Congressional Research Service
Informing the legislative debate since 1914

Emergency Rental Assistance through the Coronavirus Relief Fund

Updated March 31, 2021

Congressional Research Service
https://crsreports.congress.gov
R46688

CRS REPORT
Prepared for Members and
Committees of Congress

Congressional Research Service
Informing the legislative debate since 1914

SUMMARY

R46688

March 31, 2021

Grant A. Driessen
Specialist in Public Finance

Maggie McCarty
Specialist in Housing Policy

Libby Perl
Specialist in Housing Policy

For a copy of the full report, please call 7-5700 or visit www.crs.gov.

Emergency Rental Assistance through the Coronavirus Relief Fund

In response to concerns about the economic effects of the Coronavirus Disease 2019 (COVID-19) pandemic on renters and their landlords, Congress created a $25 billion Emergency Rental Assistance (ERA) program in the Consolidated Appropriations Act, 2021 (Division N of P.L. 116-260). A second round of ERA funding—$21.55 billion—was included in Section 3201 of the American Rescue Plan Act (P.L. 117-2).

The ERA program is funded through the Coronavirus Relief Fund (CRF) that was established by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136) and implemented by the Department of the Treasury. Like the CRF, the ERA directs resources to states and localities via a per capita formula allocation, although the ERA uses a somewhat different formula that treats the District of Columbia as a state and includes a lower threshold for localities to qualify for direct allocations (among other differences). The second round of ERA funding includes a set-aside of $2.5 billion for "high need" grantees. Unlike the CRF, which can be used for a broad set of purposes including rental assistance, the ERA may only be used for financial assistance and housing stability services for renters.

P.L. 116-260 established various parameters for how the first round of ERA funding can be used. Among other requirements, states and localities must use at least 90% of their funds for financial assistance, which is defined to include rental assistance and utility assistance (including payment of arrearages). The remaining 10% may be used for housing stability services (case management and other supports to help families retain their housing) and administrative expenses. Renters are eligible for assistance if they are low-income, experiencing financial hardship, and at risk of homelessness or housing insecurity. Grantees are directed to prioritize very low-income renters for assistance. The law also established expenditure deadlines and imposed various reporting requirements on the Treasury Secretary.

These parameters were changed somewhat for the second round of ERA funding under P.L. 117-2. Specifically, the amount that can be spent on administrative expenses and housing stability services was increased, and grantees may be able to use funds that remain unobligated as of October 1, 2022, for additional affordable housing and eviction prevention activities. P.L. 117-2 also extended the availability of first round ERA funding from December 31, 2021, to September 30, 2022.

Within the statutory requirements—and any additional guidance established by Treasury—states and localities have flexibility in designing their rental assistance programs. Many had used CARES Act and other funding to establish earlier rental assistance programs; if those programs are consistent with ERA requirements, they may be available to facilitate relatively rapid distribution of ERA funds.

The ability of states and localities to structure their programs differently will mean that the experience of similarly situated renters seeking assistance will likely vary geographically. Similarly, there may be geographic variability in the degree to which existing resources—both ERA and earlier funds—are adequate to meet demand for rental assistance. Estimates from January 2021 suggest that as much as $57 billion in rental and utility debt may be outstanding nationally.

Contents

Introduction 1
Background: Rental Assistance During the COVID-19 Pandemic 1
State and Local Allocations 2
P.L. 116-260 2
P.L. 117-2 3
ERA Program Parameters 6
Eligible Use of Funds 6
Financial Assistance 7
Administrative Costs and Housing Stability Services 8
Individual Eligibility and Prioritization 8
Eligibility 8
Prioritization 9
Documentation 9
Funding Availability and Reallocation 9
Reporting Requirements 9
Outstanding Questions 9
How will local programs be structured? 10
Will rental assistance be adequate to prevent loss of housing? 10
Will state and local governments use other federal funding for rental assistance? 11

Tables

Table 1. Emergency Rental Assistance Allocations in P.L. 116-260 and P.L. 117-2 4

