



OFFICE OF CHAIRMAN PHIL MENDELSON COUNCIL OF THE DISTRICT OF COLUMBIA

Statement of Introduction

“Emergency Rental Assistance Reform Amendment Act of 2024”

My office has heard from numerous affordable housing providers (Manna, Jubilee, Summerset) about the financial crisis they are facing due to increasing rent arrearages. According to the providers, ballooning rental arrearages have grown so large that many properties are not bringing in sufficient rental income to pay operating costs. While the full scale of unpaid rent in the District is not known, a recent article in BisNow suggests that 20 mission-driven affordable housing providers with properties in the District have accrued a total of \$15 million per year in unpaid rent.¹

The effects of this crisis cannot be understated. One affordable housing developer, Neighborhood Development Company, announced its decision to end operations in the District beginning September 30, 2024. Another affordable housing developer, E&G Group, is currently liquidating its properties in the District. Several non-profit developers report that this crisis is drying up access to capital to build more affordable units.

This crisis is being driven, in large part, by District laws regarding Emergency Rental Assistance Program (ERAP) funds and the eviction process. Currently, the law allows tenants to submit an unsworn declaration made under penalty of perjury to establish proof of eligibility for ERAP funds and requires the court to stay proceedings in eviction cases when a tenant submits an application for ERAP, even if the tenant is determined not to be eligible for ERAP or will not receive enough ERAP funds to cover the full amount of unpaid rent and the housing provider opts not to pursue a payment plan to cover the remaining arrearages. Additionally, because the ERAP application portal opens each quarter, tenants in numerous cases have been able to secure multiple stays in an eviction case, further delaying the ability of the housing provider to secure a writ while the rent arrearages continue to grow. Where eviction cases used to take 3 to 5 months from the date of filing to an eviction, they can now take a year or more. The provision requiring the court to stay proceedings in eviction cases when a tenant submits an application for ERAP has not only contributed to the lengthening of eviction case timelines, it has also contributed to a growing backlog of cases in the Landlord and Tenant Branch of Superior Court, compounding the delays. In 2023, the pending caseload for the Landlord and Tenant Branch grew by 23%, with more cases pending than at any point in the past 10 years despite the number of filings being significantly less than prior to the COVID-19 pandemic.

To address these issues, my office has worked with affordable housing providers and the Department of Human Services to develop legislation that makes targeted changes that we believe will provide important relief to providers. Those changes include:

- Repealing a provision in the law that allows applicants for ERAP to self-attest to certain eligibility criteria; and
- Amending D.C. Official Code § 42-3505.01(r) to give judges discretion as to whether to apply a stay to a particular case and limit the number of stays a court can apply for a pending ERAP application to one per case.

¹ Jon Banister, “‘The Whole Industry Could Collapse’: D.C.’s Housing Providers Face An Existential Crisis,” BisNow, Sept. 5, 2024 (<https://www.bisnow.com/washington-dc/news/multifamily/the-whole-industry-could-collapse-dcs-housing-providers-face-an-existential-crisis-125782>).

Without these changes, the financial crisis facing affordable housing providers will worsen, leading to foreclosures of affordable properties and causing lenders to avoid providing loans to affordable housing providers in the District. Importantly, foreclosures caused by this crisis would wipe out affordability covenants, which would reduce our already inadequate supply of affordable housing.

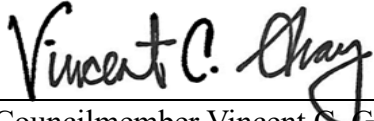
If you have any questions about this legislation, please contact Blaine Stum, Senior Policy Advisor for the Committee of the Whole, at bstum@dccouncil.gov.

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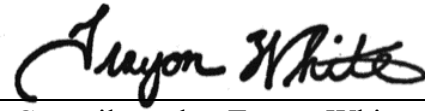
2 Councilmember Anita Bonds



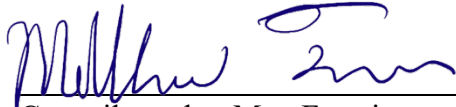
Chairman Phil Mendelson

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6 Councilmember Vincent C. Gray



Councilmember Trayon White, Sr.

