



# EMERGENCY RENTAL ASSISTANCE PROGRAM ("ERAP")

## OVERVIEW

- ❖ ERAP is administered by the NYS Office of Temporary and Disability Assistance ("OTDA") and will sunset on September 30, 2025.
- ❖ ERAP helps eligible households with **rental and utility arrears accrued at their primary residences**.
- ❖ Utility arrears may not be applied for separately. The tenant must have rent arrears to apply for a utility arrears payment. **ERAP will not pay water, internet, or damage charges.**
- ❖ Apply online at the OTA webpage (<https://otda.ny.gov/programs/emergency-rental-assistance/#apply>).
- ❖ Check on the status of an ERAP application by calling the ERAP Call Center (844-691-7368) or navigating to the OTDA webpage.

## ELIGIBILITY

- ❖ Household gross income must be at or below **80 % of the Area Median Income** ("AMI"). AMI varies by county and household size.
- ❖ A member of the household must have **received unemployment benefits**, experienced a reduction in income, incurred significant costs, or experienced other financial hardship **directly or indirectly related to the COVID-19** pandemic.
- ❖ Applicant must be **at risk of homelessness or housing instability**.
- ❖ Applicant must be obligated to pay rent and has rental arrears at his/her current residence, and **the rent arrears accrued on or after March 13, 2020**.

## STAY OF EVICTION PROCEEDING

- ❖ ERAP application stays non-payment and holdover proceedings to evict a tenant "pending a determination of eligibility."
- ❖ The ERAP stay generally continues until a **"final determination"** has been made and all appeals have been exhausted. Administrative Order 158/22.

## WHAT ERAP PAYMENT COVERS

- ❖ Applicant may be awarded up to 12 months of rental arrears (arrears accrued on or after March 13, 2020).

- ❖ Provided the household spends 30 % or more of its gross monthly income on rent, the applicant may be awarded up to 3 months of additional, prospective rent.
- ❖ Up to 12 months of electric or gas utility arrears (arrears accrued on or after March 13, 2020).
- ❖ **Payments are made directly to the landlord or utility provider.**
- ❖ Applicant must still be residing on the premises for the landlord to receive a prospective rent payment. Rent arrears may be paid in some circumstances even after the tenant has vacated.

### **REFUSAL OF ERAP PAYMENT**

- ❖ If a landlord refuses the ERAP payment, the money is set aside for 180 days. The landlord has an opportunity to reconsider and participate.
- ❖ Tenant can use **the provisional determination of ERAP eligibility as an affirmative defense in any proceeding (non-payment and holdover) brought by the landlord** for a money judgment or warrant of eviction based upon the non-payment of rent that would have been covered by the payment.
- ❖ After 12 months from the tenant's determination of provisional eligibility, the landlord is deemed to have waived the amount of rent that would have been covered by the payment.

### **ACCEPTANCE OF ERAP PAYMENT**

By accepting an ERAP payment, a landlord agreed:

- ❖ That **full rent has been paid** for the period covered by the payment.
- ❖ To **waive any late fees** for the period covered by the payment.
- ❖ **Not to raise the rent for 1 year.**
- ❖ **Not to evict the tenant based on holdover or expired lease for 1 year.**

**EXCEPTIONS:** A landlord may evict during the 1 year after acceptance of an ERAP payment, if:

- The building has 4 or fewer units and the **landlord or the landlord's immediate family member will use it as their primary residence.**
- **Future breaches** such as non-payment of rent post-ERAP payment, lease violations, and nuisance petitions.

**Legal Aid Society of Mid-New York, Inc.**

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