Contacts

Author Information 11

Introduction

The Consolidated Appropriations Act, 2021 (P.L. 116-260) included an appropriation of $25 billion to help low-income households make rent and utility payments through an Emergency Rental Assistance (ERA) program.[1] The ERA is funded through the Coronavirus Relief Fund (CRF), a program created as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), and administered by the Department of the Treasury, to assist state, local, territorial, and tribal governments.[2] While the CARES Act CRF appropriation could be used for multiple purposes, the ERA appropriation in P.L. 116-260 is directed only to rent and utility assistance and housing stability services. A second appropriation—of $21.550 billion—for ERA was included in Section 3201 of the American Rescue Plan Act (P.L. 117-2).

This report briefly describes the need for rental assistance during the Coronavirus Disease 2019 (COVID-19) pandemic, provides information about the allocation of ERA funds, describes the parameters of the ERA program, and discusses outstanding questions about the program and renter needs.

Background: Rental Assistance During the COVID-19 Pandemic

Even before the onset of the COVID-19 pandemic, low-income renters struggled with housing affordability. In 2020, the Joint Center on Housing Studies reported that nearly half (48%) of all renters were cost burdened (i.e., paying more than 30% of their income in rent), with higher numbers for lower-income (80%), Black (55%), and Hispanic (53%) renters.[3] The pandemic may have made renter housing arrangements even more precarious. Renters have been more likely to lose employment income than homeowners.[4] This is particularly the case for Black and Hispanic renters, who are also estimated to face the greatest threat of eviction during the pandemic.[5] Millions of renters report being behind on their rent and lacking confidence in their ability to pay next month's rent.[6]

Efforts to assist renters include eviction moratoriums at the state and federal levels. A national eviction moratorium issued by the Centers for Disease Control and Prevention took effect on

[1] See Division N, Title V, Section 501 of P.L. 116-260.

[2] For more information about CRF in the CARES Act, see CRS Report R46298, *General State and Local Fiscal Assistance and COVID-19: Background and Available Data*.

[3] Joint Center for Housing Studies, *America's Rental Housing 2020*, January 2020, pp. 26-29, https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf.

[4] Alexander Hermann and Sharon Cornelissen, *Using the Census Bureau's Household Pulse Survey to Assess the Economic Impacts of COVID-19 on America's Households*, Harvard Joint Center for Housing Studies, July 2, 2020, https://www.jchs.harvard.edu/blog/using-the-census-bureaus-household-pulse-survey-to-assess-the-economic-impacts-of-covid-19-on-americas-households/.

[5] Whitney Airgood-Obrycki, "The Impact of COVID-19 on Renters and Rental Markets," Harvard Joint Center for Housing Studies virtual event, September 4, 2020, https://www.jchs.harvard.edu/calendar/impact-covid-19-renters-and-rental-markets. See also, Sophia Wedeen, *Black and Hispanic Renters Face Greatest Threat of Eviction in Pandemic*, Harvard Joint Center for Housing Studies, January 11, 2021, https://www.jchs.harvard.edu/blog/black-and-hispanic-renters-face-greatest-threat-eviction-pandemic.

[6] See Census Bureau Pulse survey data, available at https://www.census.gov/programs-surveys/household-pulse-survey/data.html#phase3.

September 4, 2020, and has been extended several times, most recently through June 30, 2021.[7] While the moratoriums prevent eviction for nonpayment of rent, they do not prevent arrearages from accumulating, which could result in eviction when moratoriums lift. Renter inability to maintain payments also affects landlords. This may particularly result in hardship for smaller landlords, who are estimated to have lower incomes and make up larger shares of Black and Hispanic landlords.[8]

At the outset of the COVID-19 pandemic, states and localities relied on federal funds appropriated as part of the CARES Act, including funds distributed through CRF, to operate rental assistance programs.[9] Households may have drawn on CARES Act stimulus checks, expanded unemployment benefits, and borrowing to cover rent. However, some of these sources of funds became depleted as the pandemic continued.[10] Estimates suggest that total rental arrears were $57 billion as of the end of January 2021.[11]

Organizations representing both tenants and landlords have advocated for additional federal funds to help tenants pay their rent.[12] Legislation was introduced in the 116th Congress that would have provided as much as $100 billion to help tenants pay rent.[13] Ultimately, Congress appropriated nearly $47 billion for emergency rent and utility assistance through ERA.

