



HOUSING NOW

May 2021

LEGISLATIVE UPDATE: RENT RELIEF, EVICTIONS & STAR

Mark Glaser, Esq., Greenberg Traurig

During the past month, 3 pieces of legislation of importance to manufactured home community owners were enacted into law. The legislation includes (i) a new rent relief program enacted as part of the 2021-2022 budget that will provide for payments to landlords who are owed rent as far back as March, 13, 2020; (ii) legislation extending the eviction moratorium until August 31, 2021; and, (iii) elimination of the STAR exemption for manufactured home homeowners, instead setting up a process for affected homeowners to be transferred to the STAR credit program. Each of these are discussed below.

RENT RELIEF

The rent relief legislation is designed to speed up the delivery of funds to landlords to avoid eviction of tenants impacted by the Covid crisis. The legislation includes the creation of a priority period applicable to owners and operators of manufactured home communities (among certain other groups), that will expedite the processing and payment of approximately \$2.3 Billion dollars in rent relief funds that was appropriated to pay back rent. Importantly, to take advantage of the priority provisions of the new law, manufactured home community owners and operators must submit requests for payment within 30 days of the opening of the program. Please note that there is a possibility that the funds appropriated in the bill may not be sufficient to cover all rent arrears, therefore, community owners must act quickly to take advantage of the priority assigned to

manufactured housing. We will keep you informed of new developments as the program is operationalized.

How the Program will work:

In order to expedite the payment of funds, the legislation designated the Commissioner of the Office of Temporary and Disability Assistance (OTDA) to administer the program.

Since the passage of this legislation, OTDA, working with other state agencies has been developing the program, which is expected to be launched later in May.

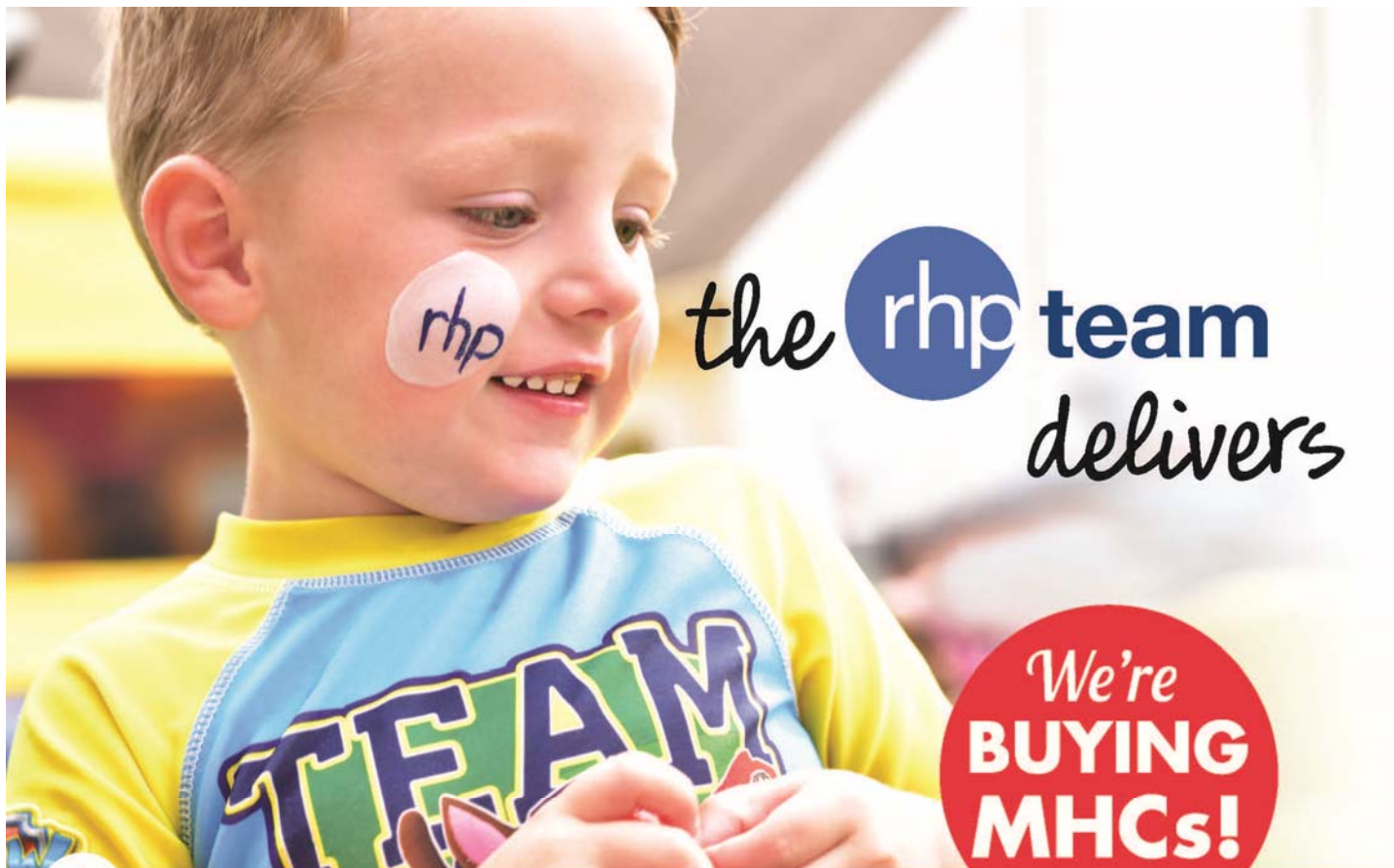
The legislation provides that OTDA may also opt to work with local municipalities to distribute funds.

