

# A Just Recovery: How to Ensure \$2.3 Billion in Federal Rent Relief Reaches New Yorkers Hit Hardest by COVID-19



President Biden's American Rescue Plan, recently passed by the United States Senate, will direct more than \$100 billion in aid to New York State.<sup>1</sup> This COVID-19 relief package brings a total of over \$2.3 billion in aid for emergency short term relief for tenants and homeless New Yorkers headed to the State.<sup>2</sup>

The relief comes at a crucial time, as 1.4 million New York households are behind on rent and owe over \$2.3 billion in arrears.<sup>3</sup> How federal relief money is distributed is largely left up to State houses and local governments, with guidelines released by the Treasury Department. Senate Majority Leader Andrea Stewart-Cousins and Assembly Speaker Carl Heastie must not squander the opportunity to pursue a just-recovery.

**This infusion of cash from the federal government is a once-in-a-generation opportunity to reset New York State's housing market and put us on a path towards more housing security; an end to homelessness; and a State where our housing is for people, not for profit.** On the other hand, the State can use the federal money to bail out the real estate industry with no further protections for renters: essentially a blank check to Governor Cuomo's largest donors at a time of New York's greatest need.

Below we offer a set of clear and specific recommendations for how Stewart-Cousins and Heastie can create a just recovery and ensure that federal rent relief money reaches New Yorkers hit hardest by COVID-19.

## Put conditions on the receipt of rent-relief funding:

- **Long-term protections against evictions:** All tenants must be protected against no-fault evictions for at least 5 years following the receipt of back rent.
- **Rent freezes:** All tenants must be protected against rent increase for at least 5 years following the receipt of back rent.
- The State Assembly's proposal includes a mechanism that would allow OTDA to withhold money from landlords who have dangerous code violations in their apartments. This is shortsighted, as it is included

<sup>1</sup> Office of Senate Majority Leader Senator Chuck Schumer (March 9, 2021) *As new majority leader, Schumer delivers robust basket of COVID rescue relief to New York*, [schumer.senate.gov/newsroom/press-releases/as-new-majority-leader-schumer-delivers-robust-basket-of-covid-rescue-relief-to-new-york-will-help-solve-nys/nyc/li-budget-woes-100-billion-to-ny-families-workers-restaurants-and-small-businesses-includes-ny-vax-dollars-to-keep-shots-going](https://www.schumer.senate.gov/newsroom/press-releases/as-new-majority-leader-schumer-delivers-robust-basket-of-covid-rescue-relief-to-new-york-will-help-solve-nys/nyc/li-budget-woes-100-billion-to-ny-families-workers-restaurants-and-small-businesses-includes-ny-vax-dollars-to-keep-shots-going)

<sup>2</sup> See Note 1, See also National Low Income Housing Coalition, *Estimated Allocations for Emergency Rental Assistance From Proposed Relief Bill* (Dec 2020) <https://nlihc.org/sites/default/files/Estimated-Coronavirus-Relief-Fund-Allocations.pdf>

<sup>3</sup> Stout, *Estimation of Households Facing Rental Shortfall and Potentially Facing Eviction*, (last access Mar 2021), [tinyurl.com/2kbistqf](https://tinyurl.com/2kbistqf)

without clear tenant protections. Tenants must not be placed at risk because of landlord negligence.

### **Clear all arrears and prospective rent:**

- All rent debt accrued during the COVID-19 pandemic for up to 15 months must be universally cleared.
- It will be months, maybe years, before employment reaches pre-COVID-19 levels. New York State must ensure that rent-debt does not continue to accumulate. They can do this by clearing all rents accumulated plus 90 days.

### **Match federal money with State investment:**

- The State must match federal money with State resources raised through the [Invest In Our New York](#) platform. While the federal money is a one-time shot in the arm, we will need sustained investment to recover from the COVID-19 economic fallout. State investment is particularly important for paying future rent debt and for acquiring and repositioning distressed assets.