State and Local Allocations

P.L. 116-260

P.L. 116-260 provided a total of $25.000 billion in ERA support to governments in states, territories, and tribal areas. Payments are distributed across these jurisdictions as follows:

- $23.785 billion is allocated for governments in the 50 states and the District of Columbia (DC) based on their populations (as projected by the U.S. Census Bureau for July 2020),[14] with no state receiving less than $0.200 billion;

[7] For more information, see CRS Insight IN11516, *Federal Eviction Moratoriums in Response to the COVID-19 Pandemic*.

[8] Small landlords in the analysis are those owning 2-4 unit properties; Jung Hyun Choi and Caitlin Young, *Owners and Renters of 6.2 Million Units in Small Buildings Are Particularly Vulnerable during the Pandemic*, The Urban Institute, August 10, 2020, https://www.urban.org/urban-wire/owners-and-renters-62-million-units-small-buildings-are-particularly-vulnerable-during-pandemic.

[9] See examples from the National Conference of State Legislatures, which tracks the ways in which states are using their CRF allocations: https://www.ncsl.org/research/fiscal-policy/state-actions-on-coronavirus-relief-funds.aspx.

[10] Jim Parrott and Mark M. Zandi, *Averting an Eviction Crisis*, Urban Institute, January 25, 2021, https://www.urban.org/sites/default/files/publication/103532/averting-an-eviction-crisis.pdf (hereinafter, *Averting an Eviction Crisis*).

[11] Ibid.

[12] See, for example, National Housing Conference, "31 housing organizations tell administration and Congress to immediately return to negotiations," press release, August 21, 2020, https://nhc.org/press-release/31-housing-organizations-tell-administration-and-congress-to-immediately-return-to-negotiations/.

[13] See the Heroes Act (H.R. 6800) and the Emergency Rental Assistance and Rental Market Stabilization Act (H.R. 6820, S. 3685).

[14] U.S. Census Bureau, "Vintage 2020 Population Estimates for the United States and States," December 2020, https://www.census.gov/programs-surveys/popest/technical-documentation/research/evaluation-estimates.html. Allocations are determined by total state populations, including nonrenters; for recent estimates of state renter populations, see U.S. Census Bureau, "American Community Survey 2015-2019 5-Year Data Release," December 2020, https://www.census.gov/newsroom/press-kits/2020/acs-5-year.html.

- $0.800 billion is set aside for governments in tribal areas, with individual government allocations distributed in proportion to relative payments made under the Native American Housing Block Program in FY2020;[15]
- $0.400 billion is allocated to the territories of Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, with $0.325 billion provided to Puerto Rico and $0.075 billion distributed to the remaining territories based on their relative population share; and
- $0.015 billion is set aside to cover federal administrative costs related to program implementation.

ERA payments are generally provided to state (or territorial) governments, though state governments may transfer any funds received to local governments so long as funds are used for eligible purposes. Local governments serving a population of at least 200,000 (as measured by the U.S. Census Bureau in 2019),[16] may elect to receive assistance directly from Treasury. Any payments made directly to localities reduce the allocation made to the state government (keeping the total amount provided across each state constant), and are the product of (1) the state or territorial allocation amount, (2) the percentage of the state or territorial population attributable to the local government, and (3) 45%.

In many cases, populations are served by more than one local government that is eligible for direct assistance from the CRF (e.g., a city with a population of 300,000 located in a county with 200,000 other people and thus having a county population of 500,000). Treasury clarified that in such cases, all overlapping governments are eligible for assistance.[17] However, direct assistance payments to larger localities is calculated using only their unique population, or will be reduced by any amounts also attributable to smaller localities receiving assistance (i.e., in the above example, the county government would only use a population of 200,000 for its direct payment calculation).

