ILLINOIS REGISTER

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY RULES

1) **Heading of the Part:** Emergency Mortgage Assistance (EMA) Program

2) **Code Citation:** 47 Ill. Adm. Code 301

3) **Section Numbers:** | **Emergency Actions:**
-----------------------|-------------------
301.101               | New Section       
301.102               | New Section       
301.103               | New Section       
301.104               | New Section       
301.105               | New Section       
301.106               | New Section       
301.107               | New Section       
301.108               | New Section       
301.109               | New Section       
301.111               | New Section       
301.113               | New Section       
301.114               | New Section       
301.115               | New Section       
301.116               | New Section       
301.201               | New Section       
301.202               | New Section       
301.301               | New Section       
301.302               | New Section       
301.303               | New Section       
301.304               | New Section       
301.305               | New Section       
301.401               | New Section       
301.402               | New Section       
301.403               | New Section       
301.404               | New Section       
301.405               | New Section       
301.406               | New Section       
301.407               | New Section       
301.408               | New Section       

4) **Statutory Authority:** Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805] and implementing Article 30, Sections 20 and 21 of P.A. 101-0637.

5) **Effective Date of Rules:** OCT 15 2020
6) If these Emergency Rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: These emergency rules will expire at the end of the 150 day period, or upon adoption of permanent rules, whichever comes first.

7) Date Filed with the Index Department: OCT 15 2020

8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Authority’s office and is available for public inspection.

9) Reason for Emergency: Coronavirus Disease 2019 (COVID-19) is a novel severe acute respiratory illness that can spread among people through respiratory transmissions and present with symptoms similar to those of influenza. Residential evictions are contrary to the interest of preserving public health by ensuring that individuals remain in their homes during this public health emergency.

10) A Complete Description of the Subjects and Issues Involved: The State of Illinois has allocated State Coronavirus Urgent Remediation Emergency Funds to provide affordable housing grants for the benefit of persons impacted by the COVID-19 public health emergency for emergency mortgage assistance. The Authority has established the Emergency Mortgage Assistance (EMA) program to disburse funds. Approved applicants will receive a one-time grant of up to $15,000 of emergency mortgage assistance to mitigate housing instability during the period of March through December 2020. Assistance will be paid directly to mortgagee on behalf of the mortgagor. The rules also address the use of organizations to assist the Authority with community outreach and assistance in operating the EMA program.

11) Are there any proposed rulemakings to this Part pending? No

12) Statement of Statewide Policy Objectives: Rulemaking does not create or expand any State mandate.

13) Information and questions regarding these emergency rules shall be directed to:

   Maureen Ohle
   Legal Department
   Illinois Housing Development Authority
   111 E. Wacker Drive, Suite 1000
   Chicago, Illinois 60601

The full text of the emergency rules begins on the next page:
CERTIFICATE OF EMERGENCY RULES

The Illinois Housing Development Authority certifies that the attached hereto is a true and correct copy of:

**Heading of the Part:** Emergency Mortgage Assistance (EMA) Program

**Code Citation:** 47 Ill. Adm. Code 301

**Sections Involved:**

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which was duly adopted by emergency action by this agency.

**The reason for the emergency is:** Coronavirus Disease 2019 (COVID-19) is a novel severe acute respiratory illness that can spread among people through respiratory transmissions and present with symptoms similar to those of influenza. Residential evictions are contrary to the interest of preserving public health by ensuring that individuals remain in their homes during this public health emergency.

**Statutory Authority:** Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805] and implementing Article 30, Sections 20 and 21 of P.A. 101-0637.

[Signature of Officer]

**General Counsel**

Title of Officer

**Emergency Effective:** OCT 13, 2020

**Received:** OCT 16, 2020
TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 301
EMERGENCY MORTGAGE ASSISTANCE (EMA) PROGRAM

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SOURCE: Emergency rules adopted at 44 Ill. Reg. _______, effective 17458_______, for a maximum of 150 days.
SUBPART A: GENERAL RULES FOR EMA GRANTS

Section 301.101 Authority

EMERGENCY

The Illinois Housing Development Authority is the designated administrator for the Emergency Mortgage Assistance ("EMA") Program in Illinois, which was authorized pursuant to the appropriation set forth in Public Act 101-0637. The State received Coronavirus Relief Funds ("CRF") via the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") and established the State Coronavirus Urgent Remediation Emergency Fund to administer a portion of the State's CRF.
Section 301.102 Purpose and Objectives
EMERGENCY

The purpose of the EMA Program is to use moneys appropriated from the State Coronavirus Urgent Remediation Emergency Fund, and any other funds appropriated for this purpose, to make EMA Grants to eligible servicers on behalf of eligible borrowers, as defined in this Part, or to make EMA Grants to COAAs as defined in this Part.
Section 301.103 Definitions

EMERGENCY

The following definitions apply to terms used in this Part:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

"Appropriation": The appropriation of funds, from the State Coronavirus Urgent Remediation Emergency Fund to the Illinois Department of Revenue for the Authority, by the Illinois General Assembly.