### **Make it easy for renters declare hardship and clear rent arrears:**

Just 0.7% of NY renters at risk of eviction filled out the hardship declaration to opt in to the current eviction moratorium.

- A form should be included in the legislation and prioritized as a way for renters to apply. This is the only way to ensure that undocumented New Yorkers get paid. The best way to do this is outlined in the appendix, below. The form should be the first and only application requirement to clear rent arrears – not an option of last resort, as is currently outlined in the Senate and the Assembly’s proposal.
- The state should invest significant resources in outreach to tenants and landlords to ensure they are aware of the bill, and apply for it.

### **Prioritize landlords who own 2-4 unit buildings for relief:**

Small property owners should be prioritized for receipt of full aid, but these prioritization requirements should not penalize tenants who qualify.

Building owners with fewer properties in their portfolio and landlords who live on site are less likely to evict, more likely to offer below market rents, and are disproportionately more likely to fall behind on mortgage and taxes.

Corporate landlords and management companies with more buildings should meet more stringent requirements to receive money, and should not receive full amounts of back-rent owed.

### **Invest in acquisition of distressed real estate assets:**

- The rent arrears crisis has cascading effects on the rest of the real estate industry. Even with a federal bailout, without a permanent infusion of cash, multi-family properties are going to be at continued risk of physical and financial distress. The State should create an acquisition fund to provide tenants' first opportunity to convert distressed housing to community land trusts, limited equity cooperatives, and other social housing models upon sale.
- Commercial properties are also facing severe financial distress. The State should provide resources to take over distressed hotels and commercial buildings and convert them to permanently affordable, low-income housing for homeless New Yorkers.

## Appendix: How OTDA Can Clear Rent Debt Using Federal and State Funds

- I. In order to clear all rent arrears accumulated during COVID, New York tenants must submit a form to the **Office of Temporary and Disability Assistance (OTDA)** that is structured similarly to the Eviction Moratorium Hardship Form and includes:
  - A. Acknowledgment that they want their rent arrears accumulated during COVID cleared
  - B. Basic questions to determine if they meet the Federal eligibility criteria
  - C. If they do qualify for Federal relief, it requires them to submit
    1. Lease, rent bill, other documents to show **obligation to pay rent** OR **attestation**
    2. Checks box indicating they filed 2020 taxes and state should pull their info from that OR a checkbox indicating they receive a means tested benefit and the state should pull their info from that OR **proof of income** for 2020 (payslips, employer letter, PA records, etc) OR **attestation**
    3. Document showing tenant was/is eligible for unemployment insurance OR **attestation as proof of lost income**
    4. Rent statement/eviction papers showing debt OR code violations printout OR signed statement saying I haven't paid and therefore I'm at **risk of eviction/homelessness**
- II. The law passed to clear rent arrears will include an eviction moratorium halting all pending eviction cases and preventing new eviction cases, to allow time for form submission, processing, and disbursement of funds.

Public housing tenants and tenants who live in subsidized housing could simply check a box saying they authorize their Local Housing Authority to supply all this info for them, or they can elect to submit the proofs themselves.

### Based on the form supplied by the tenant to the Office of Temporary and Disability Assistance:

1. **If the tenant qualifies for Federal relief:**
  - a. OTDA will contact the landlord to request portfolio information: this can be in the form of monthly operating reports, audited financial statements, year-end unaudited to document loss of income due to the pandemic.
  - b. OTDA will determine the amount of rent it will remit directly to the landlord, first prioritizing tenants at or below 50% of AMI or with one or more household members unemployed for the past 90 days, and second at a scale based on size of landlord / financial health of the portfolio

- c. Tenants arrears are **cleared in full** no matter how much back-rent OTDA determines that the landlord is eligible for.

**2. If the tenant does not qualify for the Federal relief:**

- a. The landlord is notified by the Office of Temporary and Disability Assistance that “Your tenant for address \_\_\_\_\_ is ineligible for Federal relief, but their rent arrears have been cleared under New York’s Statewide Housing Stability Relief Fund.
- b. Landlords can apply to the landlord hardship fund to get reimbursed.

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