

116TH CONGRESS
2D SESSION

S. 3685

To provide emergency rental assistance under the Emergency Solutions Grants program of the Secretary of Housing and Urban Development in response to the public health emergency resulting from the coronavirus, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 12, 2020

Mr. BROWN (for himself, Mr. SCHUMER, Mr. VAN HOLLEN, Mr. SCHATZ, Ms. CORTEZ MASTO, Ms. WARREN, Mr. MENENDEZ, Ms. SMITH, Mr. REED, Mr. WYDEN, Ms. BALDWIN, Mrs. GILLIBRAND, Mrs. MURRAY, Mr. MERKLEY, Ms. HIRONO, Mr. MARKEY, Ms. HASSAN, Ms. HARRIS, Mr. BOOKER, Mrs. FEINSTEIN, Ms. STABENOW, Mr. BLUMENTHAL, Mr. DURBIN, Mr. LEAHY, Ms. KLOBUCHAR, Mr. SANDERS, Mr. BENNET, Mr. WHITEHOUSE, Mr. HEINRICH, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide emergency rental assistance under the Emergency Solutions Grants program of the Secretary of Housing and Urban Development in response to the public health emergency resulting from the coronavirus, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Emergency Rental As-
3 sistance and Rental Market Stabilization Act of 2020”.

4 **SEC. 2. EMERGENCY RENTAL ASSISTANCE.**

5 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is
6 appropriated to the Secretary of Housing and Urban De-
7 velopment (referred to in this section as the “Secretary”),
8 out of amounts in the Treasury not otherwise appro-
9 priated, \$100,000,000,000 for grants under the Emer-
10 gency Solutions Grants program under subtitle B of title
11 IV of the McKinney-Vento Homeless Assistance Act (42
12 U.S.C. 11371 et seq.) for fiscal year 2020, to remain
13 available until expended (subject to subsections (d) and
14 (n) of this section), to be used for providing rental assist-
15 ance in accordance with section 415(a)(4) of such Act (42
16 U.S.C. 11374(a)(4)) and this section.

17 (b) **DEFINITION OF AT RISK OF HOMELESSNESS.**—
18 Notwithstanding section 401(1) of the McKinney-Vento
19 Homeless Assistance Act (42 U.S.C. 11360(1)), for pur-
20 poses of assistance made available with amounts made
21 available pursuant to subsection (a), the term “at risk of
22 homelessness” means, with respect to an individual or
23 family, that the individual or family—

24 (1) has an income below 80 percent of the me-
25 dian income for the area as determined by the Sec-
26 retary; and

1 (2) has an inability to attain or maintain hous-
2 ing stability or has insufficient resources to pay for
3 rent or utilities due to financial hardships.

4 (c) INCOME TARGETING AND CALCULATION.—For
5 purposes of assistance made available with amounts made
6 available pursuant to subsection (a)—

7 (1) each grantee of such amounts shall use—

8 (A) not less than 40 percent of the
9 amounts received only for providing assistance
10 for individuals or families experiencing home-
11 lessness or at risk of homelessness who have in-
12 comes not exceeding 30 percent of the median
13 income for the area as determined by the Sec-
14 retary;

15 (B) not less than 70 percent of the
16 amounts received only for providing assistance
17 for individuals or families experiencing home-
18 lessness or at risk of homelessness who have in-
19 comes not exceeding 50 percent of the median
20 income for the area as determined by the Sec-
21 retary; and

22 (C) the remainder of the amounts received
23 only for providing assistance to individuals or
24 families experiencing homelessness or at risk of
25 homelessness who have incomes not exceeding

1 80 percent of the median income for the rel-
2 evant geographic area as determined by the
3 Secretary, except that if a grantee demonstrates
4 to the satisfaction of the Secretary that the
5 population in the geographic area served by the
6 grantee having such incomes is sufficiently
7 being served with respect to activities eligible
8 for funding with such amounts, such grantee
9 may establish a higher percentage limit for pur-
10 poses of subsection (b)(1), which shall not in
11 any case exceed 120 percent of the area median
12 income; and

13 (2) in determining the income of a household—

14 (A) the calculation of income performed at
15 the time of application for such assistance shall
16 consider only income that the household is cur-
17 rently receiving at such time and any income
18 recently terminated shall not be included;

19 (B) the calculation of income performed
20 with respect to households receiving ongoing as-
21 sistance (such as medium-term rental assist-
22 ance) 3 months after initial receipt of assist-
23 ance shall consider only the income that the
24 household is receiving at the time of such re-
25 view; and

1 (C) the calculation of income performed
2 with respect to households receiving assistance
3 for arrearages shall consider only the income
4 that the household was receiving at the time
5 such arrearages were incurred.