P.L. 117-2

P.L. 117-2 provided a total of $21.550 billion in ERA support to governments in states and territories. Unlike P.L. 116-260, P.L. 117-2 did not include a separate allocation of funds for tribal governments. Payments are distributed across these jurisdictions as follows:

- $18.712 billion is allocated for governments in the 50 states and the District of Columbia (DC) based on their populations (as projected by the U.S. Census Bureau for July 2020),[18] with no state receiving less than $0.152 billion;
- $0.305 billion is allocated to the territories of Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, with $0.240

[15] For more on the Native American Housing Block Grant program, see CRS Report R43307, *The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA): Background and Funding*, by Katie Jones.

[16] U.S. Census Bureau, "Subcounty Resident Population Estimates: April 1, 2010 to July 1, 2019," May 2020, https://www.census.gov/data/tables/time-series/demo/popest/2010s-total-cities-and-towns.html.

[17] U.S. Treasury, "Emergency Rental Assistance Program: Data and Methodology for State, Local Government, and Territory Allocations," January 2021, https://home.treasury.gov/system/files/136/Emergency-Rental-Assistance-Data-and-Methodology-1-11-21.pdf.

[18] U.S. Census Bureau, "Vintage 2020 Population Estimates for the United States and States," December 2020, https://www.census.gov/programs-surveys/popest/technical-documentation/research/evaluation-estimates.html. Allocations are determined by total state populations, including nonrenters; for recent estimates of state renter populations, see U.S. Census Bureau, "American Community Survey 2015-2019 5-Year Data Release," December 2020, https://www.census.gov/newsroom/press-kits/2020/acs-5-year.html.

billion provided to Puerto Rico and $0.065 billion distributed to the remaining territories based on their relative population share;

- $2.500 billion is set aside for high-need grantees, to be distributed by the Treasury Secretary using statistics on high-need housing, rental market costs, and unemployment; and
- $0.033 billion is set aside to cover federal administrative costs related to program implementation.

Direct local allocation identifications, calculations, and division of payments across overlapping governments in P.L. 117-2 are consistent with the methodology from P.L. 116-260.

Table 1 shows ERA allocations and estimates broken out by state and territory, and government level. Allocations from P.L. 116-260 have been confirmed by Treasury, while amounts provided in P.L. 117-2 represent CRS projections based on the distribution in P.L. 116-260.[19]

Table 1. Emergency Rental Assistance Allocations in P.L. 116-260 and P.L. 117-2

(All allocations in millions of dollars)

	P.L. 116-260 (Actual)			P.L. 117-2 (Projected)		
State or Territory	State Govt. Allocation	Direct Local Govt. Allocation	Total Allocation	State Govt. Allocation	Direct Local Govt. Allocation	Total Allocation
Alabama	263	63	326	208	50	258
Alaska	165	35	200	125	27	152
American Samoa	10	0	10	9	0	9
Arizona	299	194	492	236	153	389
Arkansas	174	27	201	137	22	159
California	1,498	1,113	2,611	1,185	881	2,066
Colorado	248	137	385	196	109	305
Connecticut	236	0	236	187	0	187
Delaware	200	0	200	152	0	152
District of Columbia	200	0	200	152	0	152
Florida	872	570	1,441	689	451	1,140
Georgia	552	158	710	437	125	562
Guam	33	0	33	29	0	29
Hawaii	125	75	200	95	57	152
Idaho	176	24	200	134	18	152
Illinois	566	268	835	448	212	660
Indiana	372	76	448	294	60	354
Iowa	195	15	210	154	12	166

[19] U.S. Treasury, "Emergency Rental Assistance Program: Payments to States and Eligible Units of Local Government," February 2021, https://home.treasury.gov/system/files/136/Emergency-Rental-Assistance-Payments-to-States-and-Eligible-Units-of-Local-Government.pdf.

