

The survey also asked what additional steps firms took to support residents during the pandemic:

- Increased cleaning and sanitation – 95%
- Connecting residents with food banks, charities and other local support resources – 86%
- Informing residents of healthcare protocols and best practices – 86%
- Hosting virtual social or exercise events – 57%
- Creating on-site services at communities to support residents – 50%
- Made it easier to work from home – 49%

The [full survey results are available here](#).

Extended Eviction Moratoriums Are Unsustainable and Risk Long-term Damage

From the beginning of the pandemic, NMHC and NAA maintained that a one-size-fits-all, nationwide eviction moratorium was not the right solution for addressing the housing hardships caused by COVID-19. Long-term eviction moratoriums only serve to place insurmountable levels of debt on households and jeopardize the stability of housing providers harmed by revenue losses and who may be struggling to pay their mortgages, finance property operations and meet their own financial obligations.

Moratoriums unreasonably shift the economic hardships of the pandemic to the backs of housing providers. Instead, it has become clear that the best way to keep people in their homes and ensure a functioning rental market is to provide residents with the resources necessary to meet their housing obligations. To that end, NMHC, NAA and our coalition partners urged Congress to create a federal rental assistance program, which ultimately resulted in a historic investment in housing stability for America's renters and the provision of almost \$50 billion in rental assistance³. It is critically important that policymakers move beyond emergency housing measures and instead focus on implementing workable solutions for renters and housing providers facing barriers and delays in the distribution of rental assistance.

Apartment owners depend on rental revenue to keep the doors open for residents. They rely on rent receipts to pay their mortgages, property taxes, employee salaries, insurance, utilities and maintenance. Additionally, these funds are critical to ensure housing providers have adequate reserves to prepare for capital improvements and maintain the long-term structural integrity and quality of their housing.

According to a [recent survey](#) by the Harvard Joint Center for Housing Studies (Harvard Joint Center

³ <https://www.congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf>

Survey), 31 percent of landlords reported deferring property maintenance in 2020 compared to only 5 percent in 2019.⁴ Further, owners with 20 or more units were more likely to have seen at least a 10 percent decline in revenues. However, small- and mid-sized landlords, who had higher exposure to non-payment prior to the pandemic, were more likely to have seen rental revenues drop by more than 50 percent.

Rental Shortages Cascade Through the Economy and Our Communities

According to [data](#) from NAA on where a dollar of rent goes:⁵

- 38 cents of every \$1 in rent goes to pay the property's mortgage.
- 16 cents of every \$1 pays for operating expenses such as property and liability insurance, utilities, ongoing maintenance and the like.
- 14 cents of every \$1 in rent goes to property taxes, totaling \$58 billion in property taxes paid by apartment firms every year.
- 12 cents of every \$1 is spent on capital expenditures, including roof and HVAC replacement and other important repairs.
- 10 cents of every \$1 in rent covers payroll, supporting nearly 700,000 apartment industry jobs.
- Just 10 cents of every dollar are returned to the owner.

Eviction moratoriums also threaten to exacerbate the affordable housing shortage we already had pre-pandemic by discouraging new rental housing development and renovation and forcing some owners to sell properties—depriving an already under-supplied rental market of much-needed housing units. The [Harvard Joint Center Survey](#) also noted that the share of owners who listed at least one property for sale increased more than fourfold from 2019 to 2020 (3 percent to 13 percent).

To address many common misconceptions about evictions and to detail the process step-by-step, NMHC issued an eviction primer which [can be found here](#).

We cannot stress enough the fact that throughout the pandemic, rental housing providers have worked to both help our residents resolve their hardships and to advance policies to provide renters with essential resources to meet their housing needs. Housing providers are continuing to help our residents avoid eviction with rent repayment arrangements, deferments, offering extended or flexible lease periods, waiving fees and connecting them with social services and financial assistance.

The best way to help struggling renters is for the Administration to work with Congress, states, and localities to help disburse rental assistance funds to residents and housing providers in need. That is why this hearing today is so critical. It is imperative that Congress, the Administration, advocates, industry stakeholders and states and localities work together to expedite the distribution of the rental assistance funds to the residents and property owners in need.

Addressing Renter's Underlying Financial Distress: Enactment of Emergency Rental Assistance Program

⁴ <https://www.jchs.harvard.edu/blog/how-has-pandemic-affected-landlords>

⁵ <https://www.naahq.org/news-publications/explaining-breakdown-one-dollar-rent>

From the start of the pandemic, NMHC and NAA were at the forefront of calling on policymakers to pass legislation providing assistance to residents and property owners, including rental assistance. As the pandemic's economic toll began to deepen in Spring of 2020, NMHC and NAA called on lawmakers to enact a number of provisions that would provide assistance to renters and property owners affected by financial hardships as a result of the COVID-19 outbreak. Many of our proposals were incorporated into relief initiatives—including the CARES Act, the Consolidated Appropriations Act of 2021, and the American Rescue Plan Act of 2021. These packages delivered desperately needed support for residents and housing providers and helped maintain the stability of the industry as well as provide critical support for the broader economy.

The American Rescue Plan Act of 2021 capped off a year of dedicated COVID advocacy efforts to support the hard-hit rental housing sector. This Committee's work to provide \$40 billion in support to a variety of existing rental housing programs across the federal government -- in addition to the nearly \$50 billion in funding provided by Congress for ERAP -- represents a deeply needed and unprecedented investment in our nation's housing and its renters. We remain deeply appreciative of the bipartisan leadership of this Committee in remaining steadfast in their support of our nation's renters and the rental housing sector during such a challenging time in our nation's history.

Unmet rental payments have caused extreme hardship for many property owners who have not had the resources to continue to meet their financial obligations through the prolonged health crisis. As leaders of the apartment industry, NMHC and NAA members have worked with their residents to apply for rental assistance, modify rental agreements, and otherwise support their apartment communities throughout the pandemic.

Industry's Commitment to Helping Residents Secure ERAP Funds

It is important for the Members of the Committee to understand the critical role that many in the industry are playing to help execute the rental assistance program and to assist their residents. Apartment firms have taken an active role in both connecting residents with social services and financial assistance opportunities and facilitating the application process where allowed. Given the widely varying nature of rental assistance programs and the multi-jurisdictional footprint of many apartment firms, this necessitates a significant commitment of resources and staff to vet dozens or even hundreds of programs with differing eligibility, application, and distribution policies.

The following snapshots represent a cross-section of the industry, both affordable and conventional housing operators. The obstacles they have faced in securing ERAP funds are common barriers that housing providers of all sizes and scale report across the nation and why reform of the program is needed so urgently. Provided below are company specific ERAP Industry Snapshots:

BH Management

BH Companies manages over 100,000 units and operates in 27 states.

"At BH, we believe our residents should have a comfortable place to call home. We've worked hard throughout the pandemic to make a positive impact in our communities. From providing flexible payment plans to connecting residents with available rent assistance funds, BH has remained committed to helping families stay in their homes. We continue to work closely with federal, state, and local

organizations to help our residents secure available rental assistance. To date, our teams have assisted more than 8,000 residents obtain just under \$36 million in rent assistance funds.”

- **Total delinquency during the pandemic:** \$47,145,840, with rental assistance received, current delinquency is \$22,072,980
- **Total current number of units/ total delinquent units:** 7,245
- **Average outstanding balance:** \$3,047
- **Total amount of rental assistance applied for:** \$32,733,560
- **Total federal assistance approved:** \$28,516,665.91 (this number includes all rent assistance, including Federal)
- **Total federal assistance received directly:** \$7,660,700 (approved but not yet received) and \$25,072,860 received

The Bozzuto Group

In 1998, founding partners Tom Bozzuto, John Slidell, and Rick Mostyn formed The Bozzuto Group with the mission to build and manage unique homes while being sensitive to the environment. Thirty years later, Bozzuto has grown to more than 2,700 employees who carry out the mission of creating sanctuary for all through innovative multifamily development, construction, management, and homebuilding.

Bozzuto Management Company has grown its portfolio to over 85,000 units and over three million square feet of retail across 275 properties. Bozzuto’s commitment to creating extraordinary living experiences has garnered notable acknowledgment within the industry. Recognized as the nation’s #1 property management company by the National Association of Home Builders (NAHB) in 2021 and 2018 and ranked #1 property management company for online customer satisfaction in the ORA Power Rankings by J Turner Research for the seventh year in a row, Bozzuto demonstrates its mission with every property within the portfolio.

We currently operate properties in Maryland, Virginia, Delaware, Washington DC, Pennsylvania, New Jersey, Connecticut, New York, Massachusetts, Rhode Island, New Hampshire, Illinois, Wisconsin, Florida, Washington, and California.

“Bozzuto Management continues to experience significant delinquency balance growth each month. Delinquency at month-end of August 2021 was in excess of \$31m, up over \$11m from August 2020 and over \$20m more than June 2019 pre-COVID. These balances have been largely protected from collection efforts and eviction through local and national moratoriums, backlogs in the landlord tenant courts, and prohibitive legislation, both local and national. As a company, we continue to focus on contacting every resident with delinquent balances, where allowed by law, to offer customized payment plans, providing proactive assistance and education with the ERAP process, and allowing early lease terminations without penalty. The inconsistent deployment of the federal relief funds remains a challenge in many states where we are operating.”

- **Total amount of delinquency on books:** \$44,803,360.57
- **Total number of delinquent units:** 17,446
- **Average outstanding balance:** \$2,816.93
- **Total number of payment plans:** 1,066

- **Total delinquency amount on payment plan:** 212,328.41
- **What percent of delinquency are not on a payment plan?** 99%
- **Total amount of Federal Rental Assistance received:** 4,039,026.08
- **Number of units that have received Federal rental assistance:** 418

Waterton

Waterton is a real estate investment and property management company with a focus on U.S. multifamily properties. Founded in 1995, Waterton manages a national portfolio of properties on behalf of institutional investors, financial institutions and family offices. Waterton's portfolio includes approximately \$7.7 billion in real estate assets with over 24,000 multifamily units in 20 markets across the United States. Waterton has over 600 employees who manage our communities through Resitality®, our hospitality-inspired service culture.

Presently, and throughout the pandemic, Waterton utilizes several methods of communication with residents in order to offer payment plans, rent deferrals, fee breaks, CDC forms and access to local resources. Further, Waterton offers phone calls and in-person or virtual meetings to assist residents who need additional help. Waterton trains and designates emergency rent relief liaisons within its community operating teams who work with residents and also local agencies to ensure that the lines of communication are open and that residents are able to apply for rent relief.

- **Total amount of delinquency on books:** \$8,450,437
- **Total number of delinquent units:** 1,698
- **Average outstanding balance:** \$4,977
- **Total amount of Federal rental assistance applied for:** \$7,490,811
- **Number of units that have applied for Federal rental assistance:** 694 (For reference, this number is only tracked in jurisdictions where we can determine application status.)
- **Total amount of Federal Rental Assistance received:** \$4,642,650
- **Number of units that have received Federal rental assistance:** 534

Avenue 5

Avenue5 is a private, third-party property management company providing solutions-based portfolio management services for the multifamily industry. Avenue5 began managing a 6,500-unit portfolio in 2014, and expanded our third-party management services for a broad range of multifamily owners in November of 2015.

At Avenue5, we leverage our extensive expertise to effectively manage more than \$20 billion in assets nationwide, including 400 properties with more than 80,000 units in 13 states and Washington, DC.

Our company is headquartered in Seattle, and has offices in Orange County, Phoenix, Portland, Salt Lake City, Spokane, and greater Washington, DC. In addition, Avenue5's local experts are based in key markets including Northern California, Los Angeles, San Diego, Reno, Las Vegas, Colorado Springs, Denver, Austin, San Antonio, Dallas, Houston, Baltimore, and Charlotte. We employ about 2,000 associates nationwide. Our local market presence allows us to efficiently and effectively manage properties nationwide.

"Avenue 5 has taken the following measures to communicate with non-communicative residents:

- Constant and consistent communication with residents including:
 - Email
 - Texting
 - Calling from different phone numbers
 - Knocking doors
 - Comprehensive letter system:
 - Letter 1 asks them to please contact us if they are in need of resources or a payment plan,
 - Letter 2 offers a payment plan and options to discuss or change,
 - Letter 3 offers resources again and checks if they are still living there,
 - Letter 4 is an occupancy check.
- Hosting resident specific "rent relief parties" where we provide food and drinks to come in and discuss relief options
- Provision of comprehensive list of resources throughout the state that we're able to share with our residents to find resources and support."
- **Total rent billed April 2020 through 09/08/2021:** \$1,492,081,827
- **Total resident rent delinquency:** \$48,582,947
- **Total number of delinquent units:** 18,100
- **Average rent delinquency:** \$1,525
- **Total number of payment plans outstanding:** 299
- **Total delinquency amount on payment plan:** \$2,266,959
- **Federal and local funds applied for:** \$26,870,010
- **Federal and local funds approved for:** \$14,882,293
- **Federal and local funds received:** \$13,846,469
- **Number of units that have received Federal rental assistance:** 2,551
- **Percent of delinquent non-communicative residents:**
 - California – varies city by city
 - Oregon – 20%
 - Washington – varies city by city
- **Percent of residents not eligible for the assistance due to income restrictions:**
 - California – 30%
 - Oregon - 5%
 - Washington – 50%

Our members have worked tirelessly to help our residents secure rental assistance funds; but despite best efforts by property owners and managers, and many others in the housing community, including housing advocates, social services providers, grantors and many others, many qualified applicants have yet to receive the emergency rental assistance funds that we all worked so hard to enact.

