POLICY SPOTLIGHT | MARCH 30, 2021

Mitigating Housing Instability During the COVID-19 Pandemic

UNIVERSITY OF ILLINOIS SYSTEM

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Task Force on the Impact of the COVID-19 Pandemic

EXECUTIVE SUMMARY

Governments and public health authorities face a seemingly intractable paradox during the COVID-19 pandemic. Key tools used to manage public health dimensions of the crisis, stay-at-home orders and business shutdowns, have initiated a secondary crisis characterized by widespread evictions and housing instability. Housing instability threatens to undermine the public health response to the pandemic by increasing the number of households facing acute housing distress and various forms of homelessness, ultimately increasing the risk of transmission and exposure to COVID-19.[1] The pandemic exacerbates longstanding housing issues—homelessness, affordable housing shortages, and more broadly, the relationship between income insecurity and housing instability.[2]

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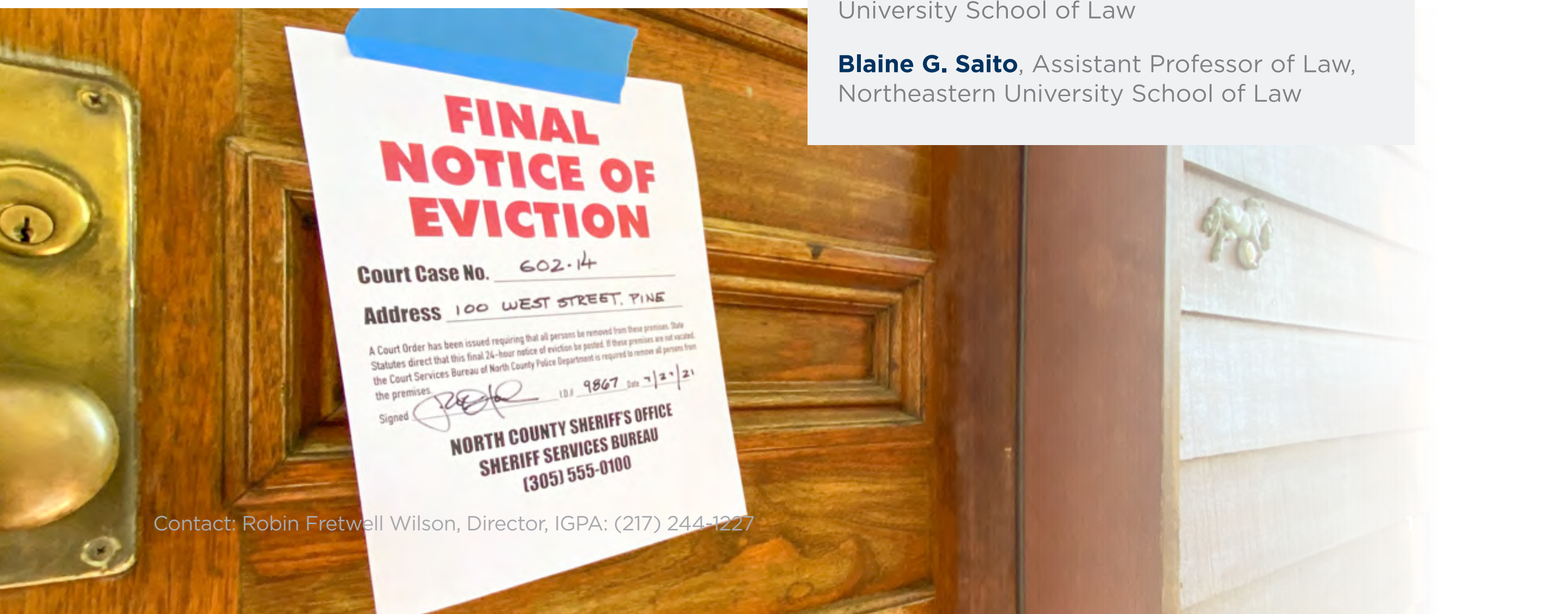

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This Policy Spotlight explains how housing instability may affect public health in the near term and deepen social and economic inequities in the years following the pandemic. It analyzes the strengths and limitations of government efforts to mitigate housing instability during the pandemic, drawing on the 2008 housing crisis and Great Recession as points of reference. Finally, it sets forth suggestions for what can be done to mitigate aspects of the unfolding housing crisis in the coming months. In addition to extending and enforcing eviction freezes, direct housing payment assistance for renters and homeowners is necessary to prevent a wave of evictions and foreclosures. Place-based investment in affordable housing and distressed neighborhoods will also be necessary for the years following the pandemic.