The legislation requires that of the funds that are allocated in the first 30 days (the priority period), 35% must go to recipients outside the City of New York. After this 30-day period, applications will be processed on a rolling basis (e.g., as they are received) regardless of priority.

The legislation specifically provides that households, "including both tenants and occupants of dwelling units *and manufactured home tenants*" are eligible. [Note that manufactured home tenant is defined to include both renters and owners of manufactured homes in communities.]

Prioritization: the legislation provides for prioritization of the processing of applications and distribution of funds to certain categories of recipients including:

LEGISLATION, cont. on Page 4



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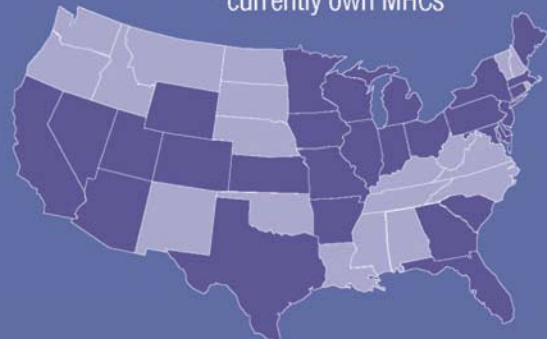


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FROM THE NYHA PRESIDENT



JOE BUSHEY

MOMENTUM CONTINUES TO BUILD!

We are already one third of the way through 2021 and business in New York is on the rise! During the month of March, NYHA recorded 222 HUD homes shipped into the state, which is the highest monthly total ever. The first quarter was one of the strongest on record for shipments into the state and we have a great chance to have 2021 be one of the best years for factory-built housing in recent memory.

Demand for housing continues to climb almost as quickly as the cost of raw materials to build homes. Fortunately, the rise in the cost to build today has not deterred folks from continuing to invest in a safe, comfortable and energy efficient place to call home. As the numbers increase, so do our opportunities to continue to grow. I encourage all of our members to keep investing in your business in New York, take super care of the customers that give you the privilege of helping them achieve home ownership, and be laser focused on providing the most value you can to our consumers.

Please remember how true it is that there is strength in numbers, and even more importantly, that any organization is only as strong as its weakest link. Our biggest opportunity at NYHA is having everyone who works in our industry as a member of our association, and it is critical that those of us who are members participate and encourage those who are not members to join our team. Ultimately, the more the industry grows, the more each of our own businesses will also grow and prosper. I look forward to seeing a huge turnout at this year's Summer Outing and please make sure you have marked your calendar for our 71st Annual Convention this October!