Urgent Need for Reforms of the Emergency Rental Assistance Program (ERAP)

Despite the best efforts of Congress and the Biden Administration, state and local governments and administering entities have bogged the ERAP eligibility and distribution process down with needless red tape, restrictive eligibility criteria, regulatory barriers, unrelated mandates on housing providers and other significant delays. The result is that just over 10 percent of federal rental assistance funds have been

distributed to renters and property owners as of the end of July, which is why we join this Committee in calling for urgent reform to ERAP.

We applaud this Committee's focus on reforming the program and appreciate that H.R. 5196, the Expediting Assistance to Renters and Landlords Act of 2021 and H.R. 3913, the Renter Protection Act of 2021 begins to address many of our concerns. Although we agree that changes are needed to maximize the reach of ERAP funds to renters and housing providers and to ensure greater consistency across programs, we encourage the Committee to focus on efforts to break down barriers that unnecessarily complicate getting program funds into the hands of struggling renters and housing providers—rather than implementing further roadblocks or unnecessary rules changes that could unintentionally slow disbursement of ERAP. Specifically, as final legislation is considered, we encourage the committee to:

- 1) **Reject eviction moratorium provisions.** H.R. 5196 includes a 4-month eviction moratorium upon acceptance of ERAP funds, with no guarantee of assistance to cover any potential unpaid rent. This puts the renter and the housing provider in an untenable situation with the renter again incurring debt they may not be able to repay. NMHC and NAA do not support any additional eviction moratorium. Such a proposal only exacerbates the problems that this bill seeks to address. Moreover, this additional blanket eviction moratorium is even wider than current moratoriums and would hurt already struggling small housing providers and result in additional arrears for renters who are already struggling to pay rent.
- 2) **Streamline documentation requirements.** H.R. 5196 essentially creates a separate set of rules for small (one- to four-unit owners) vs. larger owners as it relates to documentation requirements. Mom-and-pop/small is an arbitrary term and having grantees distinguish between two different types of properties is not conducive to streamlining and expediting disbursement and fails to acknowledge that a renter in need is a renter in need—regardless of the size of the building they live in or the size of the company that owns the property. A requirement like this will certainly cause confusion on the ground and pose a significant implementation challenge for ERAP grantees.
- 3) **Oppose debt/rent cancellation.** H.R. 5196 requires housing providers to satisfy a resident's outstanding balance/debt in its entirety upon receiving some ERAP payments, even if the amount received is less than what is owed. Partial ERAP payments should not be considered full satisfaction of back rent owed or removal of the contractual obligation of a non-responsive/non-cooperative resident. Program barriers like these imposed by grantees across the country were reported as one of the major reasons why some housing providers, especially small owners, opted to not participate/accept ERAP funds.

Without action to improve disbursement of ERAP funds and increase participation in the program, renters are faced with further uncertainty and a mounting debt cliff, while rental property owners move closer to foreclosure, bankruptcy, or a forced sale of the property. This puts the overall stability of the rental housing sector and broader real estate market in peril.

In addition to the specific legislative provisions outlined above, on August 18, NMHC and NAA led a broad coalition of national real estate trade organizations that represent for-profit and non-profit owners, developers, managers, housing cooperatives and housing agencies involved in providing affordable rental and cooperative housing in sending a [letter to the Biden Administration](#) calling for critical reforms to

ERAP to accelerate the distribution of federal funds to renters and housing providers in need.

Together, we encourage Congress and state and local rental assistance grantees to support housing providers by prioritizing the timely and efficient distribution of rental assistance funds and providing real solutions to the nation's pressing housing needs. In particular, we support efforts to help jurisdictions ramp up delivery of rental assistance benefits, including focusing on the distribution of rental assistance while eschewing efforts to extract policy concessions from housing providers, streamlining onerous application and documentation requirements, expanding eligibility where possible, leveraging housing provider capabilities to assist with the resident application process and embracing practices and technologies with proven operational success.

NMHC and NAA strongly believe that continued monitoring of program administration and results is essential to gauging and promoting best practices and the most successful strategies. However, we caution against the use of backwards-looking or obfuscating metrics, such as eviction filing statistics, in assessing the effectiveness of rental assistance programs. Eviction filings do not reflect ultimate eviction outcomes and fail to account for mitigation measures offered by property owners or others that reduce actual displacements. Further, filing numbers neglect to convey important elements like the underlying cause of the eviction action—financial versus non-financial.

Residents also have a role to play in securing assistance that will protect their financial standing. Rent relief funds are not self-executing. Residents must take certain steps to establish eligibility and avail themselves of the benefits—efforts that can occur after a filing is made. Therefore, we urge a renewed focus on communication and measures to allow housing providers and ERAP grantees to overcome the challenge of renters who, for any number of reasons, do not engage, refuse to pursue assistance or are simply uncommunicative. Residents and property owners alike can benefit from increased efforts to provide information about the availability of rental assistance programs and encourage participation by those in need.

While many jurisdictions are successfully increasing their ERAP disbursement, too many others remain fraught with significant application processing and payment delivery delays. These are largely attributable to grantees' self-imposed fraud prevention measures, mandates that deter housing provider participation, misapplication of statutory requirements and lack of engagement from some eligible residents. We encourage the Committee to build upon the reforms included in H.R. 5196 and H.R. 3913 and work with the Biden Administration and ERAP grantees at the state and local levels to support the detailed recommendations outlined below to remove these barriers and to facilitate expedited processing and distribution of the rental assistance payments:

1. **Align ERAP income restrictions with the eligibility requirements of the previous federal Eviction Moratorium.** Under the previous Centers for Disease Control and Prevention (CDC) Order, an individual earning up to \$99,000 in annual income, or if filing jointly, \$198,000, qualified for eviction protections. Under the statutory ERAP requirements, priority for rental assistance is given to renters earning up to 50 percent of area median income (AMI), and assistance is limited to renters earning up to 80 percent of AMI. Problematically, some administering entities are far too narrowly limiting their eligibility criteria and are not allowing renters who earn up to 80 percent of AMI to apply. Moreover, the delta between those who qualified for CDC Order protection and those eligible for rental assistance even at the 80 percent level is

significant. This difference prevents residents above this income limit who are experiencing housing instability and previously submitted a CDC Declaration from receiving rental assistance. These renters are left burdened with significant debt, while providing no recovery for property owners who supplied housing throughout the moratorium period. Jurisdictions should be required to expand eligibility for ERAP and to serve renter households in need up to 80 percent AMI.

2. **Avoid the imposition of program requirements or proscriptions unrelated to the provision of rental assistance.** These include: prohibiting a housing provider from applying on behalf of the resident; requiring housing providers to accept rental assistance payments that do not fully cover renters' outstanding balances; imposing additional eviction restrictions – particularly those that interrupt the eviction process and leave housing providers without an outlet for relief when continued nonpayment of rent, noncompliance with payment plan terms or other lease violations remain ongoing; requiring waiver of late fees; imposing rent freezes; added notice procedures that complicate leasing; restrictions on resident screening and consumer reporting; and requiring that owners provide sensitive financial information to residents such as W-9 forms that may include social security numbers (i.e. Social Security numbers routinely serve as tax identification numbers for smaller property owners). While H.R. 5196 attempts to remove many barriers preventing housing providers and renter participation in ERAP, several included provisions mirror programmatic barriers we have seen ERAP grantees impose at the state and local levels that have deterred participation and slowed disbursement of these critical relief funds. While well-intentioned, many of these requirements will ultimately harm the very population of vulnerable renters that this Committee is trying to help.
3. **Prioritize arrearages and remove 18-month limit.** Renters and property owners who have been hard hit by the pandemic receive the greatest benefit from having current rent due paid and rent arrearages paid. Similar to the language included in H.R. 3913, we believe Congress should require grantees to address any and all rental arrearages for households in need before any future payments of rent or other services are made in order to keep families stably housed. Additionally, similar to the language included in H.R. 5196, given the current state of the pandemic and prolonged economic uncertainty faced by millions of renters, we believe the current 18-month limitation on assistance should be removed to avoid interfering with grantees' ability to provide critical rental arrearage and future rental assistance to those in need.
4. **Direct grantees to allow housing providers to apply on behalf of residents and establish a safe harbor for those attempting to obtain documentation from uncommunicative residents to support those applications.** Despite explicit statutory language and guidance from the Biden Administration that a rental housing provider may apply for assistance on behalf of its residents, some jurisdictions have erected barriers to this directive. Further, some residents are entirely uncommunicative and will not provide required information or take necessary action to move applications forward. H.R. 5196 takes positive steps forward in allowing housing providers to apply on behalf of non-communicative residents, but the legislation includes several worrisome provisions that would deter housing provider participation or unnecessarily delay payment, such as: (1) mandating rent cancellation if any amount of ERAP funding is received, even if it does not satisfy the outstanding amount owed; and (2) placing a lesser priority on the processing of landlord only applications for ERAP. There should be no barriers to apply for or receive ERAP funds for housing providers who, in good faith, attempt to collect required

information from residents and apply on their behalf. The proposed safe harbor should be for those who have notified their residents of their intent to apply for assistance if they cannot obtain consent. Documentation of unpaid back rent or submission of a previous CDC eviction order declaration of COVID-impact should suffice to move these applications forward.

5. **Allow ERAP to reimburse rental property owners even if the renter has moved, and prohibit program requirements that force housing providers to return payments when residents move out.** Since the beginning of the pandemic, rental property owners have been encumbered with providing housing without payment. While the previous CDC Order made it clear that individuals were not relieved of their obligation to pay rent, ERAP administrators have prevented housing providers from obtaining rental assistance on behalf of residents who terminated their lease early or abandoned their unit, leaving housing providers without a mechanism to obtain relief. With the end of the federal eviction moratorium, these renters may still face eviction due to nonpayment of rent. Furthermore, renters who leave housing providers with unpaid balances are taken to collections, affecting their credit and housing choice in the future.

To avoid such consequences, rental property owners should be allowed to apply for ERAP to cover rent arrears even after a renter has moved or if the renter has a judgment entered against them. In the same vein, ERAP administrators should not require housing providers to return rental assistance payments that pay for outstanding balances if the resident moves out. Housing providers must be made whole from debts that renters leave behind. [These funds are critical](#) for housing providers to continue managing property operations and maintaining the housing for their residents overall. H.R. 5196 takes positive steps to assist in this area but includes worrisome provisions that prohibit property owners from securing ERAP for units left vacant due to eviction. This presents a challenge where the action was necessary for issues outside of non-payment of rent, like criminal activity/endangering other residents, etc. or where the eviction was processed in a jurisdiction that allowed it. Both instances leave the property owner with unrecoverable debt, do not address concurrent financial obligations, and threaten the overall viability of a property and the long-term affordability of rental housing.

6. **Require residents to demonstrate eligibility for rental assistance through an affidavit or self-attestation.** For those who participate in the program, a certification or affidavit of need should be sufficient to apply for ERAP funds. The income verification process is time consuming for both the renter applying for assistance as well as the agency tasked with deploying the rental assistance. Currently, there is no consistency among state and local governments to allow for “self-attestations” or declarations of income. Some agencies allow for self-attestations while other agencies only allow for income self-attestation as a last resort. These inconsistencies by ERAP grantees significantly slow the application process. H.R. 5196 takes positive steps to assist in this area.
7. **Clarify that renter eligibility is not contingent on having a COVID-19 diagnosis.** There continues to be misconceptions among renters that they, or an immediate family member, need to prove a COVID-19 diagnosis to qualify for rental assistance. Some grantees’ renter eligibility information and application processes perpetuate this mistaken belief. The Treasury’s FAQs state:

“While grantees relying on clause (ii) in ERA1 must show financial hardship “due, directly or indirectly, to” COVID-19, grantees in ERA2 are also permitted to rely on financial hardship “during” the pandemic,” however grantees must make clear that renter eligibility is only contingent on financial impact during the pandemic. H.R. 5196 takes positive steps to assist in this area.

8. Require state and local grantees to facilitate bulk processing of applications and payments. While Treasury’s most recent ERAP guidance does encourage grantees to obtain information in bulk from housing providers regarding eligible residents and to engage in bundling assistance payments, few, if any, program administrators have implemented these processes. Bulk processing will help streamline the process. It is imperative that bulk processing be required for grantees.

9. Provide Technical Assistance and Technology Solutions to Aide Struggling Grantees. Despite Congressional and Administration efforts, some jurisdictions continue to struggle to get ERAP funds to renters and property owners in need. NMHC and NAA believe that funds should be allocated to Treasury to provide technical assistance, information and technology solutions to grantees who have been unable to efficiently disburse rental assistance. H.R. 5196 takes positive steps to assist in this area.