6 (d) 3-YEAR AVAILABILITY.—

7 (1) IN GENERAL.—Each grantee of amounts
8 made available pursuant to subsection (a) shall—

9 (A) expend not less than 60 percent of
10 such grant amounts within 2 years of the date
11 that such funds became available to the grantee
12 for obligation; and

13 (B) expend 100 percent of such grant
14 amounts within 3 years of such date.

15 (2) REALLOCATION AFTER 2 YEARS.—The Sec-
16 retary may recapture any amounts not obligated in
17 compliance with paragraph (1)(A) and reallocate
18 such amounts to grantees in compliance with the
19 formula referred to in subsection (h)(1)(A).

20 (3) RESCISSION AND REALLOCATION OF
21 FUNDS.—Any amounts made available pursuant to
22 subsection (a) that are not expended by a grantee to
23 provide assistance in accordance with this section by
24 the deadline under paragraph (1)(B) shall be reallo-
25 cated by the Secretary as follows:

1 (A) 65 percent shall be transferred and
 2 credited to the Housing Trust Fund established
 3 under section 1338 of the Federal Housing En-
 4 terprises Financial Safety and Soundness Act
 5 of 1992 (12 U.S.C. 4568).

6 (B) 35 percent shall be transferred or
 7 credited to the Capital Magnet Fund estab-
 8 lished under section 1339 of the Federal Hous-
 9 ing Enterprises Financial Safety and Sound-
 10 ness Act of 1992 (12 U.S.C. 4569).

11 (e) RENT RESTRICTIONS.—

12 (1) INAPPLICABILITY.—Section 576.106(d) of
 13 title 24, Code of Federal Regulations, shall not
 14 apply with respect to homelessness prevention assist-
 15 ance made available with amounts made available
 16 under subsection (a).

17 (2) AMOUNT OF RENTAL ASSISTANCE.—In pro-
 18 viding homelessness prevention assistance with
 19 amounts made available under subsection (a), the
 20 maximum amount of rental assistance that may be
 21 provided shall be the greater of—

22 (A) 120 percent of the higher of—

23 (i) the Fair Market Rent established
 24 by the Secretary for the metropolitan area
 25 or county; or

1 (ii) the applicable Small Area Fair
2 Market Rent established by the Secretary;
3 or
4 (B) such higher amount as the Secretary
5 shall determine is needed to cover market rents
6 in the area.

7 (f) SUBLEASES.—Notwithstanding the second sen-
8 tence of subsection (g) of section 576.106 of title 24 of
9 the Code of Federal Regulations, a program participant
10 may sublet, with rental assistance made available with
11 amounts made available pursuant to subsection (a) of this
12 section, a dwelling unit from a renter of the dwelling unit
13 if there is a legally binding, written lease agreement for
14 such sublease.

15 (g) HOUSING RELOCATION OR STABILIZATION AC-
16 TIVITIES.—A grantee of amounts made available pursuant
17 to subsection (a) may expend up to 25 percent of its allo-
18 cation for activities under section 415(a)(5) of the McKin-
19 ney-Vento Homeless Assistance Act (42 U.S.C.
20 11374(a)(5)), except that notwithstanding such section,
21 activities under such section may be provided only for indi-
22 viduals or families having incomes not exceeding 50 per-
23 cent of the area median income.

24 (h) ALLOCATION OF ASSISTANCE.—

1 (1) IN GENERAL.—In allocating amounts made
2 available pursuant to subsection (a), the Secretary
3 shall—

4 (A)(i) for any purpose authorized in this
5 section, allocate 2 percent of such amount for
6 Indian tribes and tribally designated housing
7 entities (as such terms are defined in section 4
8 of the Native American Housing Assistance and
9 Self-Determination Act of 1996 (25 U.S.C.
10 4103)) under the formula established pursuant
11 to section 302 of such Act (25 U.S.C. 4152),
12 except that 0.3 percent of the amount allocated
13 under this clause shall be allocated for the De-
14 partment of Hawaiian Home Lands; and