State or Territory	P.L. 116-260 (Actual)			P.L. 117-2 (Projected)		
	State Govt. Allocation	Direct Local Govt. Allocation	Total Allocation	State Govt. Allocation	Direct Local Govt. Allocation	Total Allocation
Kansas	169	31	200	129	23	153
Kentucky	264	33	297	209	26	235
Louisiana	249	59	308	197	47	244
Maine	200	0	200	152	0	152
Maryland	258	143	402	204	114	318
Massachusetts	421	36	457	333	29	362
Michigan	623	38	661	493	30	523
Minnesota	289	86	375	229	68	297
Mississippi	187	13	200	145	10	156
Missouri	324	84	408	256	67	323
Montana	200	0	200	152	0	152
Nebraska	159	41	200	121	31	152
Nevada	125	83	208	99	66	165
New Hampshire	179	21	200	136	16	152
New Jersey	354	235	589	280	186	466
New Mexico	161	39	200	123	29	152
New York	801	481	1,282	634	381	1,015
North Carolina	547	156	703	432	124	556
North Dakota	200	0	200	152	0	152
Northern Mariana Islands	10	0	10	9	0	9
Ohio	565	210	775	447	167	614
Oklahoma	210	54	264	166	43	209
Oregon	204	77	281	162	61	223
Pennsylvania	570	278	848	451	220	671
Puerto Rico	325	0	325	240	0	240
Rhode Island	200	0	200	152	0	152
South Carolina	272	74	346	215	59	274
South Dakota	200	0	200	152	0	152
Tennessee	383	73	457	303	58	361
Texas	1,308	639	1,947	1,035	506	1,541
U.S. Virgin Islands	21	0	21	18	0	18
Utah	150	65	216	119	52	171
Vermont	200	0	200	152	0	152
Virginia	525	45	570	415	36	451

State or Territory	P.L. 116-260 (Actual)			P.L. 117-2 (Projected)		
	State Govt. Allocation	Direct Local Govt. Allocation	Total Allocation	State Govt. Allocation	Direct Local Govt. Allocation	Total Allocation
Washington	322	188	510	255	149	404
West Virginia	200	0	200	152	0	152
Wisconsin	322	65	387	255	51	306
Wyoming	200	0	200	152	0	152
All Tribal Governments	800	0	800	0	0	0
Amounts Not Projected – High-Need Grantees	0	0	0	n/a	n/a	2,500
Totals	**18,305**	**6,680**	**24,985**	**14,195**	**4,822**	**21,517**

Source: P.L. 116-260 payments taken from U.S. Treasury, "Emergency Rental Assistance Program," February 2021, https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program. P.L. 117-2 projections represent CRS estimates.

Notes: Recipients may choose to transfer funds to governments within their jurisdiction, but are not obligated to do so. For each state or territory, the sum of the direct local government allocation and the state government allocation may not equal the total allocation due to rounding.

ERA Program Parameters

When P.L. 116-260 created the ERA program under the CRF, it established parameters for how the funds can and should be spent. These parameters are relatively broad, but are more prescriptive than what was included in the original CARES Act CRF. Treasury has issued Frequently Asked Questions (FAQs) and other guidance documents regarding how certain aspects of the law are to be applied.[20] For the second round of ERA funding, P.L. 117-2 made some changes that are applicable to the first round of funding (i.e., expenditure deadlines); and others that are applicable only to the second round (i.e., income eligibility and caps on administrative and housing stability services funding). As of the date of this report, Treasury has not issued new or revised guidance for the second round of ERA funding.

As noted, ERA funds are provided from Treasury to states and localities, which can use the funds to design their own rental assistance programs within the requirements of the law and Treasury guidance. Some states and localities may be able to use the new funds to supplement existing rental assistance programs created with CARES Act or other funds, to the extent their existing programs align with the emergency rental assistance statutory requirements (which are outlined below).

Eligible Use of Funds

P.L. 116-260 directed that 90% of ERA funds be spent on direct financial assistance and that up to 10% could be spent on administrative expenses and housing stability services.