10. Enhance ERAP Outreach. NMHC and NAA support additional outreach by federal, state and local governments to increase awareness of ERAP eligibility amongst renters and rental property owners. These efforts, carried out by mail, social media and public relations campaigns will complement the work of the multifamily industry in promoting ERAP and housing providers’ work to assist renters in applying for help. H.R. 5196 takes positive steps to assist in this area.

By making the reforms outlined above and called for by our real estate coalition, policymakers can address the financial distress faced by renters, ensure they are able to remain stably housed and prevent continued disruption and instability in the rental housing market. NMHC and NAA call upon the Committee to work in bipartisan fashion to address the critical reforms that are needed to improve the distribution and administration of ERAP.

NMHC and NAA’s Industry Response to COVID-19

NMHC and NAA’s work throughout the pandemic has gone far beyond the policy realm and includes many industry initiatives and public-private partnerships to protect our nation’s renters and enable a comprehensive response to COVID-19. These build upon the daily work, multifamily owners and operators do on a daily basis to assist renters during this trying time. For example:

- [NMHC](#) and [NAA](#) published a series of industry resources to enhance communication with residents, such as customizable templates promoting ERAP and highlighting owners’ commitment to renters, and resources promoting rent payment flexibility.
- NMHC launched a [Rent Payment Tracker](#) (RPT) as a public benefit during the pandemic, allowing policymakers, the media and public to understand what was happening across a large segment of the rental housing market. NMHC’s RPT is coordinated with five of the largest property management software providers of professionally managed apartments. The latest RPT report found 93.7

percent of apartment households made a full or partial rent payment for the full month of August in its survey of 11.7 million units of professionally managed apartment units across the country. This marks a decrease from the 94.5 percent of apartment households who paid rent by the end of August 2020 and 95.8 percent who paid in August, 2019. This data encompasses a wide variety of market-rate rental properties across the United States, which can vary by size, type and average rental price.

- NMHC is participating as a user advocate in the [Census Bureau/Consumer Financial Protection Bureau's \(CFPB's\) "Tech Sprint" program](#). The goal of the program is to work with several software developer teams to quickly develop fully deployable programs that will help low-income renters obtain financial assistance quickly. More information about this program can be found [here](#).
- [NMHC](#) created and promoted a Renter Resource Center to provide information on ERAP and other forms of assistance for renters in need.
- NMHC and NAA partnered with the Biden Administration and the CFPB to promote its [new consumer-facing tool](#) in a Call to Action to promote the availability of ERAP and housing stakeholders via social media and email campaigns.

Housing Affordability Crisis: Looking Beyond COVID and Addressing the Housing Affordability Challenge

As the Financial Services Committee and Congress look beyond the COVID-19 recovery to expanding housing access and ensuring housing affordability for all Americans, it is critical to recognize that even prior to the pandemic, the country was facing a nationwide housing affordability challenge and a historic unmet demand for rental housing. Beginning in the mid-2000s, the nation experienced the greatest renter wave in its history, as the number of households who rent rose by more than 7 million.⁶ Fueled by this extraordinary demand for apartment homes, recent NMHC and NAA research finds that we need to build an average of 328,000 new apartments every year through 2030.⁷ Yet our industry faced significant challenges to new apartment construction, development and renovation before this crisis, and we have only hit that mark four times since 1989.⁸

The multifamily industry has long been at the forefront of addressing housing affordability. NMHC published its [Housing Affordability Toolkit](#) with HR&A Advisors in 2018 with the goals of both providing background on the underlying causes of the apartment industry's affordability crisis and providing specific tools that could be used to help defray the cost of building new apartments, allowing more units to be built at a variety of price points.⁹

We cited three main reasons for the worsening affordability conditions: (1) a chronic demand/supply imbalance; (2) a rise in the "lifestyle" renter (or renter by choice); and (3) an increase in overall development costs including materials and regulatory compliance. Together, these factors created a scenario that put the brakes on affordable housing production. It became increasingly challenging to buy land and

⁶ U.S. Census Bureau, Various Surveys.

⁷ Hoyt Advisory Services; NMHC and NAA, "U.S. Apartment Demand – A Forward Look", May 2017.

⁸ U.S. Census Bureau, New Residential Construction, updated 4/2021.

⁹ <https://housingtoolkit.nmhc.org/>

build a property at rates that were broadly affordable. Furthermore, it was exceedingly difficult for lower-income renter households to find an apartment without becoming cost-burdened. In the time since the publication of the Affordability Toolkit, there has been a pandemic-induced economic downturn, one that [put lower-income apartment residents particularly at risk financially](https://www.nmhc.org/research-insight/research-notes/2020/which-apartment-residents-are-most-affected-by-job-losses/).¹⁰

The multifamily industry wishes to work with Congress and the Biden Administration to address these challenges. To this end, we applaud the Administration for their announcement on September 1, 2021, that they will begin taking a number of steps to “create, preserve, and sell to homeowners and non-profits nearly 100,000 additional affordable homes for homeowners and renters over the next three years, with an emphasis on the lower and middle segments of the market.” NMHC and NAA strongly believe that breaking down barriers that prohibit the preservation and creation of new housing is critical to increasing housing affordability and we applaud the Biden Administration for their focus on this important issue.

To build upon the Administration’s efforts, we strongly urge Congress to pass a comprehensive infrastructure plan that reinvests in America’s infrastructure, creates good-paying jobs and addresses the nation’s pressing housing needs. Put simply, housing is infrastructure. Moreover, both the existing supply of apartments and new apartment development are directly dependent on the condition and availability of suitable transportation options, reliable water and utility infrastructure, and broadband and telecommunications services. Successful new housing development relies on sustained funding for infrastructure and the modernization of infrastructure assets.

Conclusion

We applaud the Committee for engaging stakeholders to identify reforms and workable solutions to improve ERAP. We remain encouraged that Congress and the Administration are working to address the root causes of housing instability and are committed to efforts that would deliver housing assistance to renters, increase housing provider participation in federal housing programs, break down barriers to long-term housing affordability and increase housing choice for renters. We look forward to working with the House Financial Services Committee to effect positive changes to the distribution of rental assistance funds and to ensure the availability and affordability of rental housing nationwide.

¹⁰ <https://www.nmhc.org/research-insight/research-notes/2020/which-apartment-residents-are-most-affected-by-job-losses/>



TESTIMONY BY

Gilbert Winn
CEO
WinnCompanies

BEFORE THE

House Committee on Financial Services

FOR A HEARING ENTITLED

"Protecting Renters During the Pandemic: Reviewing Reforms to Expedite Emergency Rental Assistance"

SEPTEMBER 10, 2021

Introduction

Good afternoon, Chairwoman Waters, Ranking Member McHenry and members of the Committee. It is my privilege to appear before you today to speak on behalf of our organization, WinnCompanies, and the more than 300,000 residents who call our apartment communities home, regarding the critical reforms needed to the Emergency Rental Assistance Program (ERAP). Thank you for this invitation and for the attention and advocacy the Committee has focused on this vital issue.

My name is Gilbert Winn, and I am the CEO of WinnCompanies, a developer, owner and manager of multifamily housing founded in Boston 50 years ago. WinnCompanies is the largest operator of affordable housing in the United States, and the sixth largest multifamily operator of housing in the country. We manage 600 rental communities across the nation on behalf of a diverse range of clients – private owners of all types and sizes, non-profit groups, Community Development Corporations, tenant-owned affordable housing co-ops, and even public housing authorities. We manage mixed-income communities that utilize a variety of federal, state and local housing subsidies, like Low-Income Housing Tax Credits and the Section 8 program, as well as vital naturally occurring affordable housing. We also manage more than 10,000 unrestricted market rate apartment homes. WinnCompanies works in 23 states and Washington, D.C., from the Northeast and Mid-Atlantic to Florida, Texas and California.

Our company is also one of the nation's largest providers of housing-based community services, connecting residents to vital resources, like quality childcare, food, employment opportunities, healthcare and savings programs, that address real needs and produce measurable outcomes for individuals and families.

We bring an informed, first-hand perspective of what is – and what isn't – working on the ground when it comes to emergency rental assistance and the goals of housing stability and eviction diversion. As both an owner and operator, we play a vital role in fulfilling the dual intent of Emergency Rental Assistance Program funding: To assist landlords in meeting their economic requirements and to assist our residents to remain stably housed as we weather this pandemic together.

Today, I will first talk about our housing stability goals and the fundamental importance of rent collection in that endeavor. I will then detail the specific successes and challenges we have faced in accessing the ERAP program; and I will conclude with the proposed revisions we offer to help all those who need it more quickly and efficiently.

Housing Stability Works

Housing stability is a vital, societal responsibility that will certainly outlast this current crisis.

In early 2020, WinnCompanies launched a national housing stability program drawn on five decades of experience and honed during the last 18 months as we faced the dual challenges of an economic crisis and the pandemic.

Many assess the current crisis in either/or terms – from either the landlord's perspective or the tenant's perspective. We see a middle ground – a way to not only reduce evictions and homelessness, but also to preserve much of the rental income owners and operators need to maintain quality rental housing. We believe that the payment and collection of rent is fundamental to a functioning housing market. We also believe renters should have a safety net when they fall on hard times through no fault of their own. Our experience demonstrates that we can make eviction our last resort, rather than the first reaction.

The goal of our plan is to reduce evictions for non-payment of rent by 50% across our nationwide portfolio by 2025 through a combination of upstream, early and consistent interventions featuring education, two-way communication, and hands-on assistance. The four key elements are:

1. Providing residents education on rights and lease responsibilities, and with our partners, connecting them to local resources like mediation, counseling and coaching;
2. Hammering out achievable, affordable and sustainable payment agreements often as long as nine months;
3. Implementing accountable housing stability goals – rather than eviction metrics – for both the on-site property managers, as well as the more than 100 law firms with which we work; and finally,
4. Imposing a strong focus and accountability on robust coordination and assistance in completing applications for Emergency Rental Assistance programs.

Since April 2020, WinnCompanies has been able to help more than 28,000 apartment households, about 72,000 adults and children, avoid eviction through our Housing Stability Program. This includes:

- 3,000+ households supported with benefits and unemployment application assistance for those who lost work and steady income;
- 8,000+ households supported with holistic, responsible rent payment agreements for residents returning to work and getting on their feet;
- 2,000+ households supported through coordinated mediation services with our legal services and community partners; and
- 15,000+ households supported in Emergency Rent Assistance applications and submissions

The result is that WinnCompanies has had zero evictions for non-payment of rent since the start of the pandemic among the 28,000 households participating in our program. These results, and our program, have been recognized by both housing and tenant advocates, like NMHC and the National Low Income Housing Coalition, both of whom are testifying here today, as well as by our clients and peers.

The Importance of the Emergency Rental Assistance Program

Emergency Rental Assistance is the single most important component of our Housing Stability program in avoiding evictions during this current crisis. This is simply because the payment and collection of rent is fundamental to stable rental housing, especially for affordable and workforce housing.

We applaud the Emergency Rental Assistance Program in its urgency and intention. We applaud this Committee as well, in your recognition of the need for reforms to achieve better success. This \$46 billion program was designed to sustain the ecosystem of rental housing while eviction moratoria were in effect and the dual health and economic crises were affecting our communities. It was intended to assist both tenants and owners.

As mentioned, this is not a choice between renters and profits. Rent is fundamental to the ability of WinnCompanies and our clients, particularly our non-profit owners, to operate and maintain existing apartments, pay their staff, fund community programs and tenant services, and continue to invest in new affordable housing development to address our nation's ongoing supply challenges.

As rent goes uncollected, variable operating costs that affect everyone's quality of life must be correspondingly decreased – such as preventative maintenance, landscaping, security, trash pick-

up and resident services. Staff hours at each property are cut, which means the paychecks of frontline workers are decreased. These are outcomes no one can accept.

All in all, I am proud of how the multifamily industry has stepped up during this pandemic. The vast majority of owners and operators are on the frontlines, and have been for 18 months, keeping homes safely occupied and expending tremendous resources to do so.

In order to make the roll out of the ERAP program as successful as possible, our team has participated across the country in more than 20 working groups assembled by state, county and municipal Emergency Rental Assistance grantees to support the design, implementation and administration of funds. We have participated in forums held by the apartment industry, legal services community, low-income housing and homelessness advocates, and many other sectors, sharing our tools, best practices, and recommendations state by state to increase ERA participation and engagement in communities we serve.

At the state level across our national portfolio, we worked with state leadership, housing finance agencies, philanthropies, housing and community development departments, and many others to address program glitches, provide real-time feedback on ERAP portals and application processes, add efficiency to payment processing, and support our peers, large and small, in raising awareness of the program.

At the local level, we helped to convene our peers to share best practices in more than 50 cities nationwide. We held 54 separate, two-hour trainings to walk our team members through every step of their state, county, or municipal ERA program so our staff were informed, engaged and updated on any change that occurred in the program. We held workshops walking our team through the assembly of all required documentation, applications, consent processes, and submissions. We established contacts with ERA administrative teams at these local levels; created program marketing specific to each community we manage; and began a near constant outreach campaign in every apartment community.