15 (ii) not later than 30 days after the date
16 of enactment of this Act, obligate and disburse
17 the amounts allocated pursuant to clause (i) in
18 accordance with such allocations and provide
19 such grantees with any necessary guidance for
20 use of the funds; and

21 (B)(i) not later than 7 days after the date
22 of enactment of this Act and after setting aside
23 amounts under subparagraph (A), allocate 50
24 percent of any such remaining amounts under
25 the formula specified in subsections (a), (b),

1 and (e) of section 414 of the McKinney-Vento
2 Homeless Assistance Act (42 U.S.C. 11373)
3 for, and notify, each State, metropolitan city,
4 and urban county that is to receive a direct
5 grant of such amounts; and

6 (ii) not later than 30 days after the date
7 of enactment of this Act, obligate and disburse
8 the amounts allocated pursuant to clause (i) in
9 accordance with such allocations and provide
10 such grantees with any necessary guidance for
11 use of the funds; and

12 (C)(i) not later than 45 days after the date
13 of enactment of this Act, allocate any remaining
14 amounts for eligible grantees according to a for-
15 mula to be developed by the Secretary that
16 takes into consideration the formula referred to
17 in subparagraph (A) and the need for emer-
18 gency rental assistance under this section, in-
19 cluding the severe housing cost burden among
20 extremely low- and very low-income renters and
21 disruptions in housing and economic conditions,
22 including unemployment; and

23 (ii) not later than 30 days after the date
24 of the allocation of such amounts pursuant to

1 clause (i), obligate and disburse such amounts
2 in accordance with such allocations.

3 (2) ALLOCATIONS TO STATES.—

4 (A) IN GENERAL.—Notwithstanding sec-
5 tion 576.202(a) of title 24, Code of Federal
6 Regulations, a State recipient of an allocation
7 under this section may elect to administer up to
8 100 percent of its allocation to carry out activi-
9 ties eligible under this section.

10 (B) REQUIREMENT.—Any State recipient
11 making an election described in subparagraph
12 (A) shall serve households throughout the entire
13 State, including households in rural commu-
14 nities and small towns.

15 (3) ELECTION NOT TO ADMINISTER.—If a
16 grantee elects not to receive funds under this sec-
17 tion, such funds shall be allocated to the State re-
18 cipient in which the grantee is located.

19 (4) PARTNERSHIPS AND SUBGRANTEES.—A re-
20 cipient of a grant under this section may distribute
21 funds through 1 or more partnerships, subgrantees,
22 or contracts with an entity, including a public hous-
23 ing agency (as such term is defined in section 3(b)
24 of the United States Housing Act of 1937 (42

1 U.S.C. 1437a(b))), capable of carrying out a pro-
2 gram under this section.

3 (i) INAPPLICABILITY OF MATCHING REQUIRE-
4 MENT.—Section 416(a) of the McKinney-Vento Homeless
5 Assistance Act (42 U.S.C. 11375(a)) shall not apply to
6 any amounts made available pursuant to subsection (a)
7 of this section.

8 (j) REIMBURSEMENT OF ELIGIBLE ACTIVITIES.—
9 Amounts made available pursuant to subsection (a) may
10 be used by a grantee to reimburse expenditures incurred
11 for eligible activities under this section after March 27,
12 2020.

13 (k) PROHIBITION ON PREREQUISITES.—None of the
14 funds made available pursuant to this section may be used
15 to require any individual receiving assistance under the
16 program under this section to receive treatment or per-
17 form any other prerequisite activities as a condition for
18 receiving shelter, housing, or other services.

19 (l) WAIVERS AND ALTERNATIVE REQUIREMENTS.—

20 (1) IN GENERAL.—

21 (A) AUTHORITY.—In administering the
22 amounts made available pursuant to subsection
23 (a), the Secretary may waive, or specify alter-
24 native requirements for, any provision of any
25 statute or regulation that the Secretary admin-

1 isters in connection with the obligation by the
2 Secretary or the use by the recipient of such
3 amounts (except for requirements related to fair
4 housing, nondiscrimination, labor standards,
5 prohibition on prerequisites, data reporting, and
6 the environment unless otherwise provided
7 under this paragraph), if the Secretary finds
8 that good cause exists for the waiver or alter-
9 native requirement and such waiver or alter-
10 native requirement is necessary to expedite the
11 use of funds made available pursuant to this
12 section, to respond to public health orders or
13 conditions related to the COVID–19 emergency,
14 or to ensure that eligible individuals can attain
15 or maintain housing stability.