"Area Median Income": The median income for a family of four, of the area in which the unit is located, as determined by the Authority (via information published by the U.S. Department of Housing and Urban Development) for each county in Illinois. For purposes of the EMA Program, the median income will be flat and will not be adjusted for family size. All zip codes are assigned a county in Illinois by utilizing the county that contains the majority of the zip code and each zip code uses the county area median income with which it is associated.


"Auditor General": The Auditor General of the State of Illinois.

"Authority": The Illinois Housing Development Authority.

"CARES Act": Section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (15 USC 9001 et seq.).

"COAA": A community outreach and assistance agency receiving an EMA Grant for the benefit of persons impacted by the COVID-19 public health emergency by providing COAA Client Intake, COAA Information and Outreach, and/or COAA Mobile and Technology Network activities.

"COAA Client Intake": The COAA will assist an applicant with answering questions about the EMA Program online application process and with the EMA Program documentation upload.

"COAA Information and Outreach": The COAA will provide information about the EMA Program and will conduct EMA Program outreach.

"COAA Mobile and Technology Network": The necessary and reasonable mobile and technology network related costs, including, but not limited to, computer
workstations, laptops, tablets, headsets, and relevant salary expenses, to assist Illinois residents with information and outreach, the online application process, and post-closing activities, including client follow-up related to the EMA Program.

"CRF": The Coronavirus Relief Fund established by the CARES Act. Under the CARES Act, the CRF is to be used to make payments for specified uses to states and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.


"CURE Fund": The State Coronavirus Urgent Remediation Emergency Fund.

"DIA": An area of the State disproportionately impacted, based primarily on positive COVID-19 cases per capita and demographic calculations performed by the Department of Commerce and Economic Opportunity and the Governor’s Office of Management and Budget. DIAs are captured via zip code.

"Eligible Borrower": A resident approved for an EMA Grant under the EMA Program as set forth in Subpart B below.

"Eligible Servicer": An owner of one or more units receiving or approved to receive an EMA Grant on behalf of an eligible borrower through the EMA Program as set forth in Subpart C below.

"EMA Grant": (i) a grant not to exceed $15,000 paid to an Eligible Servicer as a subsidy for one or more past due mortgage payments of an Eligible Borrower during the EMA Program Eligibility Period, or (ii) the not to exceed $75,000 grant paid to a COAA to provide, as applicable, COAA Information and Outreach, COAA Client Intake, and, or COAA Mobile and Technology Network, for the benefit of persons seeking mortgage assistance from the Authority in connection with the COVID-19 pandemic.

"EMA Program": The Emergency Mortgage Assistance Program.
"EMA Program Coverage Period": The portion of the EMA program eligibility period applicable to an eligible borrower.

"EMA Program Eligibility Period": March 1, 2020 through December 30, 2020, unless extended by applicable law.

"Fund": The State Coronavirus Urgent Remediation Emergency Fund created in the State Treasury.

"GATA": The Grant Accountability and Transparency Act [30 ILCS 708].

"GATU": The Grant Accountability and Transparency Unit within the Illinois Governor's Office of Management and Budget.

"Guidance": U.S. Department of the Treasury's Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, as amended from time to time.

"NEA": Non-entitlement areas within counties in the State that did not receive direct allotments from the federal Coronavirus Relief Fund, captured via zip code.

Section 301.104 Compliance with Federal and State Law

EMERGENCY

Notwithstanding anything in this Part to the contrary, this Part shall be construed in conformity and compliance with applicable federal and State law, including GATA.
Section 301.105 Forms and Procedures for the EMA Program

EMERGENCY

The Authority may prepare, use, prescribe, supplement and amend forms, agreements and other documents and procedures as may be necessary to implement the EMA Program.
Section 301.106 Fees and Charges
EMERGENCY

The Authority will not charge an application fee for the EMA Program.
Section 301.107 Authority Administrative Expenses

EMERGENCY

The Authority is entitled to reimbursement from the appropriation for administrative expenses incurred with respect to the EMA Program established to disburse amounts received from the Fund. Reimbursement for the Authority's administrative expenses will not exceed 10% of the appropriation.
Section 301.108 Amendment
EMERGENCY