I want to take a moment to note that our company's 1,700 property management team members are essential workers who have been on the frontlines of this effort throughout the pandemic. To implement our program, we added yet another responsibility to their already daunting daily workload, training all of them on how to intervene with residents facing financial hardship and how to complete and submit ERAP applications. On top of all they are asked to manage and resolve day in and day out, our team members have stepped up to the challenge. I could not be prouder of them.

Our property managers, community organizers, maintenance teams and regional staff have worked tirelessly expending thousands of hours to identify and engage eligible households through every touchpoint at our disposal, complete and submit applications, and relieve the burden on individuals and families in going through this process alone.

We have engaged our partners, working with local churches, schools, youth organizers, employers – any organization that can support the visibility of these programs and reach those who we have not yet been able to help. We also have engaged our legal counsel in this effort, having their teams reach out to residents with rising rent balances to inform them of their options and our willingness to support them in payment plans, benefit and unemployment applications, emergency rental assistance, and more. We have attempted to partner with tenants, and meet them where they are, every step of the way.

To date, WinnCompanies has been able to work with 15,000 households to apply for more than \$22.6 million in ERAP support since we began comprehensively tracking program results in late summer 2020. Of this amount, \$17.2 million has been formally approved, with \$13.6 million having been received directly.

I recount all of this not to boast about our efforts. And I do not want to make it seem as though we are the only organization doing the hard work. There are thousands of landlords striving each day to access these funds. Rather, I offer this detail to point out that, despite the tremendous resources and focus Winn has been able to bring to bear, we have identified more than 15,000 additional households who are eligible for ERAP financial support but who have not yet participated successfully in the program. It leads me to conclude that smaller landlords - without the possibility of resources that we enjoy - must find themselves in an even more untenable and unfair position. It leads to the conclusion that something needs to change.

Current Challenges to the ERA Program

Again, despite the above efforts, we and our client owners nationwide are still carrying over \$37 million in delinquent rent, and that ecosystem I mentioned earlier is on thin ice because of it. Within this universe are 2,400 households who are not eligible for the assistance due to current income restrictions and guidelines; and this is on top of the more than 15,000 eligible households, mentioned above, who are non-communicative despite our best efforts at outreach and support.

Many of these eligible but non-participating households reside in deeply low-income, largely minority communities beset by continued and rising COVID-19 cases and a slower economic rebound. For non-communicative residents, we've learned a great deal as to why this barrier remains.

Some are households traumatized by medical and financial hardship throughout the pandemic. Some face an overwhelming fear of what appears to be insurmountable rental delinquencies. There are language barriers and technology barriers. Some are confused by mixed messaging on the eviction moratorium. Complicated legal and program compliance and language in tenant consent forms also play a role.

The unfortunate result is that despite our constant best effort, too many of the very folks that ERA programs seek to help are those who have not benefited from the programs. We have found this to be consistent in nearly every state we operate within across the country.

And because of this we are beginning to see real world, practical risks rear their head: Because of the underperformance of the ERAP program in getting the money out, we have been approached by many of our client owners, both for-profit and non-profit, large and small, to move forward with issuing Notices to Quit for these delinquent, non-communicative households. In the past few weeks, these requests have turned to demands, with many owners feeling that the housing court system is their only remaining option. They feel that court-ordered household emergency rental assistance is the only way to gain access to the funds since the system isn't working otherwise. And every day they grow more concerned about mortgage and tax payments, ongoing deferred capital needs, and mounting delinquency and payables.

Proposed Solutions to Improve ERAP

Because of these ongoing challenges, and despite our best efforts, we are requesting this Committee consider the following **four** basic amendments to the current Emergency Rental Assistance Program to allow states, county and municipal ERA grantees and administrators the flexibility to more efficiently and effectively support those households hardest hit by the pandemic. While there are other improvements which we would also support, we have made an effort to distill our recommendations down to the 4 most fundamental points:

1) Mandate the allowance of landlords to directly apply for delinquent rent on behalf of eligible households in all state, county, and municipal ERA programs through an informed consent model.

This allowance would encourage broader participation by landlords while immediately addressing the challenges of compounding rental delinquency, ongoing tenant financial hardship, and equitable ERA awareness and participation for eligible, delinquent households who are not yet participating in the program. We feel this provision could be extremely impactful, providing landlords the means and agency to drastically support ERAP participation and payment accountability.

Within WinnCompanies' portfolio, this would allow our organization to immediately address the housing stability of 15,000 eligible households I mentioned earlier who have been unresponsive to our efforts in gathering required tenant consent to complete ERAP submissions to date. For our organization, this would double the impact we have been able to achieve to date.

However, we are concerned about conditional amendments that have been offered to this newly proposed landlord pathway that would prevent landlords who receive ERA funds from recourse should these households begin to incur delinquent balances after receipt of funds. To this, we would encourage the Committee to ensure sufficient rental assistance funds are made available to landlords participating in direct application submissions so that landlords have the means to sustain housing stability for these households.

Further, we have real concern with any provisions that mandate the cancellation of tenant debt in partial or full by virtue of acceptance of funds via direct landlord application. We believe rental assistance applications must be funded in full to truly deliver the intended benefit to the landlord and nullify the confusion caused amongst eligible households and their landlords navigating a myriad of eligible delinquency provisions. Otherwise, these provisions would continue to act as a major deterrent for landlord participation in this new critically important allowance, as well as the program generally. The goal after all is to increase participation nationwide.

2) Mandate the allowance of landlords to directly apply to ERA for delinquent rent on behalf of households who have chosen to move out prior to ERA engagement.

It is our belief this provision will help stem the tide of lost rent for households who for whatever reason, chose to leave rather than communicate with willing landlords or who were not aware of Emergency Rental Assistance support. This will also ensure that collections, further court involvement, and the impact on personal credit and future housing

do not follow these households further into their lives and that this is effectively communicated to renters in this situation.

3) Extend ERA1 and ERA2 assistance eligibility to 24 months and allow self-attestation and safe harbor for grantees relying on the attestation, easing the ability of renters to demonstrate hardship.

Nationally, the varied eligibility terms and timelines create confusion and inefficiency in assisting ERA eligible households on both past due and ongoing rental delinquency. Within our own portfolio, this is clearly evidenced by low “re-application” submissions for eligible households who have not yet met their capped eligibility terms. As this committee weighs how to ensure the allowance of direct applications by owners/operators will result in prolonged housing stability for households non-communicative or unaware of ERA to date, the expansion to a 24-month period would allow landlords time to further engage eligible households while also supporting their ability to satisfy ongoing delinquency caused by unemployment and sustained financial hardship.

4.) Mandate the allowance and implementation of bulk of applications by and payments to owners/operators.

While Treasury’s most recent guidance does encourage grantees to obtain information in bulk from housing providers regarding eligible residents and to engage in bundling assistance payments, few program administrators have implemented these processes. Bulk applications submissions and payments will help streamline the process of ERAP administration and accountability, make payment processes more efficient when coupled with the above suggested mandates, and allow deeper engagement by landlords seeking to centralize ERAP application submission processes. The success of this method has been demonstrated in multiple instances by ERA grantees nationwide and has provided more urgent relief to both landlords and renters, saving valuable time and energy for both. We feel it is imperative that bulk processing be required, rather than simply permitted, for grantees immediately.

Conclusion

We are confident that with these urgently needed program changes, housing owners and operators, ERA grantees and administrators, and residents will be able to efficiently and effectively access funding needed to support those most vulnerable to the pandemic and its economic impact.

Our housing stability strategy builds on our experiences over the last 18 months, as well as decades of being a national leader in affordable housing. Our property management teams have invested extraordinary extra effort to prevent thousands of evictions, despite facing already difficult workloads and their own personal challenges during this pandemic.

Our experience has shown that is possible to avoid hardship evictions and preserve much of the rental income that is fundamental to operating quality rental housing. Helping people to stay sustainably in their homes has myriad benefits; it’s good for our residents, for communities, our employees and the economy.

We greatly appreciate this Committee's hard work to find the most effective and efficient balance on these issues. Thank you for your consideration and continued efforts to promote housing stability and for the urgency with which you are addressing this crisis.

Gilbert Winn
CEO, WinnCompanies

Testimony of Diane Yentel
President and CEO of the National Low Income Housing Coalition
Before the House Financial Services Committee Hearing on
“Protecting Renters During the Pandemic: Reviewing Reforms to Expedite Emergency
Rental Assistance”
September 10, 2021

Chairwoman Waters, Ranking Member McHenry, and members of the committee, thank you for the opportunity to testify on protecting renters during the pandemic and needed reforms to expedite and improve the distribution of emergency rental assistance (ERA).

The COVID-19 pandemic has made clear the inextricable link between housing and individual and public health, but millions of renters – predominantly people of color – struggled to remain safely and stably housed throughout the pandemic. This housing instability was due primarily to the severe shortage of affordable and available homes for people with the lowest incomes before the pandemic began. Many low-income renters struggled to pay rent before the COVID-19 crisis and are now in an even more perilous position due to the loss of jobs, increased expenses, and resulting rent arrears accrued during the pandemic.

By January of 2021, at least 9 million renter households¹ were estimated to owe up to \$50 billion in rent and utility arrears² and were at high-risk of losing their homes. That number has since decreased, but it remains high: in mid-August, the latest Census Pulse Survey data indicated that nearly 6.5 million renter households were still behind on rent and at heightened risk of eviction.³

Congress provided \$25 billion in ERA in December 2020 (ERA1) and an additional \$21.5 billion in ERA through the American Rescue Plan (ERA2). Throughout 2020 and 2021, Congress and both the Trump and Biden administrations implemented and extended federal eviction moratoriums. Last month, the Supreme Court eliminated the protections under the Centers for Disease Control and Prevention’s (CDC) federal eviction moratorium. The ruling is a devastating blow to the over 6 million households behind on rent for whom the moratorium was a lifeline, keeping them stably housed during the pandemic as they wait for needed emergency rental assistance. With the moratorium no longer in effect, these families are at risk of losing their homes in the coming weeks and months.

The elimination of the federal eviction moratorium heightens the urgency of ensuring emergency rental assistance gets to tenants and landlords, but most states, counties, and cities are spending their ERA allocations much too slowly. As of this week, only \$7.5 billion of the first \$25 billion allocation of ERA had been spent or obligated, according to NLIHC’s tracking⁴ and analysis⁵ of state and local ERA programs.⁶ Nine states, and dozens of cities and counties, have spent less than 5% of their ERA1 allocations nearly nine months after receiving the funds, and many more have spent less than 10% of their funds.

Success or challenges of ERA program administration should be measured not only by the rate of spending, but also by the number of households served. While ERA programs have made meaningful progress in collectively assisting nearly one million households through July, at least another 1.2 million households had submitted completed applications but, as of the end of July, had yet to receive any assistance. Many other households have been unable to complete applications due to complexity and/or documentation requirements and have therefore been unable to access assistance.

Some program administrators are successfully scaling up their efforts and quickly distributing aid. New Jersey has distributed 61% of their ERA1 allocation, Virginia and Texas have each

distributed 57%, and D.C. has distributed 52%. Six additional states – Massachusetts, Alaska, North Carolina, Connecticut, California, and Illinois – have spent more than 30% of their funds. New York, Connecticut, and California have recently made major improvements in ERA spending. More than a dozen cities and counties have spent over 80% of their first allocations.

While these programs prove that success is possible, they are outliers. Many states and cities need to dramatically improve and expedite their efforts. Some states and cities were slow to begin spending ERA due to state legislatures' or city councils' early involvement in design and implementation. A few states have likely received more ERA than needed, due to Congress's faulty "small state minimum" formula allocation in both ERA1 and ERA2. Many communities are struggling with landlords' refusal to participate in ERA programs.

But the overarching issue with slow ERA spending is many program administrators not adopting evidence-based best practices in program design and implementation that have allowed other programs to quickly distribute aid. Many slow-spending programs have unnecessarily lengthy applications and overly burdensome documentation requirements that slow down their ability to process applications and prevent some of the lowest-income and most marginalized renters from receiving aid. According to NLIHC's tracking,⁷ only 16% of programs explicitly allow renters to use self-attestation to document income and only 13% allow self-attestation of housing instability, despite Department of the Treasury (Treasury) guidance that encourages programs to use self-attestation for all eligibility criteria.⁸ Similarly, despite clear evidence and need, only 28% of programs explicitly allow direct-to-tenant assistance, which is critical to keeping renters stably housed when landlords refuse to participate in the program.

Federal, state, and local governments, as well as landlords, advocates, and ERA program administrators, must do more, better, and faster, lest millions of renters lose their homes in the coming months. Having millions of families lose their homes would be tragic at any time; it will be especially so with a backlog of abundant resources to pay the rent yet to reach them.