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10 Councilmember Matt Frumin

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13 A BILL

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17 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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21 To amend Section 8f of the Homeless Services Reform Act of 2005 to reform the Emergency
22 Rental Assistance Program to require specific documentation from tenants establishing
23 eligibility for Emergency Rental Assistance funds, to clarify the definition of a qualifying
24 emergency situation; and to amend section 501 of the Rental Housing Act of 1985 to
25 permit a court to enter a stay, rather than require a court to enter a stay, when a tenant
26 submits documentation to the court demonstrating that he or she has a pending
27 Emergency Rental Assistance Program application

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29 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
30 act may be cited as the “Emergency Rental Assistance Reform Amendment Act of 2024”.

31 Sec. 2. Section 8f of the Homeless Services Reform Act of 2005, effective March 10,
32 2023 (D.C. Law 24-287; D.C. Official Code § 4-753.08), is amended as follows:

33 (a) Subsection (a) is amended as follows:

34 (1) Paragraph (2)(A) is amended as follows:

35 (A) The lead-in language is amended to read as follows:

36 “(2)(A) To qualify for emergency rental assistance funds, an applicant unit shall
37 be required to document:”.

38 (B) Sub-subparagraph (v) is amended by striking the phrase “for
39 payment.” and inserting the phrase “for payment; and” in its place.

40 (C) A new sub-subparagraph (vi) is added to read as follows:

41 “(vi) The nature of the emergency situation; provided, that if the
42 nature of the emergency situation precludes documentation, an unsworn declaration made under
43 penalty of perjury explaining both the emergency situation and the reason why the applicant unit
44 does not possess documentation regarding the nature of the emergency situation may be
45 considered sufficient documentation of proof for this element of an application.”.

46 (2) Paragraph (3) is repealed.

47 (b) Subsection (d)(3) is amended to read as follows:

48 “(3) “Emergency situation” means a situation in which immediate action is
49 necessary to avoid homelessness or eviction, to re-establish a rental home, or otherwise to
50 prevent displacement from a rental home, which is the result of an unforeseen or unusual event,
51 such as the loss of a job or high medical costs, that impacts the applicant unit’s ability to pay rent
52 and that cannot be resolved without financial assistance.”.

53 Sec. 3. Section 501(r) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C.
54 Law 6-10; D.C. Official Code § 42-3505.01(r)), is amended to read as follows:

55 “(r)(1) The court may stay any proceedings for a claim brought by a housing provider to
56 recover possession of a rental unit for non-payment of rent if a tenant submits documentation to
57 the court demonstrating that he or she has a pending Emergency Rental Assistance Program
58 application; provided, that the court may stay proceedings pursuant to this subsection only once
59 during the pendency of the case.

60 “(2) The proviso in paragraph (1) of this subsection shall not be construed to limit
61 a court’s discretion to extend or continue a stay.

62 “(3) When an eviction that involves non-payment of rent has been authorized by
63 the court and a tenant notifies the housing provider that he or she has an approved Emergency
64 Rental Assistance Program application that would pay the full amount of unpaid rent owed by
65 the tenant no later than 48 hours prior to the scheduled date and time of the eviction, the housing
66 provider shall reschedule the eviction for a date no earlier than 3 weeks from the current
67 scheduled eviction date to allow for the application to be processed, a determination of funding
68 to be made, and, if the application is approved, funding to be distributed to the housing
69 provider.”.

70 Sec. 4. Fiscal impact statement.

71 The Council adopts the fiscal impact statement in the committee report as the fiscal
72 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
73 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

74 Sec. 5. Effective date.

75 This act shall take effect following approval by the Mayor (or in the event of veto by the
76 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
77 provided in sections 602(c)(1) of the District of Columbia Home Rule Act, approved December
78 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
79 Columbia Register.