ILLINOIS REGISTER

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY RULES

1) Heading of the Part: Emergency Rental Assistance (ERA) Program

2) Code Citation: 47 Ill. Adm. Code 379

3) Section Numbers: Emergency Actions:
   379.101   New Section
   379.102   New Section
   379.103   New Section
   379.104   New Section
   379.105   New Section
   379.106   New Section
   379.107   New Section
   379.108   New Section
   379.109   New Section
   379.111   New Section
   379.113   New Section
   379.114   New Section
   379.115   New Section
   379.116   New Section
   379.201   New Section
   379.202   New Section
   379.301   New Section
   379.302   New Section
   379.303   New Section
   379.304   New Section
   379.305   New Section
   379.306   New Section
   379.401   New Section
   379.402   New Section
   379.403   New Section
   379.404   New Section
   379.405   New Section
   379.406   New Section
   379.407   New Section
   379.408   New Section


5) Effective Date of Rules: OCT 1 5 2020

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          OCT 1 6 2020

          SOS-CODE D:V.
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 rental assistance. The Authority has established the Emergency Rental Assistance (ERA) program to disburse funds. Approved applicants will receive a one-time grant of $5,000 of emergency rental assistance to mitigate housing instability during the period of March through December 2020. Assistance will be paid directly to property owner or landlord on behalf of the tenant. The rules also address the use of organizations to assist the Authority with community outreach and assistance in operating the ERA 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
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 Rental Assistance (ERA) Program

**Code Citation:** 47 Ill. Adm. Code 379

<table>
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<th>Sections Involved:</th>
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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

**EMERGENCY EFFECTIVE:**
CCT 16 2020
SOS-CODE DIV.

**General Counsel**
Title of Officer

**RECEIVED:**
OCT 18 2020
SOS-CODE DIV.
TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 379
EMERGENCY RENTAL ASSISTANCE (ERA) PROGRAM

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SUBPART A: GENERAL RULES FOR ERA GRANTS

Section 379.101 Authority

The Illinois Housing Development Authority is the designated administrator for the Emergency Rental Assistance ("ERA") 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 379.102  Purpose and Objectives

EMERGENCY

The purpose of the ERA Program is to use moneys appropriated from the State Coronavirus Urgent Remediation Emergency Fund, and any other funds appropriated for this purpose, to make ERA Grants to eligible landlords on behalf of eligible tenants, as defined in this Part, or to make ERA Grants to COAAs as defined in this Part.
Section 379.103 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 ERA 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 ERA 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 ERA Program online application process and with the ERA Program documentation upload.

"COAA Information and Outreach": The COAA will provide information about the ERA Program and will conduct ERA 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 ERA 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 Landlord": An owner, or authorized management agent, of one or more units receiving or approved to receive an ERA Grant on behalf of an eligible tenant through the ERA Program as set forth in Subpart C.

"Eligible Lease": A lease that meets the criteria established by the Authority as set forth in the Authority's ERA Program documents.

"Eligible Tenant": A resident approved for an ERA Grant under the ERA Program as set forth in Subpart B.

"ERA Program": The Emergency Rental Assistance Program.

"ERA Program Coverage Period": The portion of the ERA program eligibility period applicable to an eligible lease for an eligible tenant.
"ERA Program Eligibility Period": March 1, 2020 through December 30, 2020, unless extended by applicable law.

"ERA Grant":

The $5,000 grant paid to an eligible landlord on behalf of an eligible tenant in connection with rent incurred during the ERA Program eligibility period; or

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 rental assistance from the Authority in connection with the COVID-19 pandemic.

"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.

"Management Agent": A company or individual authorized, pursuant to a Property Management Agreement, to lease units and collect rent on behalf of an owner.

"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.

"Owner": A company or individual that holds fee title to the property where the unit is located and rented or leased by an eligible tenant.

"Property Management Agreement": A written document that describes the relationship between the owner and management agent. At a minimum, the agreement will reference the address of the eligible tenant's property and that the management agent may lease and collect rent on behalf of the owner. The beginning term of the management agreement must be before the eligible tenant's
application to the ERA Program. The end of the management agreement term must be after the date of the eligible tenant's application.