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A PUBLIC HEALTH PARADOX

Physical distancing, a crucial public health tool for controlling the spread of COVID-19, results in economic and social responses that can directly and indirectly increase housing instability. The initial round of stay-at-home orders went into effect in March 2020.[3] Only one-third of tenants indicated they could pay rent in April, and only slightly more than half expected to be able to pay full rent in the following months. Homeowners also fell behind. Roughly 3.4% of Americans were delinquent on their mortgage payments as of April 2020, and by July 2020, 4.1 million homeowners were in forbearance. Data from the weekly U.S. Census Bureau's Household PULSE Survey show that, between August and November 2020, 15% to 18% of renters were behind on rent each week. In Louisiana, New Jersey, South Carolina, Alabama, Mississippi, and the District of Columbia, more than one-fourth of renters reported being behind.[4] In Illinois, approximately 250,000 households faced eviction in Cook County alone as of February 2021.

Temporary eviction freezes and foreclosure moratoriums implemented by federal and state governments—combined with cash assistance included in the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Onmibus Appropriations Bill passed in January 2021—have delayed widespread evictions and foreclosures. However, a wave of evictions is anticipated when current moratoriums expire unless substantial income supports are instituted for renters and owners. Housing attorneys have already reported "a flood" of wrongful eviction cases nationwide because of COVID-19, and the backlog of eviction filings continues to grow despite existing moratoriums.[5] An eviction proceeding can be filed, but the matter cannot be heard or enforced due to the eviction freezes that are in place. These pending eviction filings stand to become immediately enforceable by courts once the freezes are lifted.

This housing instability constitutes a health threat both to individuals experiencing it and to the broader public. Residential foreclosure is associated with worsened mental health and adverse health behaviors, which are in turn linked to poorer health status.[6] Residential eviction is associated with increased levels of stress, depression, anxiety, and insomnia, as well as other negative effects on tenant mental and physical health.[7]

The health consequences experienced by individuals also impose costs on the broader public. For example, they "often trigger a social safety net response (e.g., use of homeless shelters, Medicaid spending ..., payment of unemployment benefits) that is extremely expensive for states and cities."[8] A review of 25 unique studies on foreclosure found that home foreclosure adversely affects physical and mental health at the community level as well as the individual level.[9]

The spillover effects will be even more dire in the context of the COVID-19 pandemic. Households facing eviction are more likely to move into crowded spaces like shared residences, where the risk of transmission is higher. People living in doubled-up

residences have an increased number of daily contacts and are less able to self-quarantine or isolate if they experience symptoms. This allows the virus to spread between occupants of the residence, causing even more infections and deaths. Put plainly, housing instability exacerbates both COVID-19 infection rates and resulting deaths.[10]

DISPARATE IMPACTS ON PEOPLE OF COLOR

Housing instability is experienced disparately based on race and ethnicity, and these disparities are also reflected in which households are facing eviction once federal, state, and local moratoriums are lifted. Eviction rates were high even before the pandemic and disproportionately affected communities of color. One study of evictions noted significant racial disparities in the neighborhoods most impacted by evictions. Researchers in Boston found found that, between 2014 and 2016, a disproportionate number of evictions happened in communities of color, and that the number of Black renters in an area is a better predictor of eviction filings than any other factor.[11]

The economic impact of the COVID-19 pandemic has hit women particularly hard. Women disproportionately work in low-wage jobs, and jobs that come with unstable work schedules.

Our analysis of county-level eviction rates in 2016 showed that they tend to increase as the nonwhite proportion of the population increases.[12] The quintile of counties with the highest proportion of nonwhite residents experienced eviction filings at more than four times the rate of those in the lowest quintile. Likewise, the eviction rate in these counties was nearly double. This recent history suggests that evictions are likely to disproportionately affect racial minorities, even before accounting for additional economic and health disparities driven by the COVID-19 pandemic.

Between August 19th and November 23rd, 2020, weekly surveys conducted by the U.S. Census Bureau examined the proportion of renters facing the threat of eviction. Of those renters surveyed, in each week between 40%–49% of white renters faced the likely threat of eviction within the next two months. By comparison, 17%–33% of Asian renters, 39%–54% of Latino renters, 41%-54% of Black renters, and 43%-62% of renters in other racial or ethnic groups faced the threat of eviction in each weekly survey.[13]

Furthermore, early data on the economic fallout from the COVID-19 pandemic suggest that people of color have been disproportionately affected. While the total number of active business owners decreased by 3.3 million, or 22%, between February and April 2020, the impact on communities of color was even more pronounced. Black-owned businesses fell by 41%, Latino-owned by 32%, Asian-owned by 26%, and female-owned by 25%.[14] The “concentrations of female, black, Latinx and Asian businesses in industries hit hard by the pandemic contributed to why losses were higher for these groups than the national average loss.”[15]