Congress should consider statutory changes to expedite assistance to renters and landlords and do so in a way that protects the housing stability of the lowest-income and most marginalized tenants. Legislation to improve the ERA statute should make the program more consistent with the low-barrier and more accessible design passed three times by the U.S. House of Representatives in the spring of 2020 and embed evidence-based best practices from ERA programs administered throughout the pandemic. ERA legislation should expedite delivery of assistance and provide tenant protections to maintain housing stability.

The "Expediting Assistance to Renters and Landlords Act of 2021," introduced by Chairwoman Waters, would do both. The legislation would build off existing program guidance and directives, address and correct many of the root causes of slow ERA spending and provide tenant protections. In my testimony, I will share recommended improvements to further strengthen the legislation and its impact.

The "Protecting Renters Act of 2021," introduced by Ranking Member McHenry would neither expedite ERA assistance nor protect tenants. Instead, the legislation would further slow ERA distribution by requiring Treasury to retract and redo most of its current ERA guidance, thereby requiring program administrators to redesign programs in a manner *counter* to evidence-based best practices. The legislation would grind most ERA programs to a halt by leaving virtually all states and cities without any funding for staffing, technology and other reasonable administrative costs associated with administering the programs. And, by giving communities very little time to spend their remaining ERA funds, Congressman McHenry's legislation would

ensure that the needs of millions of landlords and tenants will go unmet with the funds Congress has already provided.

NLIHC recommends that the Committee improve and advance Chairwoman Waters's "Expediting Assistance to Renters and Landlords Act of 2021" as the vehicle for ERA reform legislation.

To further expedite and improve ERA programs, the Biden administration should continue to aggressively encourage and enable states and localities to use the flexibilities given to them to streamline and expedite assistance. Treasury should provide additional guidance to eliminate remaining barriers and use the upcoming process of recapturing and reallocating unspent funds to further incentivize ERA programs to adopt best practices and expedite the distribution of assistance. And ERA program administrators should course-correct, improve programs, and expedite assistance to tenants.

For the longer term, Congress must repair the gaping holes in our social safety net that brought us to the brink of an eviction tsunami during a global health emergency. Long after the public health dangers and economic crisis gradually recede, low-income renters will continue to be in a precarious position until we create permanent solutions to widespread housing unaffordability. In the upcoming infrastructure and economic recovery bills, Congress must provide robust resources to expand rental assistance, preserve public housing, and increase the supply of homes affordable to people with the lowest incomes by expanding the national Housing Trust Fund.

In my testimony today, I will discuss how we got here; the enactment, implementation, and mixed success of ERA; recommendations for Congress and the Biden administration to expedite ERA; and needed long-term solutions.

How We Got Here

Even before the COVID-19 pandemic, the country was in the grips of a pervasive affordable housing crisis, impacting rural, suburban, and urban communities alike. While the crisis has many dimensions, the fundamental cause of housing instability is the mismatch between housing costs and what people earn or otherwise have available to spend for their homes. Rents have risen much faster than renters' incomes over the last several decades: since 1960, renters' incomes have increased by only 5% while rents have risen 61%.⁹

NLIHC's annual report, *The Gap: A Shortage of Affordable Rental Homes*,¹⁰ documents the severe shortage of decent, accessible, and affordable homes for extremely low-income people. Pre-pandemic, there was a shortage of seven million affordable and available rental homes for the lowest-income renters earning less than the federal poverty rate or 30% of their area median income (AMI). For every 10 of the lowest-income renters, there are fewer than four homes affordable and available to them. Without affordable options, nearly ten million very low-income households were severely housing cost-burdened pre-pandemic, spending more than half of their limited incomes on rent and utilities.

In Chairwoman Waters' district, there are fewer than two affordable and available rental homes for every 10 of the lowest-income households. In Ranking Member McHenry's district, there are three affordable and available rental homes for every 10 of the lowest-income households.¹¹ Across the country, there is not a single state or congressional district with enough affordable homes available to its lowest-income renters.

Decades of structural racism in multiple systems created tremendous racial disparities in housing and homelessness. Renters of color are much more likely to be housing cost-burdened, spending more than 30% of their incomes on rent: 52% of Latino renters and 54% of Black renters are cost-burdened, more than 10 percentage points higher than white renters.¹² Black Americans represent 13% of the general population but are 40% of people experiencing homelessness and more than 50% of homeless families with children.¹³ Native communities have some of the most urgent housing needs in the nation – 6% of homes on tribal lands lack adequate plumbing, 12% have inadequate heating, and 16% are overcrowded, compared to 1-2% of the general population, and 38% of Native households are housing cost-burdened.¹⁴

The economic downturn from the COVID-19 pandemic and its resulting job and wage losses exacerbated and accelerated the existing housing crisis. While the national unemployment rate peaked in April 2020 at 14.8%, some industries reached unemployment rates of almost 40%.¹⁵ More than 20 million renters live in households that suffered COVID-19-related job losses.¹⁶ While the overall unemployment rate fell to 6.7% by the end of 2020, the Black and Latino unemployment rates were still considerably higher – 9.9% and 9.3%, respectively – and a Federal Reserve analysis finds the unemployment rate for workers in the bottom wage quartile may have been higher than 20%.¹⁷

A patchwork of federal, state, and local resources and protections kept many struggling renters in their homes and helped to avoid an unprecedented eviction crisis that could otherwise have resulted in an estimated 30-40 million people losing their homes by the end of 2020.¹⁸ In addition to resources for housing and homelessness provided in the CARES Act, the Consolidated Appropriations Act, and the American Rescue Plan Act, a federal eviction moratorium issued by the CDC in September 2020 provided vital protections to tens of millions of renters at risk of eviction for nonpayment of rent during the pandemic. With very limited assistance for rental assistance throughout 2020, however, tenants fell behind on rent. In January of this year, renters were estimated to owe up to \$50 billion in rent and utility arrears.¹⁹

According to an analysis of Household Pulse Survey data, nearly 6.5 million renter households were still behind on their rent in mid-August 2021.²⁰ On average, those renters were behind by about two and a half months of rent, though about 6% were behind by eight or more months, and the lowest-income renters were likelier to have fallen severely behind.

Black renters, low-income renters, and families with children continue to be disproportionately at risk of eviction and housing loss. Twenty-seven percent of Black renters are behind on rent, compared to 19% of Asian renters, 19% of Latino renters, and 10% of white renters. Twenty-five percent of renters with incomes less than \$25,000 are behind in rent, as are 18% of renters with incomes between \$25,000 and \$34,999. In addition to rental arrears, households behind on rent often experience debt and wealth loss in other areas of their lives placing them at risk for continued housing instability. Among renters of all incomes who are behind on rent, 43% report having borrowed from friends and family to meet spending needs in the last seven days, 24% have used savings or sold assets, and 31% have used credit cards or loans.²¹

The Importance of the Federal Eviction Moratorium

Citing the historic threat to public health created by the pandemic, the CDC implemented an eviction moratorium in September 2020 to help ensure renters could practice the social

distancing necessary to curb the transmission of COVID-19. The moratorium proved to be an essential public health measure.

Research conducted on the efficacy of local, state, and federal eviction moratoriums provide evidence that such moratoriums are effective at reducing both eviction filings²² and COVID-19 transmission and fatalities. Researchers estimate the CDC eviction moratorium alone prevented at least 1.55 million eviction filings nationwide, and state and local eviction protections prevented an additional 900,000 eviction filings throughout the country.²³ Nationally, researchers found that expired eviction moratoriums led to an additional 433,700 cases of COVID-19 and 10,700 associated deaths.²⁴ The risk of infection increases substantially when people are evicted or forced to live doubled-up with another household, but people who are evicted are not the only ones at risk – spillover transmission amplified by evictions also places the broader community at increased risk of infection.²⁵

Congress extended the CDC eviction moratorium through January 2021, and President Biden further extended it three additional times through March, June, and July. NLIHC urged²⁶ the White House and Congress to extend the CDC eviction moratorium and, on July 27, I testified before the House Select Subcommittee on the Coronavirus Crisis to emphasize the urgency.²⁷ On July 29, 48 hours before the expiration of the federal eviction moratorium, the Biden administration announced²⁸ the CDC could not extend the moratorium due to the Supreme Court's June 29 decision²⁹ that upheld the federal eviction moratorium but declared the CDC could not grant an extension without "clear and specific congressional authorization (via new legislation)." Despite Chairwoman Waters and Speaker Pelosi's best efforts, a measure to extend the moratorium failed to garner the support needed to pass the House. The eviction moratorium expired on July 31.

NLIHC continued to urge President Biden to use his authority to extend the eviction moratorium and, in the meantime, to take all other possible actions to reduce evictions.³⁰ Representative Cori Bush (D-MO) and other members of the Congressional Progressive Caucus staged rallies outside of the Capitol building to demand an extension of the moratorium and, along with NLIHC, Speaker Pelosi and Chair Waters, demanded that the Biden administration use every authority to extend eviction moratorium protections for renters. As a result of the extraordinary dedication of congressional champions and housing and homelessness advocates across the country, the CDC announced on August 3 a new limited eviction moratorium through October 3. The new moratorium covered renters living in communities experiencing a substantial or high level of COVID-19 transmission, an estimated 90% of all renters.

The new moratorium provided states and communities more time to ramp up their ERA programs, and NLIHC urged elected leaders and ERA program administrators to use this time effectively to expedite assistance to households in need, particularly with legal challenges threatening the moratorium. One day after the CDC announced the new moratorium, the Alabama and Georgia Associations of Realtors, backed by the National Association of Realtors, again petitioned the federal district court in DC to overturn it.

The Supreme Court ruled³¹ on August 26 to invalidate the federal eviction moratorium, eliminating vital protections that have kept millions of households in their homes. The tragic, consequential, and entirely avoidable outcome of the Supreme Court's ruling could be millions of renters, predominantly people of color, losing their homes this fall and winter, just as the Delta variant ravages communities and lives.

Evictions risk lives, push families deeper into poverty, and threaten to strain our public health systems. Following an eviction, a person's likelihood of experiencing homelessness increases,

mental and physical health is diminished, and the probability of obtaining employment declines.³² Evictions are linked to numerous poor health outcomes,³³ including depression, suicide, and anxiety.³⁴ Evictions are also linked with respiratory disease, which could increase the risk of complications and mortality if COVID-19 is contracted.

Evictions make it more expensive and more difficult for tenants to rent safe and decent housing, apply for credit, borrow money, or purchase a home. Housing instability caused by eviction is particularly harmful to children, who suffer in ways that can impact their educational development and wellbeing for years.³⁵

The public costs of eviction are far reaching; individuals experiencing displacement due to eviction are more likely to need emergency shelter and re-housing, use in-patient and emergency medical services, become involved with child welfare services, and interact with the criminal-legal system, among other harms.³⁶ Considering these and other services used due to an eviction, NLIHC estimates the public costs of eviction to range between \$62 billion and \$129 billion, depending on the number of people evicted. These costs are in addition to the well-documented personal costs of eviction on individuals and the costs to landlords of unpaid rent.³⁷

The Supreme Court decision also undermines historic efforts by Congress and the White House to ensure housing stability during the pandemic and makes our collective work to distribute ERA to keep renters stably and safely housed more important and urgent than ever.

Federal Enactment and Implementation of Emergency Rental Assistance

In April 2020, after passage of the CARES Act, NLIHC launched and led a national campaign for “Rent Relief Now.” The campaign, comprised of over 2,300 organizations from across the country, called for a national moratorium on evictions for nonpayment of rent and sufficient ERA to assist low-income tenants and small landlords.

The U.S. House of Representatives voted three times to approve ERA, in May, June and July of 2020, when renters were still relatively current on their rent payments and the funds could have been used as they were designed – as prospective assistance to help struggling renters stay current on rent. But the measures stalled in the Senate under Republican leadership, and Congress did not pass ERA until late December 2020. By then, renters had accrued an estimated \$50 billion in rent and utility arrears.³⁸

Throughout the House of Representatives’ design and passage of, and final congressional negotiations for, ERA, NLIHC urged that the funds be distributed through the Department of Housing and Urban Development (HUD), given the agency’s deep expertise in housing and the unique needs of the lowest-income and most marginalized populations. NLIHC further urged that ERA programs: be administered through multiple delivery systems and by grantees with experience working with individuals in need; and be low barrier for participation. The legislation that passed three times through the House of Representatives included these essential features.

During final negotiations, however, the Trump administration and Republican leadership in the Senate demanded otherwise. Due to these demands, the final law allocates ERA through the Department of Treasury and with some unfortunate and unnecessary restrictions that have made it more difficult for tenants behind on rent to receive needed assistance. Ultimately,

Congress provided a combined \$46.5 billion in ERA funds in the December 2020 COVID-19 relief package and the American Rescue Plan Act.

On January 8, 2021, NLIHC sent the incoming Biden administration recommendations for guidance on the ERA program.³⁹ NLIHC developed these recommendations based on our tracking and analysis of state and local rental assistance programs and with direct input from local stakeholders about challenges experienced by localities in administering rental assistance programs funded through the Coronavirus Relief Fund and other CARES Act resources.

