

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare an emergency with respect to the need to amend Section 8f of the Homeless Services Reform Act of 2005 to reform the Emergency Rental Assistance Program to require specific documentation from tenants establishing eligibility for Emergency Rental Assistance funds, to clarify the definition of a qualifying emergency situation; and to amend Section 501 of the Rental Housing Act of 1985 to require tenants with pending eviction cases to demonstrate to the Superior Court that a pending Emergency Rental Assistance Application could pay the full amount of unpaid rent or that the tenant and housing provider have entered into a repayment plan for any remaining unpaid rent for a stay to be applied.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Emergency Rental Assistance Reform Emergency Declaration Resolution of 2024”.

Sec. 2. (a) Affordable housing providers in the District are currently facing a financial crisis driven by ballooning rental arrearages. According to affordable housing providers, rent arrearages have grown so large that many properties are not bringing in enough revenue to pay mortgages and maintenance costs. While the full scale of unpaid rent in the District is not known precisely, a recent article in BisNow suggests that 20 mission-driven affordable housing providers with properties in the District have accrued a total of \$15 million per year in unpaid rent. The effects of this crisis cannot be understated. One affordable housing developer, Neighborhood Development Company, announced its decision to end operations in the District

36 beginning September 30, 2024. Another affordable housing developer, E&G Group, is currently
37 liquidating its properties in the District. Several non-profit developers report that this crisis is
38 drying up access to capital to build more affordable units.

39 (b) This crisis is being driven, in large part, by District laws regarding Emergency Rental
40 Assistance Program (ERAP) funds and the eviction process. Currently, the law allows tenants to
41 submit an unsworn declaration made under penalty of perjury to establish proof of eligibility for
42 ERAP funds and requires the court to stay proceedings in eviction cases when a tenant submits
43 an application for ERAP, even if the tenant is determined not to be eligible for ERAP or will not
44 receive enough ERAP funds to cover the full amount of unpaid rent and the housing provider
45 opts not to pursue a payment plan to cover the remaining arrearages. Additionally, because the
46 ERAP application portal opens each quarter, tenants in numerous cases have been able to secure
47 multiple stays in an eviction case, further delaying the ability of the housing provider to secure a
48 writ while the rent arrearages continue to grow. Where eviction cases used to take 3 to 5 months
49 from the date of filing to an eviction, they can now take a year or more.

50 (c) The provision requiring the court to stay proceedings in eviction cases when a tenant
51 submits an application for ERAP has not only contributed to the lengthening of eviction case
52 timelines, it has also contributed to a growing backlog of cases in the Landlord and Tenant
53 Branch of Superior Court, compounding the delays. In 2023, the pending caseload for the
54 Landlord and Tenant Branch grew by 23%, with more cases pending than at any point in the past
55 10 years despite the number of filings being significantly less than prior to the COVID-19
56 pandemic.

57 (d) Without Council action to amend these provisions of the law, the financial crisis
58 facing affordable housing providers will worsen, leading to foreclosures of affordable properties

59 and causing lenders to avoid providing loans to affordable housing providers in the District.
60 Importantly, foreclosures caused by this crisis would wipe out affordability covenants, which
61 will reduce our already inadequate supply of affordable housing.

62 Sec. 3. The Council of the District of Columbia determines that the circumstances
63 enumerated in Section 2 constitute emergency circumstances making it necessary that the
64 “Emergency Rental Assistance Reform Emergency Amendment Act of 2024” be adopted after a
65 single reading.

66 Sec. 4. This resolution shall take effect immediately.