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- households whose income does not exceed 50% of the area median income;
- *households who are tenants of mobile homes or mobile parks whose arrears have accrued for the land on which the mobile home is located;*
- certain vulnerable populations, including veterans;
- households in areas that have been particularly hard hit by Covid;
- households who reside in developments of 20 or fewer units owned by a small landlord (limited to landlords who own 20 or fewer units);

The legislation further provides that there be an additional prioritization as follows:

First Priority: Households with income that does not exceed 50% of area median income and have a member in one of the priority groups above – Including manufactured home communities;

Second Priority: Households with income that does not exceed 50% of area median income that do not have a member in one of the priority groups;

Third Priority: Households with income that does not exceed 80% of area median income and have a member in one of the priority groups above– Including manufactured home communities; and,

Last Priority: Households with income that does not exceed 80% of area median income that do not have a member in one of the priority groups.

Because of the prioritization schedule, it is essential that manufactured home community owners work with their residents who are behind in rent to make sure that applications are submitted as soon as possible after they become available. Landlords will be able to apply on behalf of their tenants.

THE APPLICATION PROCESS:

Local municipalities are required to designate staff or local not-for-profit entities to assist with the application process;

“Any party, or their designee, that may be eligible to receive funds [e.g., landlords] may initiate an application.”

OTDA is required to develop and make available a “means by which an application submitted by a tenant, a landlord, or both jointly, can be tracked by the tenant or the landlord, regardless of who submitted such application.”

Amount of Payment:

Payments can be for as much as 12 months arrears in rent and, in certain cases, may include up to 2 or 3 months of prospective rent payments.

Late fees may not be included in the amount of arrears sought to be reimbursed under this program.

Use of funds – Funds received under this program may be used only to satisfy the tenant's full rental obligations to the landlord or owner for the time period covered by the payment.

Obligations of Landlords:

Provide OTDA with the information and documentation required for payment;

Note: Failure of a landlord (a) to provide information required for the Tenant to seek payment of back rent to the landlord, or (b) to agree to participate in the program, will result in the Landlord losing the right to evict the tenant for failure to pay rent [the law provides that the failure of the landlord to participate or to cooperate may be asserted as an affirmative defense in an eviction proceeding], as well as losing the right to seek a monetary judgment against the tenant for the amount of the unpaid rent.

Keep confidential any information or documentation from or about the tenant or occupant acquired pursuant to this application process, and only use the information for purposes of obtaining payments under this program.

If a landlord accepts funds under this program, the landlord must agree:

- that the amount of funds provided under the program satisfies the outstanding rent obligation;
- to waive any late fees;
- not to evict the tenant for the time period covered by the payments; and,

- not to increase the rent for one year after the first payment of rental arrears funds is received; (Note that this only affects the tenants on whose behalf rental payments are accepted.)

There are a number of other details in the bill which have been omitted in the interests of keeping this relatively short. Among those provisions is a program for residents to obtain funding to pay utility bills that were not paid during the pandemic.

EXTENSION OF THE EVICTION/FORECLOSURE MORATORIUM

Chapter 104 of the Laws of 2021 extends the eviction moratorium to August 31, 2021. As a reminder, the eviction moratorium prohibits a tenant from being evicted because of unpaid rent if the tenant claims a Covid-related hardship. Similarly, small landlords (owning 10 units or less, at least one unit of which is the primary residence of the landlord), are protected against foreclosure. The eviction moratorium simply required persons and entities seeking protections under the Act to file a hardship declaration (under penalty of perjury) asserting that the tenant was adversely affected by the Covid crisis. In addition, the Act also extended, until August 31, 2021, the "Protect Our Small Businesses Act" which provides similar eviction/foreclosure protections to tenants and owners of small commercial business properties (10 or fewer units).