Section 379.104 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 379.105 Forms and Procedures for the ERA 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 ERA Program.
Section 379.106  Fees and Charges
EMERGENCY

The Authority will not charge an application fee for the ERA Program.
Section 379.107 Authority Administrative Expenses

EMERGENCY

The Authority is entitled to reimbursement from the appropriation for administrative expenses incurred with respect to the ERA Program established to disburse amounts received from the Fund. Reimbursement for the Authority's administrative expenses will not exceed 10% of the appropriation.
Section 379.108 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 379.109 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 379.111 Non-Discrimination
EMERGENCY

Eligible landlords 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 379.113 Record Retention
EMERGENCY

Eligible tenants, eligible landlords and COAA's shall maintain copies of any records in their possession in connection with the ERA Program until December 31, 2026.
Section 379.114 Monitoring

EMERGENCY

The Authority has the right to monitor all records of eligible tenants, eligible landlords and COAA's relating to the ERA Grant. Eligible tenants, eligible landlords and COAA's shall make all records relating to an ERA Grant available for inspection by the Authority upon the Authority's request.
Section 379.115 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 ERA 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
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h) Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.
Section 379.116 Random Selection and Set-Asides

EMERGENCY

Subject to the appropriation, the Authority will distribute ERA Grants to eligible landlords in the form of $5,000 grants on behalf of eligible tenants 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 tenants that reside in DIAs and eligible tenants that reside in NEAs.
SUBPART B: TENANT REQUIREMENTS FOR ERA GRANTS

Section 379.201 Tenant Eligibility

EMERGENCY

To qualify, and become eligible to receive an ERA Grant, tenants must:

a) self-certify that their income prior to March 1, 2020 (pre-COVID-19) was no higher than 80% of the Area Median Income;

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

c) self-certify that they have an unpaid rent balance for their primary residence incurred during the ERA Program eligibility period;

d) self-certify that they are not receiving any local or State rental assistance and that they are not receiving any federal rental assistance in connection with COVID-19 or otherwise;

e) self-certify that they have not received, nor, if they become an eligible tenant, will they apply to receive, other COVID-19 related rental assistance during the ERA Program coverage period;

f) self-certify that they understand ERA Grants cannot be made on behalf of an eligible tenant unless there is an eligible landlord; and

g) provide any documentation reasonably required by the Authority, including photographic identification and verification of address.
Section 379.202 Recapture
EMERGENCY

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

Section 379.301 Landlord Eligibility
EMERGENCY

Prior to receiving an ERA Grant on behalf of an eligible tenant, landlords must:

a) Provide any documentation reasonably required by the Authority, including an eligible lease, evidence of ownership and verification of address via a deed or tax bill, a W-9, a property management agreement (if acting as an agent on behalf of an owner), and a voided check.

b) Execute documentation evidencing their agreement to comply with the terms of any ERA Program document, including, but not limited to, this Part.
Section 379.302  Waiver of Fees

Prior to receiving an ERA Grant on behalf of an eligible tenant, and in order to become an eligible landlord, landlords must agree to waive late fees accrued by the eligible tenant during the ERA Program coverage period.
Section 379.303 Lease Termination

EMERGENCY

Prior to receiving an ERA Grant on behalf of an eligible tenant, and in order to become an eligible landlord, landlords must agree they will not terminate the lease of an eligible tenant until the end of the ERA Program coverage period, or the expiration of the ERA Program eligibility period, whichever comes first.
Section 379.304  Eviction Moratorium  
EMERGENCY

a) Prior to receiving an ERA Grant on behalf of an eligible tenant, and in order to become an eligible landlord, landlords must agree they will forgo any right to commence or continue an eviction action against an eligible tenant, for non-payment of rent or other fees, during the longer of:

1) the eligible tenant's ERA Program coverage period; or

2) the date of any eviction moratorium established by State or federal law, including, but not limited to, any order issued by the Centers for Disease Control and Prevention.

b) This Section is not intended to limit an eligible landlord's right to evict a tenant for legally permissible reasons unrelated to the payment of rent, fees or other financial charges.
Section 379.305 Distribution of ERA Grants

EMERGENCY

The Authority will distribute ERA Grants to eligible landlords in the form of $5,000 grants on behalf of eligible tenants. ERA Grants are applicable to rent incurred during the ERA Program eligibility period.
Section 379.306 Recapture
EMERGENCY

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

Section 379.401 Purpose
EMERGENCY

ERA 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 ERA Grant.
Section 379.402 Request for Proposals
EMERGENCY

The Authority shall issue a request for proposals for applications from prospective COAAs.
Section 379.403  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 379.404 Eligible Uses

EMERGENCY

ERA Grant funds allocated to a COAA are for the benefit of persons, who are interested in or otherwise attempting to apply for an ERA Grant, impacted by the COVID-19 public health emergency. ERA 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 379.405 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 379.406 Maximum COAA ERA Grant Amounts

EMERGENCY

The maximum ERA Grant amount available to COAAs 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 ERA Grant. Approved COAA ERA 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 379.407 Distribution of COAA ERA Grants

EMERGENCY

Once approved for an ERA Grant, COAAAs will be eligible to receive up to one-third of the ERA Grant amount as an initial disbursement. An accounting of expenses will be required to demonstrate use of the ERA Grant funds provided in the initial disbursement. Additional ERA Grant disbursements will be made pursuant to the submission and approval of reports.
Section 379.408 Recapture
EMERGENCY

ERA Grants to COAAAs 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 ERA Program document.