[20] Treasury guidance can be found at https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program.

For the second round of ERA funding, P.L. 117-2 directed that no more than 15% be spent on administrative expenses and 10% be spent on housing stability services, leaving at least 75% to be spent on direct financial assistance.

Financial Assistance

P.L. 116-260 defined financial assistance as assistance to tenants for

- rent and rental arrears,
- utilities and home energy costs and arrears, and
- other expenses related to housing incurred due, directly or indirectly, to the COVID-19 outbreak, as defined by the Treasury Secretary.

The definition of financial assistance under P.L. 117-2 is nearly identical, except when it comes to other expenses related to housing. The P.L. 117-2 definition does not require that the expenses be related to the COVID-19 outbreak.

Treasury issued an FAQ document in January 2021 clarifying that telecommunications services are not considered utilities under this program.[21] However, Treasury later revised the FAQs to define "other expenses" eligible for assistance to include internet service, if it allows renters to engage in distance learning, telework, and telemedicine and obtain government services.[22] Additional "other expenses" identified in the FAQ include relocation expenses and rental fees (if a household has been displaced due to COVID-19), and accrued late fees.

Length of Assistance

Under P.L. 116-260, assistance can be provided for no more than 12 months, with the possibility of one 3-month extension. Payments made for prospective rent are subject to additional limitations; they can only be provided in 3-month increments and only if rental arrearages are addressed.

Under the terms of P.L. 117-2, recipients can receive no more than 18 months of assistance under both rounds of ERA combined.

Payments

P.L. 116-260 directed that payments be made directly to landlords or utility providers, but it allows payments to be made directly to tenants if landlords or utility providers are unwilling to accept such payments.

Landlords are permitted to aid their tenants in applying, or they may apply directly. Landlords who apply directly must meet certain conditions (including obtaining tenant signatures, notifying tenants of the application, and ensuring any funds received are applied to tenants' rental obligations).

P.L. 117-2 made these provisions applicable to the second round of ERA funding.

[21] See the FAQ at https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-1-19-21.pdf.

[22] Treasury has revised FAQs in February and March of 2021. See the February FAQs at https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-2-22-21.pdf; and March FAQs at https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-3-16-21.pdf.

Administrative Costs and Housing Stability Services

Under P.L. 116-260, the remaining 10% of grant funds can be used for grantee administrative costs and housing stability services.

P.L. 116-260 defined "housing stability services" as case management and other services related to COVID-19, to be defined by the Secretary, that are intended to keep tenants stably housed. (As of the date of this report, Treasury has not further defined the term.)

P.L. 116-260 restricted administrative expenses to those tied to providing financial assistance and housing stability services, including for data collection and reporting requirements.

P.L. 117-2 established a cap of up to 15% of total grant funding for administrative expenses and up to 10% for housing stability services. The law defined "housing stability services" as case management and other services intended to keep households stably housed, without reference to COVID-19. It defined "administrative expenses" as those included under P.L. 116-260, as well as costs associated with other affordable rental housing and eviction prevention activities.

Individual Eligibility and Prioritization

P.L. 116-260 established a three-part eligibility test based on income level, income loss or other financial hardship, and risk of homelessness or housing instability. It also established a set of income targeting requirements to guide states and localities in prioritizing assistance. P.L. 117-2 largely adopted the same requirements, but with some changes.

Eligibility

Under P.L. 116-260 , to be eligible for direct financial assistance or housing stability services, households must be renters and

- low-income, defined (consistent with federal housing law) as having income at or below 80% of local area median income as established by the Department of Housing and Urban Development (HUD);
- experiencing financial hardship, as evidenced by receipt of unemployment benefits or a written attestation of other pandemic-related financial hardship (income loss or increased expenses); and
- have at least one member at risk of homelessness or housing instability, as evidenced by past due rent or utility notices (including eviction notices), unsafe living conditions, or other evidence as established by the grantee.