STAR EXEMPTION PROGRAM ELIMINATED

The 2021-2022 budget also included a provision that repeals the STAR exemption program. Residents of manufactured home communities who received the STAR real property tax exemption this year will be "automatically" transitioned to the STAR real property tax credit program for the 2022-2023 tax year. For those residents who cannot be automatically transitioned, the Department of Tax and Finance will work with the residents and community owners to accomplish the transition. As you know, this program reduced community real property tax bills by an amount equal to the STAR exemption attributable to eligible homes, and community owners were then obligated to reduce the rent of the eligible homeowners by the amount of the exemption. As a result of this legislation, community owners will no longer have to refund the amount of the exemption to their residents. Conversely, community owners will no longer receive the reduction in their real property tax bills in the amount of the STAR exemption.

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PRESIDENT BIDEN'S FY 2022 DISCRETIONARY SPENDING REQUEST INCLUDES INVESTMENTS TO ADDRESS AFFORDABLE HOUSING SHORTAGE

President Biden submitted to Congress his Fiscal Year 2022 \$1.52 trillion discretionary spending plan, which would be a \$118 billion or 8.8% increase over current funding.

In his plan, President Biden calls for a total of \$68.7 billion for the U.S. Department of Housing and Urban Development (HUD) to strengthen and advance key HUD priorities including addressing the critical shortage of affordable housing; improvement of the quality of affordable housing through investments in resiliency and energy efficiency; and strategic investments across multiple programs to strengthen communities facing underinvestment and to prevent and redress housing-related discrimination. Specifically, the Administration seeks the following:

- \$1.9 billion for HOME, an increase of \$500 million, the highest level for this program since 2009.
- \$3.8 billion for the Community Development Block Grant program, an increase of \$295 million.
- \$800 million in new investments through HUD for rehabilitation and modernization to further climate resilience and energy efficiency, and \$400 million through the Department of Energy for the weatherization of low-income homes..
- \$85 million in grants to support state and local fair housing enforcement organizations, and investments in HUD staff and operations capacity to deliver on the president's housing priorities, including commitments outlined in the Presidential Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies.
- \$900 million to fund tribal efforts to expand affordable housing, improve housing conditions and infrastructure, and increase economic opportunities for low-income families.

The release of this request begins the annual negotiation process between the President and Congress to determine how funds should be distributed across the government. In the coming months, the Administration will release the President's budget.

MHI WORKING WITH SENATE AND HOUSE COMMITTEES TO ADVANCE MANUFACTURED HOUSING

In advance of two Congressional hearings this week in Congress, MHI is working with our champions on the Committees to have manufactured housing be a topic of discussion. For a hearing in the Senate Banking Committee on April 13 entitled "Separate and Unequal: The Legacy of Racial Discrimination in Housing," MHI is bringing to Congress' attention that there is great opportunity to pursue its racial equity agenda by taking actions that support the availability and placement of manufactured homes in communities across America. At a hearing in the House Financial Services Committee on April 14 entitled "Building Back Better: Examining the Need for Investments in America's Housing and Financial Infrastructure," MHI will be submitting a statement for the record urging the Committee to include provisions in any infrastructure package that supports the production of affordable housing by addressing exclusionary zoning and harmful land use policies, using federal resources to "build, preserve and retrofit" older manufactured homes, and improving the availability of FHA financing. For both hearings, MHI is working with Committee members to ask questions of the witnesses.



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MANUFACTURED HOME PARKS REGISTRATION (MHPR)

Starting June 1, 2020, the New York State Department of Taxation and Finance and New York State Homes and Community Renewal (HCR) consolidated their registration and reporting systems for manufactured home park owners.

Owners are now required to register their manufactured home communities with the Tax Department through its online application for Manufactured Home Parks Registration.

This will allow the Tax Department to:

- offer an updated online application like those you may already use to report and pay your New York State individual and business taxes;
- view and report all your park data; and
- share updated information with the Office of Real Property Tax Services to facilitate STAR check delivery to those who qualify.

You will be able to:

- manually enter or upload your lot info, and
- update your park information throughout the year.

