**S8140** KAVANAGH No Same as
ON FILE: 03/29/20 Public Housing Law
TITLE....Establishes a COVID-19 emergency rental assistance program

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| 03/29/20 | REFERRED TO HOUSING, CONSTRUCTION AND COMMUNITY DEVELOPMENT |  |

KAVANAGH, BAILEY, BIAGGI, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, LIU, MAYER, MYRIE, PARKER, PERSAUD, RIVERA, SALAZAR, SAVINO, SEPULVEDA
Add Art 14 §§600 - 609, Pub Hous L
Establishes a COVID-19 emergency rental assistance program; implements a program of rental assistance in the form of emergency vouchers for eligible individuals or families; defines terms.

 **STATE OF NEW YORK** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 8140  **IN SENATE** March 29, 2020 \_\_\_\_\_\_\_\_\_\_\_

Introduced by Sens. KAVANAGH, BAILEY, BIAGGI, GOUNARDES, HARCKHAM,

 HOYLMAN, JACKSON, LIU, MAYER, MYRIE, PARKER, PERSAUD, RIVERA, SALAZAR,

 SAVINO, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing and Community Development

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

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

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

 **ARTICLE XIV**

 **COVID-19 EMERGENCY RENTAL ASSISTANCE PROGRAM** **Section 600. Legislative findings.**

 **601. Definitions.**

 **602. Authority to implement emergency rental assistance.**

 **603. Eligibility.**

 **604. Payment of emergency vouchers.**

 **605. Rental obligation.**

 **606. Assistance payment.**

 **607. Verification of income and assets.**

 **608. Division of a recipient family.**

 **609. Fair housing obligations.**

 **§ 600. Legislative findings. The legislature finds that it is in the** **public interest and an obligation of government to ensure that** **individuals and families are not rendered homeless or severely** **financially burdened because of an inability to pay the cost of housing** **and other necessities due to loss of income related to the widespread** **outbreak of the coronavirus commonly known as COVID-19. The legislature** **further finds that providing funding for individuals and families to pay** **rent that they would otherwise have difficulty paying will promote the** **stability and proper maintenance of the housing stock and assist** **communities in recovering from the adverse social and economic effects** **of the COVID-19 outbreak.**

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

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

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

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

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

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

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

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

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

 **4. "Disability" shall mean:**

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

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

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

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

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

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

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

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

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

 **(iii) is likely to continue indefinitely;**

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

 **(A) self-care;**

 **(B) receptive and expressive language;**

 **(C) learning;**

 **(D) mobility;**

 **(E) self-direction;**

 **(F) capacity for independent living;**

 **(G) economic self-sufficiency; and**

 **(v) reflects the individual's need for a combination and sequence of** **special, interdisciplinary, or generic services, individualized** **supports, or other forms of assistance that are of lifelong or extended** **duration and are individually planned and coordinated.**

 **5. "Dwelling unit" shall mean a single-family dwelling, including** **attached structures such as porches and stoops; or a single-family** **dwelling unit in a structure that contains more than one separate** **residential dwelling unit, and in which each such unit is used or** **occupied, or intended to be used or occupied, in whole or in part, as** **the residence of one or more persons.**

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

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

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

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

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

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

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

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

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

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

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

 **13. "Public housing agency" shall mean any county, municipality, or** **other governmental entity or public body that is authorized to** **administer any public housing program, or an agency or instrumentality** **of such an entity, and any other public or private non-profit entity** **that administers any other public housing program or assistance.**

 **14. "Voucher" shall mean a document issued by the housing trust fund** **corporation pursuant to this article to an individual or family selected** **for admission to this program, which describes the program and the** **procedures for approval of rental assistance for the individual or** **family and states the obligations of the individual or family under the** **program.**

 **§ 602. Authority to implement emergency rental assistance. The** **commissioner, as soon as practicable and subject to the appropriation of** **funds for this purpose, shall implement a program of rental assistance** **in the form of emergency vouchers for those eligible pursuant to section** **six hundred three of this article. The housing trust fund corporation** **shall issue vouchers pursuant to this article, subject to appropriation** **of funds for this purpose, and may contract with the division of housing** **and community renewal to administer any aspect of this program in** **accordance with the provisions of this article. The commissioner may** **delegate administration of a portion of this program to the department** **of labor for those applying for or receiving unemployment benefits. The** **commissioner may also delegate the administration of portions of this** **program to any county, city, town, or public housing agency in** **accordance with the provisions of this article.**

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

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

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

 **(b) the individual or family rents their primary residence in the** **state of New York, including both tenants of dwelling units and** **manufactured home tenants; and**

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

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

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

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

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

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

 **5. An individual full-time college student or family consisting** **exclusively of full-time college students is ineligible for this program** **unless each individual in the household satisfies the following** **conditions:**

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

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

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

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

 **§ 604. Payment of emergency vouchers. The emergency voucher shall be** **paid directly to the owner of the dwelling unit or manufactured home** **park occupied by the voucher recipient by the housing trust fund** **corporation for rent due from the voucher recipient and any rental** **arrears owed that were not paid as a result of the loss of income** **described in paragraph (a) of subdivision one of section six hundred** **three of this article.**

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

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

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

 **2. Notwithstanding subdivision one of this section, if the rent for** **the individual or family, including any amount allowed for tenant-paid** **utilities, exceeds two hundred fifty percent of fair market rent for the** **rental area, the monthly assistance payment for the individual or family** **shall be the difference between the rental obligation established in** **section six hundred five of this article and two hundred fifty percent** **of the fair market rent for the rental area.**