This Part may be supplemented, amended or repealed by the Authority from time to time and in a manner consistent with the Illinois Administrative Procedure Act [5 ILCS 100], this Part, the Act, and other applicable laws. This Part does not constitute or create any contractual rights.
Section 301.109 Severability

EMERGENCY

If any clause, sentence, paragraph, subsection, Section or Subpart of this Part is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair or invalidate the remainder of this Part, but shall be confined in its operation to the clause, sentence, paragraph, subsection, Section or Subpart to which the judgment is rendered.
Section 301.111  Non-Discrimination

EMERGENCY

Eligible servicers and COAAs shall comply with the applicable provisions of the Illinois Human Rights Act [775 ILCS 5] and the regulations promulgated under that Act, the federal Fair Housing Act (42 USC 3601), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the Illinois Environmental Barriers Act [410 ILCS 25], the Illinois Accessibility Code (71 Ill. Adm. Code 400), and all other applicable State and federal law concerning discrimination and fair housing.
Section 301.113 Record Retention

EMERGENCY

Eligible borrowers, eligible servicers and COAA's shall maintain copies of any records in their possession in connection with the EMA Program until December 31, 2026.
Section 301.114 Monitoring

EMERGENCY

The Authority has the right to monitor all records of eligible borrowers, eligible servicers and COAA’s relating to the EMA Grant. Eligible borrowers, eligible servicers and COAA's shall make all records relating to an EMA Grant available for inspection by the Authority upon the Authority’s request.
Section 301.115 CARES Act/Coronavirus Relief Fund
EMERGENCY

Unless different provisions are required by law or an exception is granted by GATU:

a) CRF payments are considered to be federal financial assistance subject to the Single Audit Act (31 USC 7501 through 7507) and the related provisions of the Uniform Guidance (2 CFR 200.303) regarding internal controls (2 CFR 200.330 through 200.332) regarding subrecipient monitoring and management and subpart F regarding audit requirements.

b) CRF payments are subject to the following requirements in the Uniform Guidance (2 CFR 200): 2 CFR 200.303 regarding internal controls, 2 CFR 200.330 through 200.332 regarding subrecipient monitoring and management, and 2 CFR, subpart F regarding audit requirements.

c) The CFDA number assigned to the CRF is 21.019.

d) The CRF payments to subrecipients, including COAAs, count toward the threshold of the Single Audit Act and 2 CFR 200, subpart F (audit requirements). Subrecipients are subject to a single audit or program specific audit pursuant to 2 CFR 200.501(a) when the subrecipients spend $750,000 or more in federal awards during their fiscal year.

e) Amounts paid from the CRF are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

f) The CARES Act provides that payments from the CRF may only be used to cover costs that:

1) are necessary expenditures incurred due to the public health emergency with respect to COVID-19;

2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State; and

3) were incurred during the EMA Program eligibility period.

g) As a general matter, providing assistance to recipients to enable them to meet property tax requirements is not an eligible use of funds. Exceptions may be made in the case of assistance designed to prevent foreclosures.

EMERGENCY EFFECTIVE
OCT 16 2020
505-CODE DIV.
h) Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.
Section 301.116 Random Selection and Set-Asides

EMERGENCY

Subject to the Appropriation, the Authority will distribute EMA Grants to eligible servicers in the form of grants, in an amount not to exceed $15,000, on behalf of eligible borrowers based on randomized list generated by an independent third party. Consistent with the Appropriation of dollars from the CURE Fund, priority may be shown by the Authority for applications from eligible borrowers that reside in DIAs and eligible borrowers that reside in NEAs.
SUBPART B: BORROWER REQUIREMENTS FOR EMA GRANTS

Section 301.201 Borrower Eligibility

EMERGENCY

To qualify, and become eligible to receive an EMA Grant, borrowers must:

a) self-certify that their income prior to March 1, 2020 (pre-COVID-19) was no higher than 120% of the Area Median Income;

b) self-certify that they have experienced COVID-19 related income loss during the EMA Program eligibility period;

c) self-certify that their mortgage, on their primary residence, was current through February 2020;

d) self-certify that they have unpaid mortgage payments during the EMA Program eligibility period;

e) self-certify that they are not receiving any local, or state mortgage assistance and that they are not receiving any federal mortgage assistance in connection with COVID-19 or otherwise;

f) self-certify that they have not, nor, if they become an eligible borrower, will they apply to receive other COVID-19 related mortgage assistance during the EMA Program coverage period; and

g) provide any documentation reasonably required by the Authority, including photographic identification and verification of address.
Section 301.202  Recapture
EMERGENCY