The eligibility definition in P.L. 117-2 does not include the detail as to how an individual can demonstrate a risk of homelessness or housing insecurity that was included in P.L. 116-260.

Neither law addresses noncitizen eligibility for assistance under the ERA program.[23]

[23] Some questions have arisen as to whether noncitizen eligibility restrictions under the Personal Responsibility and Work Responsibility Act of 1996 (PRWORA; Title IV of P.L. 104-193, as amended) apply to assistance under the ERA program. To date, Treasury has not issued guidance on the applicability of PRWORA noncitizen restrictions to these funds. For more information about PRWORA's restrictions, see CRS Report R46510, *PRWORA's Restrictions on Noncitizen Eligibility for Federal Public Benefits: Legal Issues*.

Prioritization

P.L. 116-260 directs grantees to prioritize the following individuals for direct financial assistance and housing stability services:

- very low-income tenants defined (consistent with federal housing law) as having income at or below 50% of local area median income as established by HUD; and
- applicants who are unemployed and have been unemployed for the prior 90 days.

The law permits states and localities to further establish their own prioritization policies.

P.L. 117-2 made these provisions applicable to the second round of ERA funding.

Documentation

P.L. 116-260 specified that grantees may determine an applicant's income eligibility based on annual income or current monthly income (subject to three-month recertification).

P.L. 117-2 does not include provisions related to income determination.

Funding Availability and Reallocation

P.L. 116-260 made first round ERA funds available to grantees through December 31, 2021; the deadline was subsequently extended to September 30, 2022, by P.L. 117-2. However, beginning September 30, 2021, the Treasury Secretary is directed to recapture any excess unobligated funds (as determined by the Secretary) and to reallocate them to grantees that have obligated at least 65% of their funds for eligible purposes. Grantees receiving reallocated funds may request up to a 90-day extension of availability deadline.

Funding provided through P.L. 117-2 is available until September 30, 2025. Beginning March 31, 2022, the Treasury Secretary is directed to reallocate unobligated funds to grantees that have obligated 50% or more of their total allocated funds. These reallocated funds can only be used for financial assistance. Grantees that have obligated at least 75% of their funds for eligible purposes as of October 1, 2022, may obligate remaining funds for other affordable rental housing and eviction prevention purposes for very low-income families.

Reporting Requirements

The Treasury Secretary, in consultation with the Secretary of Housing and Urban Development, is required under P.L. 116-260 to provide quarterly reports on a number of specified program indicators, including the number of households served by the program, their income profiles, the acceptance rate of applicants, and the types and amounts of assistance. Grantees must establish data privacy guidelines for collecting information.

P.L. 117-2 did not contain reporting requirements.

Outstanding Questions

Several aspects of the ERA program will not be known until grantees receive funds and implement programs at the state and local levels. This section discusses possible questions about the implementation of the ERA program, adequacy of funds, and potential implications if state and local governments were to receive additional funds.

How will local programs be structured?

There is likely to be a great deal of variation across states and localities in terms of how local ERA programs are structured.

As noted earlier, ERA funds are allocated to states and localities. States and localities are then charged with distributing assistance to eligible renters based on a limited set of program parameters. Within those parameters, states and localities have authority to determine, for example,

- who will administer assistance (i.e., a government entity vs. a nonprofit or community partner);
- how to prioritize among the eligible uses of the funds (e.g., arrears vs. prospective payments; utilities vs. rent);
- how to ration limited benefits (e.g., lotteries for assistance vs. first-come first-served or referral-based processes);
- whether and how to further prioritize applicants (e.g., adopting deeper income targeting than is required by law);
- how much documentation to require of applicants and for recertification periods;
- the amount and duration of benefits provided;
- whether to place conditions on the recipients of assistance (e.g., requiring landlords to accept partial payment to reduce debt obligations); and
- whether and what to provide in terms of housing stability services.