16 (B) REQUIRED WAIVER.—The Secretary
17 shall waive any regulatory requirements that re-
18 strict eligibility based upon prior receipt of as-
19 sistance under the program during the 3-year
20 period preceding the date of enactment of this
21 Act.

22 (C) PUBLIC NOTICE.—The Secretary shall
23 notify the public through the Federal Register
24 or other appropriate means of any waiver or al-
25 ternative requirement under this paragraph,

1 and that such public notice may be provided, at
2 a minimum, on the internet at the appropriate
3 Government website or through other electronic
4 media, as determined by the Secretary.

5 (2) PUBLIC HEARINGS.—

6 (A) INAPPLICABILITY OF IN-PERSON HEAR-
7 ING REQUIREMENTS DURING THE COVID-19
8 EMERGENCY.—

9 (i) IN GENERAL.—A grantee under
10 this section shall not be required to hold
11 in-person public hearings in connection
12 with its citizen participation plan, but shall
13 provide citizens with notice, including pub-
14 lication of its plan for carrying out this
15 section on the internet, and a reasonable
16 opportunity to comment of not less than 5
17 days.

18 (ii) RESUMPTION OF IN-PERSON
19 HEARING REQUIREMENTS.—After the pe-
20 riod beginning on the date of enactment of
21 this Act and ending on the date of the ter-
22 mination by the Federal Emergency Man-
23 agement Agency of the emergency declared
24 on March 13, 2020, by the President
25 under the Robert T. Stafford Disaster Re-

1 lief and Emergency Assistance Act (42
2 U.S.C. 4121 et seq.) relating to the
3 Coronavirus Disease 2019 (COVID-19)
4 pandemic, and after the period described
5 in subparagraph (B), the Secretary shall
6 direct grantees under this section to re-
7 sume pre-crisis public hearing require-
8 ments.

9 (B) VIRTUAL PUBLIC HEARINGS.—

10 (i) IN GENERAL.—During the period
11 that national or local health authorities
12 recommend social distancing and limiting
13 public gatherings for public health reasons,
14 a grantee may fulfill applicable public
15 hearing requirements for all grants from
16 funds made available pursuant to this sec-
17 tion by carrying out virtual public hear-
18 ings.

19 (ii) REQUIREMENTS.—Any virtual
20 hearings held under clause (i) by a grantee
21 under this section shall provide reasonable
22 notification and access for citizens in ac-
23 cordance with the grantee's certifications,
24 timely responses from local officials to all

1 citizen questions and issues, and public ac-
2 cess to all questions and responses.

3 (m) DEVELOPMENT AND SUBMISSION OF PLANS.—

4 (1) RESUBMISSION OF PLANS.—A recipient of
5 funds made available pursuant to this section may
6 revise and resubmit its plan for executing a program
7 or programs under this section to the Secretary at
8 anytime during the first 180 days of initiating the
9 program.

10 (2) CONSULTATION.—In developing a plan to
11 carry out this section, each recipient of funds made
12 available pursuant to this section shall consult with
13 the applicable Continuum or Continuums of Care for
14 the geographic area served by the recipient and or-
15 ganizations representing underserved communities
16 and populations and organizations with expertise in
17 affordable housing.

18 (n) ADMINISTRATION.—

19 (1) BY SECRETARY.—Of any amounts made
20 available pursuant to subsection (a)—

21 (A) not more than the lesser of 0.5 per-
22 cent, or \$15,000,000, may be used by the Sec-
23 retary for staffing, training, technical assist-
24 ance, technology, monitoring, research, and
25 evaluation activities necessary to carry out the

1 program carried out under this section, and
2 such amounts shall remain available until Sep-
3 tember 30, 2024; and

4 (B) not more than \$2,000,000 shall be
5 available to the Office of the Inspector General
6 for audits and investigations of the program au-
7 thorized under this section.

8 (2) BY RECIPIENTS.—Subsection (a) of section
9 576.108 of title 24 of the Code of Federal Regula-
10 tions shall be applied, with respect to amounts made
11 available pursuant to this section, by substituting
12 “10” for “7.5”.

○