EMA Grants are subject to recapture in the event of default, such as fraud on behalf of an eligible borrower or eligible servicer, failure to comply with this Part, or failure to meet any obligations under any EMA Program document.
SUBPART C: SERVICER REQUIREMENTS FOR EMA GRANTS

Section 301.301 General Requirements

EMERGENCY

Prior to receiving an EMA Grant on behalf of an eligible borrower, servicers must:

a) Provide any documentation reasonably required by the Authority; and

b) execute documentation evidencing their agreement to comply with the terms of any EMA Program document, including, but not limited to, this Part.
Section 301.302 Foreclosure Moratorium
EMERGENCY

Prior to receiving an EMA Grant on behalf of an eligible borrower, and in order to become an
eligible servicer, lenders and servicers must agree they will forgo any right to foreclose on an
eligible borrower, for non-payment of their mortgage note or other fees, during the longer of: (i)
the EMA Program coverage period, or (ii) or (ii) the date of any foreclosure moratorium
established by State or Federal law.
Section 301.303  Waiver of Fees
EMERGENCY

Prior to receiving an EMA Grant on behalf of an eligible borrower, and in order to become an eligible servicer, servicers must agree to waive late fees accrued by the eligible borrower during the EMA Program coverage period.
Section 379.304 Distribution of EMA Grants
EMERGENCY

The Authority will distribute EMA Grants to eligible servicers as grants on behalf of eligible borrowers not to exceed $15,000. EMA Grants are applicable to mortgage payments and certain fees, during the EMA Program coverage period.
Section 301.305 Recapture

EMERGENCY

EMA Grants are subject to recapture in the event of default, such as fraud on behalf of an eligible borrower or eligible servicer, failure to comply with this Part, or failure to meet any obligations under any EMA Program document.
SUBPART D: EMA GRANTS TO COMMUNITY OUTREACH AND ASSISTANCE AGENCIES

Section 301.401 Purpose

EMERGENCY

EMA Grant funds allocated to a COAA are for the benefit of persons impacted by the COVID-19 public health emergency who are interested in, or otherwise attempting to apply for, an EMA Grant.
Section 301.402 Request for Proposals

EMERGENCY

The Authority shall issue a request for proposals for applications from prospective COAAs.
Section 301.403  COAA Eligibility
EMERGENCY

COAAs may be housing counseling agencies, community-based organizations, or non-profit organizations. Legal assistance organizations are eligible to apply if they have experience with information and outreach, and client intake and management, procedures.
Section 301.404 Eligible Uses

EMERGENCY

EMA Grant funds allocated to a COAA are for the benefit of persons, who are interested in or otherwise attempting to apply for an EMA Grant, impacted by the COVID-19 public health emergency. EMA Grant funds may be used by COAAs to offset administrative expenses incurred by the COAA providing COAA Information and Outreach, COAA Client Intake, and/or COAA Mobile and Technology Network activities.
Section 301.405 Application Requirements

EMERGENCY

Each application to be a COAA under the request for applications shall include the information required by the Authority to promote efficient program administration and quality of performance.
Section 301.406  Maximum COAA EMA Grant Amounts

EMERGENCY

The maximum EMA Grant amount available to COAA is $75,000. The amount requested will vary based on the eligible activities the COAA applicant seeks to undertake for the benefit of persons impacted by the COVID-19 public health emergency and who are interested in, or otherwise attempting to apply for, an EMA Grant. Approved COAA EMA Grants will be based on the following funding levels:

a) COAA Information and Outreach (not to exceed $25,000);

b) COAA Information and Outreach and COAA Client Intake (not to exceed $50,000); or

c) COAA Information and Outreach, COAA Client Intake, and COAA Mobile and Technology Network (not to exceed $75,000).
Section 301.407 Distribution of COAA EMA Grants
EMERGENCY

Once approved for an EMA Grant, COAAs will be eligible to receive up to one-third of the EMA Grant amount as an initial disbursement. An accounting of expenses will be required to demonstrate use of the EMA Grant funds provided in the initial disbursement. Additional EMA Grant disbursements will be made pursuant to the submission and approval of reports.
Section 301.408 Recapture

EMERGENCY

EMA Grants to COAAs are subject to recapture in the event of default, such as fraud by the COAA, failure of the COAA to comply with this Part, or failure to meet any obligations of the COAA under any EMA Program document.