The economic impact of the COVID-19 pandemic has hit women particularly hard. Women disproportionately work in low-wage jobs and jobs that come with unstable work schedules. The implications of necessary stay-at-home orders included a loss of wages and, in many cases, a loss of work altogether for women in precarious work. Between February and April 2020, the unemployment rate for females rose by more than 12 percentage points.[16] Overall, by February 2021, women lost more than 5.4 million jobs, representing more than one million additional jobs lost when compared to male workers. Furthermore, in December 2020, the entire sum of jobs lost by women occurred among Black, Latino, and Asian women.[17] Executive Order 13995 of January 21, 2021, titled *Ensuring an Equitable Pandemic Response and Recovery*, also points to additional

groups facing disparate health and economic impacts from COVID-19 including sexual and gender minority groups, people with disabilities, rural communities, and tribal communities.[18]

The CARES Act created the Paycheck Protection Program (PPP), which authorized more than $670.3 billion in loans to employers, to help prop up small businesses during the pandemic.[19] Yet, a series of implementation problems have prevented PPP loans from meeting expectations, particularly in the case of very small businesses.[20] These problems included delayed issuance of guidance and were compounded by decisions by banks to prioritize loans to existing customers.[21] As a result, many women- and minority-owned businesses did not get loans, despite being specifically listed as intended recipients.[22] The failure of PPP loans to support many small businesses has left many people—particularly people of color—increasingly vulnerable to unemployment as the pandemic continues.

LESSONS FROM THE GREAT RECESSION

While the COVID-19 pandemic differs from previous housing crises in important ways, several lessons can be learned from the efforts to mitigate housing instability during the last significant housing crisis, the Great Recession of 2007-2009.[23] Arguably, the the most effective initiative at that time was the Homelessness Prevention and Rapid Re-Housing program. It provided flexible funding for housing payment assistance, utility payments, moving cost assistance, and temporary housing assistance.[24] Despite a relatively modest appropriation of $1.5 billion, the program substantially reduced emergency shelter utilization among the targeted population. Households entering the program had a 10% chance of experiencing an episode of homelessness within a year after their entry. This suggests that a large-scale, fully funded homelessness prevention program that includes housing payment assistance paid directly to individuals or landlords would be effective to mitigate housing instability.

In contrast, indirect efforts to mitigate housing instability through voluntary, market-driven initiatives have frequently failed to reach their full potential due to low participation rates, resource constraints, and slow government implementation. Voluntary mortgage modification programs, for example, suffered from lower-than-expected participation.[25] During the first year of the Home Affordable Modification Program, only three homeowners were approved for debt reduction in Arizona, even though almost half of the state's

homeowners held underwater mortgages.

Meanwhile, minimal resources were devoted to rental assistance, and interventions to promote affordable housing focused on supply-side subsidies for affordable housing development.[26] Though affordable housing development was necessary to address the lasting effects of the housing crisis, construction takes too long to allow this capacity-building strategy to serve as an emergency response. Ultimately, these initiatives failed to provide relief to many eligible homeowners and renters who needed direct housing payment assistance.[27]

In addition, the Great Recession highlighted the need for ongoing mitigation of housing instability following the initial crisis period. The Great Recession was characterized by a long-term elevation in eviction rates during the recovery period. Furthermore, the recovery was spatially uneven, and the effects of the crisis are still visible in many low-income neighborhoods. This spatial unevenness was an important impetus for the enactment of federal Opportunity Zone (OZ) legislation.[28] This history illustrates the need for a sustained policy response that extends beyond the immediate crisis.

Moreover, some developments following the Great Recession may have heightened the risk of housing instability during the COVID-19 pandemic. After the Great Recession, investments in institutionally owned single-family rental housing grew rapidly.[29] Research shows that eviction rates for these rentals are higher than for other rental properties.[30] These changes made tenants more vulnerable during the pandemic than they were before the Great Recession. In addition to an increase in tenant housing instability, the financial pressure placed upon smaller-sized landlords also has the potential to result in further consolidation of the rental housing stock under institutional investors in rental housing.

The lasting impact of the Great Recession highlights the potential for housing crises to introduce long-term vulnerabilities that heighten the risk of future crises. The outcomes also signal the need for a sustained policy response in the years after the pandemic to prevent ongoing harm to minority communities.

CARES ACT MITIGATION EFFORTS

To address housing instability during the pandemic, policymakers may choose to provide financial assistance in two ways: sending people cash (or cash equivalents) or temporarily stopping their recurring necessary expenses such as rent or student loans.[31] Though federal and state governments have embraced both strategies, the most direct early interventions to mitigate housing instability have been foreclosure moratoriums and eviction freezes.[32]

The initial federal response to the COVID-19 pandemic, which came in the form of the CARES Act, did not include any federal program authorization to provide direct housing payment assistance. Instead, the CARES Act provided $150 billion in assistance for state, territorial, and tribal governments, with a minimum allocation of $1.25 billion per state, which could be used for state and local housing payment assistance programs.[33] However, this funding was not restricted to use for this purpose, and the allocation of these funds varied by state.