The ability of state and localities to distribute critical ERA funds was hindered early on by harmful guidance released by the Trump administration on its last day in office, January 19, 2021.⁴⁰ The Trump administration's guidance created new and unnecessary barriers that increased application times, discouraged eligible households from seeking assistance, and prevented states and localities from spending resources in a timely manner.

Immediately after President Biden was sworn into office, NLIHC urged the new administration to rescind the harmful Trump administration guidance and provide state and local governments with improved guidance needed to distribute ERA more effectively to millions of households at risk of losing their homes.⁴¹ Treasury did so⁴² in February 2021, issuing new guidance that directly addressed the significant flaws⁴³ in the previous administration's guidance and included many of NLIHC's recommendations.⁴⁴

The revised guidance clarified that renters may self-attest to meeting most eligibility criteria, including COVID-related hardships, income, housing stability, and the amount of back rent owed; shortened the timeframe from 21 days to as little as 10 days before ERA could be provided directly to tenants when landlords refuse to participate in the program or are unresponsive; and clarified that home internet costs and legal assistance for renters facing eviction are eligible uses of ERA.

Treasury made additional improvements to the FAQs on March 26⁴⁵ that aligned with NLIHC recommendations to ensure rent relief resources reach households with the greatest needs. Treasury clarified that rental security deposits and application or screening fees can be covered by ERA, and that households renting manufactured homes or temporarily residing in hotels or motels are eligible for the program.

In March 2021, NLIHC notified the Biden administration of emerging and troubling roadblocks in many ERA programs, including the lack of direct-to-tenant assistance options, the continued reliance on burdensome documentation requirements, and the exclusion of federally assisted households and undocumented households.⁴⁶ On May 7, Treasury and the White House released new ERA guidance⁴⁷ and a summary⁴⁸ with major program improvements that directly addressed NLIHC's concerns. While many of the improvements in the revised guidance apply specifically to the ERA funds enacted under the American Rescue Plan Act (ERA2), the White House and Treasury made clear what they consider model ERA programs that serve renters most in need.

Treasury's revised guidance requires program administrators distributing ERA2 to provide assistance directly to renters if landlords refuse to participate or are unresponsive; cuts in half the time to determine a landlord's refusal to participate before providing direct-to-tenant assistance; and allows ERA2 programs to offer direct-to-tenant assistance first and immediately, rather than requiring programs to conduct outreach to landlords beforehand. The updated FAQ encourages grantees to avoid establishing burdensome documentation requirements that would reduce participation and allows programs to verify eligibility based on readily available information, such as the average income of the neighborhood in which renters live.

Additionally, the improved guidance expands renter protections by prohibiting landlords from evicting tenants while ERA payments are being made on their behalf; prohibits ERA2 programs from denying aid to eligible households solely because they live in federally assisted housing, noting that failure to do so may violate civil rights laws; and increases access for people experiencing homelessness by reinforcing that ERA can be used for moving expenses, security deposits, future rents and utilities, and the costs of transitional hotel or motel stays. To ensure that ERA reaches those who need it most, Treasury's updated guidance requires programs to report how they will achieve the required prioritization of assistance.

In June 2021, NLIHC identified ongoing roadblocks and new challenges in the ERA programs, including state and local government capacity issues; programs continuing to impose burdensome documentation requirements and not utilizing direct-to-tenant assistance; landlord refusal to participate in ERA programs; a lack of awareness of available aid; and a developing trend of some landlords evicting tenants even after receiving ERA funds to cover rental arrears.⁴⁹ NLIHC urged the Biden administration to strengthen and extend the federal eviction moratorium, which was set to expire on June 30; raise awareness of ERA; establish eviction delay, diversion, and mitigation measures; support ERA program administrators to quickly deploy aid; and ensure data transparency to help policymakers and advocates discern best practices and areas for improvement.

The Biden administration adopted many of NLIHC's recommendations, including extending the eviction moratorium and releasing an updated FAQ⁵⁰ and fact sheet⁵¹ on June 24 to accelerate and broaden the distribution of ERA. The White House encouraged state courts to adopt anti-eviction diversion practices, activated a whole-of-government effort to raise awareness of ERA, and issued new guidance to accelerate and broaden state and local distribution of funds.⁵² Treasury's revised FAQ strongly encourages grantees to partner with courts to actively prevent evictions and develop eviction diversion programs; increases access to ERA for people experiencing homelessness by establishing a commitment-letter process; directs grantees to remove cultural and linguistic barriers to accessing aid; encourages grantee coordination to reduce burdens and delays; and streamlines payments for utility providers and large-scale landlords.

NLIHC sent several additional letters to the Biden administration in July and August outlining our most urgent recommendations on how to prevent evictions and strengthen ERA programs.^{53,54,55,56} The Biden administration responded to NLIHC's concerns by announcing additional steps the federal government will take to protect renters as part of its all-of-government approach to prevent evictions during the pandemic. These include convening national stakeholders, releasing revised ERA guidance to broaden and accelerate the delivery of aid, and engaging federally assisted landlords, among other actions.

The White House held two virtual eviction prevention summits in June⁵⁷ and July⁵⁸ to emphasize the need for eviction diversion programs and help leaders across the country adopt evidence-based eviction prevention action plans. The administration announced on August 9 additional steps⁵⁹ it would take to protect renters, including those recommended by NLIHC and the National Housing Law Project in a joint letter to administration officials.⁶⁰ The Biden administration directed federal agencies to consider all legal authorities to stop evictions and to ensure federally supported landlords apply for ERA rather than evict tenants. The White House also encouraged states and localities to enact or extend their own eviction moratoriums, called on courts to stop eviction proceedings until renters and landlords first apply for ERA; and clarified that ERA and ARPA State and Local Fiscal Recovery Funds can be used to support eviction prevention efforts by courts, legal aid providers, and housing counselors; among others.

In response to NLIHC's ongoing concerns about ERA programs' continued reliance on burdensome documentation and lengthy application processes, Treasury again issued guidance streamlining ERA documentation requirements, enacted additional policy changes to accelerate ERA distribution, published examples of simplified eligibility forms⁶¹ and an eviction-diversion "maturity model,"⁶² and reiterated its call for ERA grantees to speed the delivery of aid by eliminating undue documentation burdens.⁶³

Treasury issued revised FAQs on August 25 to support state and local governments in expediting the distribution of ERA.⁶⁴ The revised guidance provides even more explicit permission for ERA grantees to rely on self-attestations without further documentation to demonstrate every aspect of a household's eligibility for ERA, including financial hardship, the risk of homelessness or housing instability, and income.

Mixed Success on ERA Program Implementation

Despite these ongoing efforts by NLIHC and the Biden administration to continuously work to remove obstacles and provide clear directives and guidance, and by some ERA program administrators to expedite assistance, most ERA programs are not utilizing proven best practices nor reaching tenants or landlords quickly enough.

For example, despite the administration's repeated and consistent guidance on utilizing self-attestation for eligibility, only 16% of programs explicitly use self-attestation for income eligibility and only 13% use self-attestation for housing instability.⁶⁵ Similarly, despite some landlords refusing to participate in ERA programs, only 28% of program administrators are explicitly utilizing direct-to-tenant assistance as the law allows and the White House and NLIHC urge. The data and evidence unfortunately suggest that if such flexibilities and proven best practices remain optional, most program administrators will *not* adopt them.

The most recent report from Treasury shows that, after steady increases in ERA spending rates from January through June, the amount spent across all programs in July grew only slightly, increasing from \$1.53 billion spent in June to \$1.68 spent billion in July for a total of \$5.2 billion spent through July 31. Furthermore, less than half of the households that had applied for ERA by end of June had been served through the program by the end of July.

NLIHC tracking and analysis of state and local ERA programs shows improvement in August - \$7.5 billion of the first \$25 billion allocation of ERA has been spent or obligated by early September.⁶⁶ And while ERA spending remains low overall, states and cities have experienced highly variable levels of success getting their funds out the door. According to NLIHC tracking, three states and the District of Columbia have paid at least 50% of their ERA1 allocations to households, while nine states have spent less than 5% as of the beginning of September. Nineteen local programs have spent more than 75% of their funding while twenty-four local programs have spent less than 1%.

High-Spending & Improving Programs

States vary widely in their success in spending ERA funds. According to NLIHC's tracking, New Jersey, Virginia, Texas, and the District of Columbia are leading fund distribution, having spent 61%, 57%, 57%, and 52% of their allocations, respectively, through the beginning of September. Several other states have also reported significant increases in spending since Treasury's report through July 31st. New York, for example, has distributed an additional \$300

million since the end of July, California an additional \$135 million, Connecticut \$30 million, and Indiana an additional \$18 million.

Localities continue to spend down their funds more quickly than states, increasing their spending from 20% to 30% of their total allocations between June and July. According to NLIHC's tracking, at least 15 localities have spent more than 80% of their allocations. This includes a mix of large and mid-sized jurisdictions, such as Philadelphia, PA; Houston and Harris County, TX; Louisville, KY; Honolulu, HI; Caddo Parish, LA; and Richland County, SC.

The tables below detail the state programs that have spent more than 35% of their ERA1 allocations and the local programs that have spent more than 75% of their allocations.

State Programs with at least 35% of ERA1 Funds Distributed

ERA1 State Program	Assistance Paid	% ERA1 Paid
New Jersey*	\$232,000,000	60.8%
Texas*	\$750,999,326	57.4%
Virginia*	\$300,000,000	57.2%
District of Columbia*	\$103,800,000	51.9%
Alaska*	\$116,664,123	40.8%
Illinois*	\$255,022,021	40.5%
North Carolina*	\$219,000,000	40.1%

**Program indicators updated with more recent data than provided by Treasury (July 31, 2021) such as programs' dashboards, news articles, or other sources.*

Local Programs with at least 75% of ERA1 Funds Distributed

ERA1 Local Program	Assistance Paid	% ERA1 Paid
New Hanover County, NC	\$8,335,106.00	100.0%
Louisville/Jefferson County Metro Government, KY	\$23,843,399.00	100.0%
Leon County, FL	\$8,600,000.00	97.0%
Milwaukee County, WI	\$10,087,396.00	94.9%
Caddo Parish, LA	\$6,657,093.00	92.9%
Davidson County, TN*	\$18,893,667.00	90.4%
Richland County, SC	\$8,565,977.00	88.6%
Chesterfield County, VA	\$9,380,979.00	88.5%
Philadelphia, PA*	\$92,235,793.00	88.5%
Honolulu County, HI*	\$99,896,180.00	86.9%
Santa Barbara County, CA	\$11,524,340.00	86.8%
Kansas City, MO	\$12,637,399.00	85.3%
Austin, TX	\$25,070,726.00	84.8%
Cook County, IL*	\$60,474,457.00	83.1%
Harris County, TX	\$130,279,712.00	81.9%
Summit County, OH*	\$13,000,000.00	80.5%
San Antonio, TX	\$48,187,314.00	79.6%

Harrison County, MS	\$4,834,625.00	76.8%
Fulton County, GA	\$13,700,034.00	76.1%

**Program indicators updated with more recent data than provided by Treasury (July 31, 2021) such as programs' dashboards, news articles, or other sources.*

Low-Spending Programs

Many states and localities are still struggling to get money to tenants and landlords in need. The following tables detail the states and localities that have distributed 5% or less of their ERA1 funds according to NLIHC's most recent tracking as of early September.

State Programs with less than 5% of ERA1 Funds Distributed

ERA1 State Program	Assistance Paid	% ERA1 Paid
Alabama	\$5,749,034	2.2%
South Dakota	\$4,427,255	2.2%
Wyoming*	\$4,500,000	2.3%
Georgia	\$19,845,288	3.6%
Arkansas*	\$7,200,000	4.1%
Delaware	\$8,880,747	4.4%
Nebraska*	\$7,159,047	4.5%
North Dakota	\$9,200,000	4.6%
Tennessee	\$18,827,647	4.9%

**Program indicators updated with more recent data than provided by Treasury (July 31, 2021) such as programs' dashboards, news articles, or other sources.*

Local Programs with less than 5% of ERA1 Funds Distributed*

Local ERA1 Program	Assistance Paid	% ERA1 Paid
Baltimore, MD*	\$0	0.0%
Bergen County, NJ	\$0	0.0%
Hempstead, NY	\$0	0.0%
Yakima County, WA	\$0	0.0%
Union County, NJ	\$0	0.0%
Camden County, NJ	\$0	0.0%
Passaic County, NJ	\$0	0.0%
Lackawanna County, PA	\$0	0.0%
Marion County, OR	\$0	0.0%
Escambia County, FL	\$0	0.0%
Oyster Bay Town, NY	\$0	0.0%
Gloucester County, NJ	\$0	0.0%
Newark, NJ	\$0	0.0%
St. Johns County, FL	\$0	0.0%
Laredo, TX	\$0	0.0%

Jersey City, NJ	\$0	0.0%
Hays County, TX	\$0	0.0%
San Bernardino, CA	\$0	0.0%
Nueces County, TX	\$0	0.0%
Lake County, OH	\$3,230	0.0%
Horry County, SC	\$14,519	0.1%
Montgomery County, TX	\$44,475	0.2%
Hidalgo County, TX*	\$150,000	0.6%
Tuscaloosa County, AL	\$50,329	0.8%
Rockingham County, NH	\$205,311	1.0%
Corpus Christi, TX	\$123,383	1.3%
Columbus, OH	\$432,776	1.6%
Baltimore County, MD*	\$800,000	1.6%
Madison County, AL	\$84,945	1.6%
Seattle & King County, WA	\$2,740,746	1.6%
Stanislaus County & Modesto, CA	\$641,586	1.9%
Brazoria County, TX	\$244,571	2.2%
Atlantic County, NJ	\$193,980	2.5%
Ocean County, NJ	\$501,684	2.8%
Berks County, PA	\$803,712	2.9%
Multnomah County & Portland, OR*	\$807,008	3.3%
Jefferson County, TX	\$267,056	3.5%
Chester County, PA	\$1,238,115	3.6%
Cumberland County & Fayetteville, NC	\$367,337	3.6%
Middlesex County, NJ	\$898,211	3.6%
Okaloosa County, FL	\$235,762	3.7%
Collier County, FL	\$497,127	4.3%
Cincinnati, OH	\$412,193	4.5%
Webb County, TX	\$20,250	4.7%
Bernalillo County, NM	\$243,261	4.8%

*Some local programs may be spending down funds from their state allocation or from other sources. Other programs have only opened in the last couple months and may have not had time to ramp up.