 **§ 607. Verification of income and assets. The commissioner shall** **establish procedures which are appropriate and necessary to assure that** **data regarding income, and assets to the extent necessary to determine** **eligibility, provided by individuals and families applying for or** **receiving assistance under this article is complete and accurate. In** **establishing such procedures, the commissioner shall randomly select a** **sample of individuals and families to authorize the commissioner to** **obtain information on these individuals and families for the purpose of** **income and asset verification, or to allow those individuals and** **families to provide such information themselves. Such information may** **include, but is not limited to, data concerning unemployment** **compensation and federal income taxation and data relating to benefits** **made available under the Social Security Act, 42 U.S.C. 301 et seq., the** **Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., or title 38 of** **the United States code. Any such information received pursuant to this** **section shall remain confidential and shall be used only for the purpose** **of verifying incomes, and assets if applicable, in order to determine** **eligibility of individuals and families for benefits, and the amount of** **such benefits if any, under this section.**

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

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

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

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

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

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

 **(f) recommendations of social service professionals.**

 **2. Documentation of these factors shall be the responsibility of the** **requesting parties. If documentation is not provided, the commissioner** **shall terminate assistance on the basis of failure to provide** **information necessary for a recertification.**

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

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

 § 2. This act shall take effect immediately.

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

 **BILL NUMBER:** S8140 **SPONSOR:** KAVANAGH
 **TITLE OF BILL**: An act to amend the public housing law, in relation to establishing aCOVID-19 emergency rental assistance program **PURPOSE**: To provide emergency rental assistance to tenants suffering a substan-tial loss of income due to the outbreak of the novel coronavirus of2019. **SUMMARY OF SPECIFIC PROVISIONS**: Section 1 of the bill amends the public housing law by adding a newArticle 14 to provide for a COVID-19 Emergency Rental AssistanceProgram. Section 600 of the new Article sets forth legislative findings. Section 601 defines terms. Section 602 authorizes the Housing Trust Fund Corporation to issue emer-gency rental assistance pursuant to the provisions of the new Article assoon as practicable, subject to appropriation. It allows the HTFC tocontract with the Division of Housing and Community Renewal for theimplementation of the program, and the Commissioner of DHCR to delegateportions of the administration of the program to the Department of Labor(for recipients also applying for or receiving unemployment benefits),counties, cities, towns, or public housing agencies. Section 603 defines eligibility for the program as those tenants who,because of the outbreak of COVID-19, have suffered a substantial loss ofincome and have a rent burden greater than 30% of their new income, ifany. Rental assistance will cover three months of rent, both rent dueand arrears, and can be extended at the discretion of the Commissioner. Section 604 provides for payments of emergency vouchers directly to thelandlord. Section 605 makes the rental obligation for emergency voucher recipients30% of their new income. When multiple individuals or families are shar-ing the same unit, their rent obligation is calculated only using theportion of rent for which each is responsible. Section 606 states that the emergency voucher will cover the differencebetween the total rent for which the recipient is responsible and 30% ofthe recipient's income, except that the rental assistance will cover notcover the portion of the rent, if any, that is greater than 250% of fairmarket rent for the rental area. Section 607 provides for verification of income and assets as 'necessaryto administer the program. Section 608 outlines criteria for awarding the emergency voucher in theevent a family splits up while still receiving assistance, and allowsanyone who loses a voucher under this section to apply anew.Section 609 reinforces that nothing in the program shall abridge anyexisting fair housing obligations. Section 2 of the bill sets forth the effective date. **JUSTIFICATION**: The 2020 outbreak of COVID-19 has touched every part of our economy.With State and local governments mandating the shuttering of all butessential businesses in the interest of protecting public health, NewYork has seen a rapid and unprecedented economic decline. Many New York-ers, facing severely reduced or entirely lost wages, will not be able tokeep up with rent payments during this time. With a three-month morato-rium on evictions in place, the immediate danger of mass displacementhas been averted, but only temporarily. Once the public health crisisabates and the moratorium is lifted, many New Yorkers will be vulnerableto losing their homes. Moreover, the precipitous loss of rental incomeby property owners will have an adverse effect on their ability to main-tain their property, pay employees, meet mortgage obligations, and keepup with property taxes that local governments will need to cover essen-tial services. This program provided for in this bill will bring urgent relief to thosewhose ability to pay has been diminished or eliminated through no faultof their own, while encouraging those who can pay at least a portion oftheir rent, because they continue to have income available, to continueto do so. As an emergency relief measure, the program would cover boththe neediest renters as well as those in rental homes whose cost wouldtypically make them ineligible for rental assistance. Rental obligationsup to 250% of the fair market rate for the area would be eligible, mean-ing, for example, that in the New York City metropolitan area, rent ofup to $4,877.50 for a two-bedroom apartment would be eligible for cover-age, offset by 30% of the tenant's income during the crisis, if any. Emergency rental assistance will remedy the worst effects of the publichealth and economic crisis New York is facing, keep people in theirhomes as they get back to work, and stabilize our communities. **LEGISLATIVE HISTORY**: New bill. **FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS**: The cost of the program will depend on the duration of the businessclosures in response to COVID-19, the speed with which New Yorkers areable to recover from the economic crisis, the availability of othersources of income, including other sources of emergency relief, such asenhanced unemployment benefits, and other factors that cannot beassessed at this time. As emergency housing funds become available,through federal relief legislation or other sources, this bill willcreate an effective mechanism for delivering assistance where it isneeded most. **EFFECTIVE DATE**:This act shall take effect immediately.