

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.

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## 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

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## 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”.

○