*Program indicators updated with more recent data than provided by Treasury (July 31, 2021) such as programs' dashboards, news articles, or other sources.

Key Characteristics of State and Local Programs with Strong Approval or Distribution Records

Many programs that have demonstrated strong ERA approval or distribution rates have also implemented program flexibilities such as self-attestation and fact-specific proxies, accessible features such as simple applications and robust outreach, and other features to increase capacity and improve program performance.

Robust & Equitable Outreach with Trusted Community Partners

High-performing programs have relied on robust partnerships with trusted community organizations to reach the most marginalized communities and support renters through the application process. For example, the State of Virginia partners with and funds organizations to reach households and landlords with limited access to the internet or otherwise unable to complete online applications due to accessibility and language barriers. In Richland, SC, ERA program administrators work with public libraries to provide access to the application and offer application support. In Louisville/Jefferson County, KY, ERA program administrators leverage preexisting Neighborhood Place services already embedded in key neighborhoods and partner with community service providers and community groups to conduct on-the-ground outreach. Honolulu's ERA program similarly works with a network of nonprofit partners and target specific populations, such as the Micronesian community, or neighborhoods with high need, like the Leeward Coast of Oahu. San Antonio has been effective at reaching Latino households by conducting door-knocking campaigns in such neighborhoods, advertising on Spanish-speaking local radio, and offering support with the application process at libraries in Latino neighborhoods.

Simple & Accessible Applications

Local programs, such as in Caddo Parish, LA; New Hanover County, NC; and Honolulu, HI, use a very simple, low-barrier screening application. Once applications are selected, program administrators follow up with tenants to request any necessary information or documents. To reduce burden on tenants, the City of Houston and Harris County's joint program requests that landlords share information as part of their landlord directory; tenants can select their landlord from a dropdown and, if their landlord is participating in the directory, tenants will find information prefilled so that there is less information for tenants to collect and input as part of the application.

High-performing program administrators take intentional steps to ensure applications are accessible to a wide audience, via multiple methods such as online, in person, and on the phone, as well as in multiple languages. In San Antonio, ERA program administrators ensure that all people, regardless of immigration status, know they can access the program by explicitly accepting Consular IDs as a form of identification. The State of Connecticut's program, which has spent about one-third of its ERA1 allocation, bring the ERA application to towns and neighborhoods, leveraging a mobile technology bus with staff and volunteers, to help renters apply for assistance on the spot. Several programs also make clear they provided support for applicants with hearing or visual impairments.

Using Proxies, Categorical Eligibility, and Self-Attestation to Decrease Documentation Burden

Many high-performing programs have implemented various flexibilities to reduce documentation for program applicants. Among state programs, Virginia and Connecticut have implemented fact-specific proxies for income so that households residing in low-income ZIP codes or Qualified Census Tracts do not have to provide income documentation, easing the application process. Louisville/Jefferson County and Richland County have also implemented this flexibility. Some programs have also integrated categorical eligibility into their programs, utilizing administrative data from other federal, state, or local assistance programs to verify a

household's income. Texas, Connecticut, the City of Houston, Harris County, Philadelphia and Kansas City, MO, have all implemented this flexibility by either allowing households to provide a benefit letter rather than income documentation or integrating their application software with administrative data sources from SNAP, TANF, Medicaid, and other programs.

Following Treasury's guidance, many of the more successful programs allow self-attestation for households to affirm housing instability, COVID-related hardship, income, and leases. Richland County, SC; Chesterfield County, VA; Harris County, TX; San Antonio, TX; Texas; Connecticut; and New Jersey are high ERA spenders who have all implemented one or more forms of self-attestation to ease documentation burdens for tenants.

Real-Time Evaluation and Course Correction

ERA provided an unprecedented amount of funding, and jurisdictions needed to stand up programs quickly to respond to households' emergency needs. Many programs were designed quickly with the knowledge that modifications would be necessary for the program to run smoothly. Successful programs have listened to renter and landlord concerns, identified program challenges, and conducted real-time analysis to make course corrections along the way.

The State of Virginia integrates fact-specific proxies of eligibility into their process to address application backlogs and incomplete applications. The State of Texas details program changes on their website, which include expanding their categorical eligibility criteria, decreasing documentation burdens for tenants and landlords, and re-prioritizing applications for households with active eviction cases. The State of New York, which spent \$300 million in August alone, has simplified their online application after hearing complaints that the application was too complex and not user friendly. Many high-spending programs also have public data dashboards, allowing both administrators and stakeholders to identify potential challenges and programmatic solutions.

Landlord Engagement & Tenant Protections

Several high-spending state and local ERA programs have also adopted notable strategies to engage landlords, implement tenant protections, and ensure tenants do not fall through the cracks. Several programs actively engaged landlords to increase their program buy-in and participation. The State of Texas held meetings with landlord groups to hear their concerns about the program and to get feedback on what additional resources would be helpful. As a result of these meetings, the state decreased documentation requirements for landlords and created resources, such as an application process flow-chart, that landlords requested. In Houston and Harris County, TX, the ERA program invited landlords to register for ERA as part of a landlord directory to expedite review and payments and to connect applications from renters to additional information requested of landlords.

Several programs also developed strong tenant protections and eviction-diversion strategies in coordination with their ERA programs. Philadelphia's Municipal Court issued an order stating that after applying for emergency rental assistance and participating in landlord/tenant mediation, landlords must wait 45 days to file for eviction. Philadelphia has created an eviction-diversion program as another facet of its ERA program, and the ERA program administrators regularly check in with the courts to keep the courts up to date on pending applications and to ensure tenants are not evicted during this time. Louisville/Jefferson County, KY, has formed a

strong relationship with the courts to ensure households applying to ERA are protected from eviction and to inform households about ERA as soon as they receive an eviction notice. In New York State, once tenants apply for ERA, they cannot be evicted because the lease has expired or due to non-payment of rent during the COVID-19 pandemic.

Increasing Capacity & Infrastructure

To disburse funding efficiently, program administrators must increase staffing and develop more advanced technological infrastructure to handle the influx of applications and program requests from renter households in need. Programs that attempt to administer ERA with the same staffing and internal systems they used prior to COVID-19 will likely suffer from major backlogs, limited visibility, and staff burnout. Most high-spending program, including the State of Alaska, State of Texas, and Louisville, KY, increased internal staff through permanent hires, temporary workers, and interns, or they subcontracted to community-based organizations and other contractors to bolster program capacity. The State of Alaska hired over 100 people to staff its call center, reach out to tenants and landlords, process applications, and support the administration of the program. Louisville, KY, hired 18 college interns from their local university to support the program.

Recommendations for Congress to Improve ERA Distribution

The slow pace of ERA spending is due primarily to challenges at the state and local levels, not a lack of legislative authority or administrative guidance. The Biden administration has provided significant flexibility to state and local governments to streamline programs and minimize burdensome documentation requirements, to conduct outreach to renters and landlords, and to work creatively with local eviction courts to prevent evictions. While some jurisdictions are effectively adopting these flexibilities and proven best practices into their program designs, far too many states and communities are choosing not to.

As Congress works to advance reform legislation, NLIHC urges you to include key reforms to streamline program delivery, improve program performance, and protect tenants. The purpose of statutory reform to ERA should be to expedite assistance and, to the greatest extent possible, maintain housing stability for tenants.

The “**Expediting Assistance to Renters and Landlords Act of 2021**,” introduced by Chairwoman Waters, would expedite ERA assistance by building off existing program guidance and directives and addressing and correcting many of the root causes of slow ERA spending. The legislation would also provide important renter protections. We appreciate Chairwoman Waters for her leadership on this legislation and for including many of NLIHC’s recommendations at introduction and in the substitute amendment. Below, I outline essential provisions in this legislation and recommend additional improvements to strengthen the legislation and its impact.

The “**Protecting Renters Act of 2021**,” introduced by Ranking Member McHenry, would neither expedite ERA assistance nor protect tenants. Instead, the legislation would further slow ERA distribution by requiring the Department of Treasury to retract and redo most of its current ERA guidance, thereby requiring program administrators to redesign programs in a manner *counter* to evidence-based best practices. The legislation would grind most ERA programs to a halt by leaving virtually all states and cities without any funding for staffing, technology, and other reasonable administrative costs associated with administering the programs. And, by

giving communities little time to spend their remaining ERA funds, Congressman McHenry's legislation would ensure that the needs of millions of landlords and tenants will go unmet with the funds that Congress has already provided.

Streamline Program Delivery

Any reform legislation should include measures to streamline the delivery of ERA. The "Expediting Assistance to Renters and Landlords Act" includes these essential provisions:

1. *Require all ERA program administrators to use self-attestation without further need for documentation*

Congress should require grantees to use self-attestation for income, risk of housing instability or homelessness, leases, and rent arrears, without further need for documentation and/or fact-specific proxies. Treasury's guidance currently allows programs to use self-attestation for all eligibility criteria, but few programs are doing so. Just 57% of ERA programs explicitly allow self-attestation for at least one eligibility criteria. According to NLIHC's tracking,⁶⁷ 43% explicitly allow self-attestation to affirm a COVID-19 hardship; 16% use self-attestation for income; and 13% use it for housing instability. Broader use of self-attestation would significantly increase accessibility for the lowest-income and most marginalized renters, decrease processing times, and speed up the delivery of assistance to renters and landlords.

2. *Require all program administrators to provide direct-to-tenant assistance*

Many program administrators are challenged by some landlords refusing to accept ERA. A survey conducted by NLIHC, the Housing Initiative at Penn, and the NYU Furman Center found that 44% of program administrators identify landlord responsiveness as a challenge.⁶⁸ Program administrators said landlords decline to participate in ERA programs for several reasons, including not wanting or being able to provide a W-9, wanting to evict tenants regardless of receiving ERA payments, and not wanting to participate in a government program.

Despite guidance from and urging by Treasury and the White House, too few ERA programs offer direct-to-tenant assistance when landlords refuse to participate. Of the nearly 500 ERA programs NLIHC is tracking, only 28% explicitly state they will provide direct-to-tenant assistance. Without a direct-to-tenant option, renters are effectively barred from receiving the assistance they need to remain in their homes when their landlords refuse to participate in the program, undermining the efficacy of the program.

3. *Prohibit all program administrators from requiring written leases*

The lowest-income and most marginalized renters are least likely to have written leases, but they are often most in need of assistance. Congress should prohibit ERA programs from requiring written leases to reduce overly burdensome documentation requirements for both tenants and landlords and to ensure resources reach those with the greatest needs.

4. *Create a safe harbor for ERA program administrators*

Many program administrators are hesitant to reduce application requirements, utilize self-attestation for tenants' eligibility, and provide direct-to-tenant assistance and are overly cautious in their design and implementation of ERA programs out of concern that the Biden or a future administration may later penalize them. To facilitate faster ERA spending, Congress should create an explicit safe harbor to provide program administrators with clear assurances that

funds will not be clawed back for improper payments in cases where programs used self-attestation for tenant's eligibility or provide assistance directly to tenants. Congress can extend safe harbor to all programs using "good faith efforts to expedite the distribution of low-barrier assistance."

Improve Program Performance

ERA reform legislation should improve program performance and ensure resources reach tenants and landlords in need. As recommended by NLIHC, the "Expediting Assistance to Renters and Landlords Act" includes these essential provisions:

1. *Require performance improvement plans for slow-spending programs.*

The "Expediting Assistance to Renters and Landlords Act" would require slow-spending programs (those that have expended less than 25% of ERA1 funds) to create an improvement plan demonstrating how the program will adopt best practices to expedite the delivery of aid.

NLIHC recommends that this provision be further strengthened by conditioning a grantee's ability to retain needed funds on an approved performance improvement plan. Congress should also direct Treasury and HUD to provide technical assistance focused on helping these programs get on track.