One factor that may influence state and local decisions is the extent to which any existing emergency rental assistance programs they administer may already meet, or may be easily adjusted to meet, the requirements for ERA funding. To the extent states and localities can fund existing programs with their ERA dollars instead of having to establish new programs, the assistance could potentially be distributed more quickly.

The ability of state and local governments to structure their programs differently will mean that the experience of similarly situated renters seeking emergency rental assistance will likely vary geographically. How and whether individual renters are made aware of the availability of ERA funds in their communities; their individual eligibility and likelihood of being assisted; and how to access available assistance are currently uncertain. (As of the date of this report, there is no central federal repository for information on federally funded emergency rental assistance programs.[24])

Will rental assistance be adequate to prevent loss of housing?

Both the amount and geographic distribution of ERA funds could determine the extent to which renters may be protected from eviction. Additional federal assistance, which could take various forms, could also affect the need for, and adequacy of, ERA funds.

Because there is no definitive estimate of renters in arrears and the amounts they owe, it is unknown whether all renters who are behind will be able to receive assistance with available

[24] One national organization, the National Low Income Housing Coalition, has created a repository of local rental assistance programs, funded with a mix of state or local funds and federal funds from various programs. It can be accessed at https://nlihc.org/rental-assistance.

funding. Estimates of the need for rental assistance vary and may depend on the data source and methodology (which are not examined in this report).[25] Research released in January 2021 predicted that the first round of ERA rental assistance would be insufficient to meet the needs of all delinquent renters.[26] Since that time, P.L. 117-2 funded another $21.550 billion in rental assistance as well as additional direct aid to individuals via stimulus payments and refundable child tax credits. Whether this additional aid will be sufficient to address outstanding arrearages and avoid widespread housing disruption when eviction moratoriums end is yet to be seen.

Will state and local governments use other federal funding for rental assistance?

How state and local governments choose to distribute ERA funds across programs and other governments may depend on the availability of other federal assistance during the COVID-19 pandemic for rental assistance. Separate from the ERA funding, the federal government provided a total of $512 billion in general assistance to state and local governments through the CARES Act ($150 billion) and P.L. 117-2 ($350 billion). General assistance through the CARES Act was used by government recipients to fund a number of housing initiatives,[27] and eligible uses of P.L. 117-2 general assistance include programs "to respond to the public health emergency … or its negative economic impacts, including assistance to households."[28]

Author Information

Grant A. Driessen
Specialist in Public Finance

Libby Perl
Specialist in Housing Policy

Maggie McCarty
Specialist in Housing Policy

[25] Various estimates made in 2020 predicted arrears of $7 billion, $25-$34 billion, and $70 billion by the end of the year. See Davin Reed and Eileen Divringi, *Household Rental Debt During COVID-19*, Federal Reserve Bank of Philadelphia, October 2020, https://www.philadelphiafed.org/-/media/frbp/assets/community-development/reports/household-rental-debt-during-covid-19.pdf; Stout, Risius Ross LLC, *Analysis of Current and Expected Rental Shortfall and Potential Eviction Filings in the U.S.*, National Council of State Housing Finance Agencies, September 25, 2020, https://www.ncsha.org/wp-content/uploads/Analysis-of-Current-and-Expected-Rental-Shortfall-and-Potential-Evictions-in-the-US_Stout_FINAL.pdf; and John Lonski, *Weekly Market Outlook: Markets Avoid Great Recession's Calamities*, Moody's Analytics, August 13, 2020, p. 9, https://www.moodysanalytics.com/-/media/article/2020/weekly-market-outlook-markets-avoid-great-recessions-calamities.pdf.

[26] *Averting an Eviction Crisis*.

[27] Pandemic Oversight, "Coronavirus Relief Fund," accessed March 23, 2021, available at https://www.pandemicoversight.gov/track-the-money/funding-charts-graphs/coronavirus-relief-fund.

[28] 42 U.S.C. 801, Section 602(c)(1)(A), which provides eligible uses for the Coronavirus State Fiscal Recovery Fund. Identical language is included in statute for the Coronavirus Local Fiscal Recovery Fund.

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.