To better serve you and your manufactured home park community and to provide information for

STAR, you will register with the Tax Department twice each year now: during June and during December. You will now need to provide lot details, including lot numbers, physical addresses, monthly lot rent, and names of adult residents.

What stayed the same?

You should have registered and updated your contact information on the Tax Dept. website, but you will continue to contact HCR regarding:

- adding a new manufactured home park;
- responding to resident complaints; and
- resolving a registration delinquency notice issued by HCR.

What should I be doing now?

You should have started using the new registration system in 2020, so you should have an online MHPR account to gain access to the Tax Dept. registration form on their website.

You can subscribe to the Dept. of Tax & Finance *Manufactured Home Park Owners* email topic for reminders, updates, and tips to make registration fast and simple.

Starting June 2020

Registration for manufactured home parks has a new home at the Tax Department!

To learn more, visit: tax.ny.gov/bus/mhp





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May 13	Remote Continuing Education	Aug 3	NYHA Board Meeting
May 14	Remote Area Meeting	Aug 4	Summer Golf Outing
May 28	Remote Area Meeting	Aug 4	Continuing Education, Syracuse
June 2	NYHA Board Meeting	Aug 5	21B & Mechanics Training, Syracuse
Jun 4	Remote 21B & Mechanics Training		

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2021 REMOTE AREA MEETINGS

Once again, Area Meetings scheduled in 2021 will be FREE to all active NYHA Members and are being held virtually due to the ongoing Covid-19 pandemic. Each meeting will run for approximately 3 hours, and the following dates are remaining: **May 14 and May 28.**

Planned topics for each meeting include:

- ⇒ 2021 Legislative Update, including Rent Relief, eviction proceedings and pending legislation in New York;
- ⇒ Resident Relations and how best to keep rent payments coming in during the eviction moratorium;
- ⇒ NYS DOS DBSC Certification News & Building Code Updates;
- ⇒ STAR 2022: Rebates vs. Credits; and
- ⇒ DOT Challenges; what issues are affecting your business?.

These meetings offer networking with industry peers and allow you to ask questions on topics of importance to you and your business. Plan to attend!

What else would you like to have discussed? Please let us know!

Contact: bob@nyhousing.org or kathy@nyhousing.org

To register, visit: www.nyhousing.org/events then click on the date of the meeting you would like to attend. You will receive a confirmation email upon completion of your registration and a link to use to log-in to the meeting as the date gets closer.





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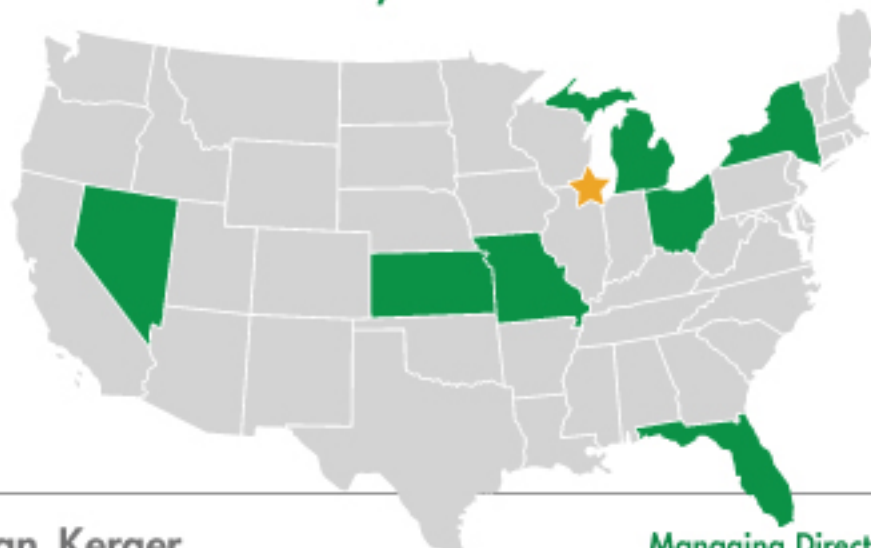


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