2. *Redefine "eligible grantees" for recaptured funds to include community based nonprofit organizations and courts.*

Beginning on September 30, Treasury may recapture and reallocate excess ERA funds. Congress can help ensure renters and landlords in communities with poor-performing and low-capacity ERA programs can still access emergency aid by redefining "eligible grantees" to include community-based nonprofit organizations and courts. This safeguard is especially important in locations where there may not be another eligible state or local government grantee with the capacity to serve additional jurisdictions. Without this flexibility, Treasury may reallocate needed funds out of state, leaving renters and landlords without the resources Congress provided. By identifying courts as eligible grantees, Congress can help ensure resources are available to renters at immediate risk of eviction.

NLIHC urges the committee to further improve ERA program performance by including in the "Expediting Assistance to Renters and Landlords Act" these additional provisions:

1. *Require programs to use a minimum percentage of funds for outreach, application, navigation, and housing stability services.*

As Chairwoman Waters noted in a Dear Colleague letter⁶⁹ sent on August 27, the lack of awareness among renters and landlords about the availability of ERA is deeply troubling. In addition to the difficulty applying for ERA programs and complicated eligibility criteria, lack of awareness is among the top reasons renters have not applied for ERA. Robust and equitable marketing and outreach efforts are needed to ensure all low-income renters and landlords know about ERA and how to access it.

Navigators can provide renters with the information they need, from a source they trust, to apply for aid and can assist renters with filling out applications and understanding the process, particularly where there are barriers such as language access. Navigators could include additional staff, housing counselors, case managers, nonprofit organizations, and others familiar

with the ERA application process. Congress should direct program administrators use a minimum percentage of funds for outreach and application navigation to assist renters and landlords in applying for aid, and it should provide clarification on how these costs should be billed. Congress should clarify that administrative costs will not be recaptured.

2. Increase access for people experiencing homelessness.

Congress should create a presumption that people experiencing homelessness (as defined by HUD Categories 1 and 4) meet all eligibility criteria for ERA funds. While Treasury guidance currently allows people experiencing homelessness to receive ERA funds, these households are typically required to meet the same eligibility and programmatic criteria as renters. This can make it more difficult to serve people without homes, who may not have a photo ID, lease, or other documentation.

Provide Robust Renter Protections if Allowing for Direct-to-Landlord Assistance

As outlined in our August 31 letter⁷⁰ to Chairwoman Waters, NLIHC has deep reservations about any legislative proposal to allow landlords to apply for ERA without the participation of tenants. Without significant safeguards, such a proposal could result in increased fraud by landlords and greater housing instability for tenants. We appreciate the inclusion of many of NLIHC's recommended tenant protections in the "Expediting Assistance to Renters and Landlords Act." These protections ensure that a landlord receiving ERA without tenant involvement:

- *Is prohibited from evicting a current tenant for at least 120 days, with exceptions only for health or safety issues.* A landlord receipt of ERA funds without tenant involvement must be conditioned on continued housing stability for the tenant.
- *Must set aside and vacate any past eviction judgment based on nonpayment of rent for the arrears they are paid.* Congress must prevent circumstances where a landlord receives assistance through the ERA program, but renters continue to have an eviction judgement on their record, which can make it more difficult to find future housing.
- *Must rescind any current eviction notice, and courts must dismiss and agree to seal any active eviction filing.* Even an eviction filing without a final determination can harm tenants for years, making it difficult to find future housing. Landlords must be required to rescind any eviction notice, and courts must seal eviction filings.
- *Provide the tenant with written notice of arrearages paid and ongoing protections.* Landlords are required to provide written notice to tenants that the arrears owed have been paid and that the landlord is prohibited from evicting the tenant for 120 days except for health or safety reasons.

Additionally, as recommended by NLIHC, the "Expediting Assistance to Renters and Landlords Act" would require ERA program administrators that assist landlords without tenant involvement to notify state and local courts that the landlord received payment, rent is no longer past due, and evictions must be halted.

In rare cases where landlords are permitted to receive ERA for now vacant units - due to a tenant leaving before an application was submitted, completed, or approved - there must be

strict requirements in place to minimize fraud and tenant harassment and to avoid creating perverse unintended consequences. I appreciate Chairwoman Waters's responsiveness to these concerns by including the following essential protections for these circumstances:

- Such applications will only be considered for units vacated prior to September 7, 2021.
- To receive such assistance the landlords must attest, under penalty of perjury, that they:
 - Did not file an eviction notice on the tenant
 - Did not sever any utilities or order the severing of utilities to the dwelling while the tenant resided in the unit
 - Did not change the locks while the renter occupied the unit
 - Did not take any other action to bar the tenant from the unit

Additionally, ERA program administrators would be held responsible for any payments made to a landlord that ultimately is found to have harassed or acted illegally to force a tenant from their unit.

To further improve the "Expediting Assistance to Renters and Landlords Act," NLIHC recommends that the legislation give clear authority and responsibility to the Department of Justice and the Consumer Financial Protection Bureau to monitor and enforce these protections.

Recommendations for the Biden Administration

The Biden administration should continue working aggressively to avert an historic wave of evictions this fall and winter. In addition to providing guidance, support, and technical assistance to ensure ERA program administrators are implementing the core features that lead to success, the administration should take the following steps to keep renters safely and stably housed.

Issue an Eviction Moratorium for Federally Supported Properties

Treasury, HUD, the U.S. Department of Agriculture (USDA), and the Federal Housing Finance Agency (FHFA) should quickly implement the directive issued on July 29 by the Biden administration, urging all federal housing agencies "to extend their respective eviction moratoria through the end of September" and "to do everything in their power so that owners and operators of federally-assisted and financed rental housing seek Emergency Rental Assistance (ERA)... before moving toward eviction."⁷¹

In letters sent on July 29⁷² and August 10,⁷³ NLIHC and NHLP urged the administration to immediately announce an eviction moratorium for renters living in all federally assisted properties supported by the HUD, USDA, or Treasury. The Biden administration has the authority to issue such a moratorium, and it should investigate its authority to issue similar protections for renters in properties backed by Fannie Mae and Freddie Mac.

Further Eliminate Barriers in ERA Programs

Treasury should continue to improve the ERA program by providing additional guidance to eliminate barriers that have slowed down the ability of state and local governments to distribute aid.

1. Create Explicit Safe Harbor Protections

Many program administrators are hesitant to reduce application requirements, utilize self-attestation and provide direct-to-tenant assistance and are overly cautious in their design and implementation of ERA programs out of concern that the Biden administration may later penalize them for noncompliance. To facilitate faster ERA spending, Treasury and its Office of Inspector General should together set and announce clear and flexible expectations. The White House and Treasury should create an explicit safe harbor to provide program administrators with clear assurances that funds will not be clawed back if administrators' interpretation of the guidance is "reasonable."

2. Allow Programs to Presume COVID-19 Hardships for All Income-Eligible Households

While the administration makes clear that self-attestation of COVID-19-related hardship is sufficient, Treasury should also allow programs to presume applicants have a COVID-19-related hardship if they have low or moderate incomes, as is allowed under the State and Local Fiscal Recovery Fund. Allowing programs to presume that all low- and moderate-income households were negatively impacted by the pandemic, rather than proving such hardship for each individual applicant, would greatly expedite the process of getting aid to households in need.

3. Simplify Applications and Develop a Model ERA Application

Treasury has identified and released promising practices for ERA programs that identify strategies to help accelerate program implementation and improve access to ERA programs.⁷⁴ Most recently, Treasury updated its list of promising practices by publishing examples of self-attestation forms⁷⁵ and an eviction-diversion "maturity model,"⁷⁶ as recommended by NLIHC.⁷⁷

The Biden administration should build on these resources by creating and broadly distributing a model streamlined ERA application, including broad use of self-attestation and proxies that state and local governments can easily and quickly adopt. The model application should explicitly allow program administrators to encourage third parties, such as legal aid attorneys, shelters or service providers, to apply on behalf of a tenant.

Program administrators should be directed to simplify applications and work with renters to complete those applications that are currently incomplete, and Treasury should provide oversight and implement consequences for administrators not applying these strategies to their programs.

Use the Recapture and Reallocation Process to Hold Programs Accountable and Expedite Assistance

The Biden administration should use the recapture and reallocation process to incentivize programs to adopt best practices and hold ERA programs accountable. The goals of any recapture process must be to ensure the timely distribution of aid to all renters in need, to incentivize programs to improve and streamline program delivery, and to ensure resources are allocated equitably. To this end, we urge Treasury to:

1. Hold renters harmless for the slow spending of their ERA programs

Treasury should, first and foremost, ensure that struggling renters can receive the assistance they need and that Congress provided to them by reallocating recaptured funds to other grantees in the state or by requiring poor-performing grantees to subaward their funds to nonprofit organizations with the capacity to administer aid. Treasury guidance (Q.21)⁷⁸ allows grantees to make subawards to other entities, including nonprofit organizations, to administer ERA programs. Poor-performing grantees that are unable to significantly improve their administration of aid must be required to subaward their allocation to an entity that can. We cannot allow

renters to lose their homes because of the inefficiency and slow spending of program administrators.

2. Require performance improvement plans for poor-performing programs

To avoid the recapture of funds, programs that have struggled to distribute ERA resources should be required by Treasury to create an improvement plan demonstrating how the program has made mid-course corrections and adopted best practices to improve delivery of aid. Programs should be required to have improvement plans in place, rather than merely promising to do so in the future, to avoid recapture of unspent funds. Treasury should also provide technical assistance focused on helping these programs get on track.

3. Reallocate resources based on need, capacity, and use of best practices

All ERA programs should be required to complete and make public an analysis of the projected need in their jurisdiction for renters and people experiencing homelessness. Treasury should use these data to distribute recaptured ERA funds to states and communities with the greatest needs and the ability to quickly distribute aid. Treasury should also prioritize reallocation of recaptured funds to programs that have incorporated best practices, such as self-attestation, simple applications, and direct-to-tenant assistance, into their program design.

4. Establish additional recapture opportunities

Treasury should closely monitor how funds are being spent and recapture ERA resources from jurisdictions that are unable to distribute funds or unwilling to adopt best practices. Recapture processes should provide sufficient time for programs receiving recaptured funds to distribute aid before the final expenditure deadline.

5. Reallocate excess ERA to successful programs

The allocation formula included in the statute establishing the ERA program disproportionately distributed ERA funds to small states and communities through the small state minimum. While some recaptured funds should be reallocated to grantees within the state to hold renters harmless for the poor performance of their ERA program, Treasury should use the recapture and reallocation process to direct excess ERA funds to high-need states and communities, regardless of their location, to help address the original inequitable allocation of resources.

Long-Term Solutions to the Underlying Housing Crisis

The COVID-19 pandemic and its economic fallout underscore the need for a stronger housing safety net in the U.S. Beyond addressing and averting the immediate eviction crisis, Congress must address the underlying and long-standing shortage of affordable, accessible homes and insufficient renter protections for America's lowest-income people.

The upcoming economic recovery package is a once-in-a-generation opportunity to achieve the large-scale, sustained investments and anti-racist reforms necessary to ensure the lowest-income and most marginalized renters have an affordable place to call home. To help address America's housing and homelessness crisis, Congress must include the following investments in the forthcoming infrastructure and economic recovery package:

Expand Rental Assistance to Effectively End Homelessness for Families and Individuals

Due to inadequate federal funding, only one out of four households eligible for rental assistance receives it. Congress should make a major investment in expanding rental assistance – no less

than the \$90 billion included in Chairwoman Waters's reconciliation bill package, as a down payment towards President Biden's commitment to universal housing vouchers for all eligible households.

Preserve Public Housing

Public housing is critical to ensuring people with the greatest needs have safe, decent, affordable, and accessible homes, and the preservation of this community asset must be included in any strategy to address America's housing crisis. Congress has divested from public housing for decades, resulting in over \$70 billion in unmet capital backlog needs. As a result, our nation loses 10,000 to 15,000 units of public housing every year to obsolescence or decay and other units fall into disrepair. Congress should provide no less than the \$80 billion of preservation funding included in Chairwoman Waters's reconciliation bill.

Invest in the National Housing Trust Fund to Build and Preserve Homes Affordable to People with the Lowest Incomes

The Housing Trust Fund is the first new federal housing resource in a generation exclusively targeted to build and preserve rental homes affordable to people with the lowest incomes, those with the greatest and clearest needs. It is the only federal housing production program targeted to address the market failure that is an underlying cause of the housing crisis. Congress should provide no less than the \$37 billion of HTF funding included in Chairwoman Waters's reconciliation bill.

Conclusion

With nearly 6.5 million renter households still behind on rent, Congress, the Biden administration, and state and local governments must work quickly and aggressively to avert an historic wave of evictions and keep renters stably housed during the pandemic. NLIHC looks forward continued work with members of Congress, the administration and state and local partners to advance the short-, medium- and long-term solutions needed to prevent an eviction crisis and repair the gaping holes in our country's social safety.

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