The lasting impact of the Great Recession highlights the potential for housing crises to introduce long-term vulnerabilities that heighten the risk of future crises. The outcomes also signal the need for a sustained policy response in the years after the crisis to prevent ongoing harm to minority communities.

Many states did use the funding to implement housing assistance programs, with additional funds being drawn from existing state and local funding or budget allocations.[34] In an October 2020 analysis, the National Low-Income Housing Coalition identified a constellation of 438 rental assistance programs, including 68 state programs and 370 local programs.[35] For example, Illinois has implemented emergency rental and mortgage assistance programs, with the latter prioritizing disparately affected homeowners.[36] Florida has provided state-level, short-term rental assistance while also allocating funding to counties for local rental and homeowner payment assistance programs. Colorado has provided direct housing payment assistance

for renters and homeowners.[37]

The rental assistance created by these and other state and local programs benefits residents of 43 states and Washington, D.C., with at least $2.7 billion in rental assistance and $1.2 billion in broader housing assistance (including mortgage assistance).[38] Notably, however, some states, such as Alabama, Georgia, and Tennessee, have not implemented widespread housing assistance programs using the CARES Act funding. Even in states that have implemented housing assistance programs, the demand for assistance has been extremely high, often surpassing available resources.[39]

Meanwhile, the CARES Act failed to include dedicated housing payment assistance for struggling renters or homeowners. Instead, the law provided for (1) temporary eviction freezes and foreclosure moratoriums, and (2) cash payments that indirectly mitigated housing instability. While these interventions have been partially successful in preventing widespread foreclosures and evictions, the temporary eviction freezes and foreclosure moratoriums are insufficient to eliminate the need for direct housing payment assistance. The cash assistance programs have failed to fill that gap.

When they apply, foreclosure moratoriums and eviction freezes are mandatory direct regulation, which differs from the voluntary loan

modification incentives used during the Great Recession. Compared to those voluntary programs, these efforts have been relatively successful at preventing a wave of foreclosures and evictions even as unemployment has spiked to unprecedented levels.[40] The Urban Institute estimates that "eviction moratoria covering federally financed properties … apply to roughly 12.3 million (28%) of the 43.8 million [U.S.] rental units." State-level eviction freezes have supplemented the federal law to cover additional tenant populations. At least 43 states implemented eviction freezes in the first few months of the pandemic, and at least 31 states have imposed foreclosure moratoriums.[41]

However, these state-level interventions vary as to the populations covered, the duration, and the degree of protection.[42] In addition to the limited coverage of the freezes, these interventions have been hindered by at least two factors: uncertainty about how past-due payments should be treated once the moratoriums and freezes are lifted, and an informal (and often illegal) practice of evicting tenants without initiating formal eviction procedures through the court system.[43] These issues highlight the need for direct housing payment assistance, which could take the form of housing payment vouchers and be paid directly to landlords.[44] They also highlight a need for stronger enforcement of the freezes themselves.

Instead of direct housing payment assistance, the CARES Act included several provisions for monetary relief targeting individuals. Unlike direct housing payment assistance, which would target distressed homeowners or renters for the express purpose of mitigating housing instability, these programs only address housing instability indirectly. The most significant cash assistance for individuals has taken the form of expanded unemployment insurance benefits. The CARES Act temporarily expanded: (1) the qualification criteria for covered workers; (2) the amount of time that people are eligible to remain within the unemployment compensation system; (3) the amount of benefits that people receive from unemployment compensation; and (4) the availability of short-time unemployment compensation, otherwise known as work-share programs.[45]

The scope of unemployment assistance under the CARES Act was unprecedented. The $600 weekly supplement to states' existing unemployment insurance was sufficient to bring the national average replacement rate—the ratio of average unemployment benefits to average wages in each state—close to 100%.[46] For many low-wage workers, the extra $600 per week could yield more compensation than if they had remained employed.[47] As a result, the intervention had significant potential to mitigate housing instability.

However, because the program was funded by the federal government but left to the states to administer, large regional variations in implementation rendered the program more effective in some places than others. Such variation stems from: (1) differences in states' capacities to administer an unemployment insurance program at scale, and (2) differences in states' capacities to provide large unemployment insurance safety nets.

First, the unemployment insurance system in many states was overwhelmed by the sheer volume of applications for benefits. As a result, many self-employed people, such as gig workers,

were unable to promptly receive unemployment benefits.[48] Second, states' fiscal health concerns presented additional challenges. While the new benefits are fully funded by the federal government, traditional regular benefits and extended benefits are still partially funded by the states.[49] Declines in state revenue leave some states facing a perfect storm—a combination of increased needs and decreased revenue, coupled with increased reliance on borrowing from the federal government to meet present needs.[50] This combination of circumstances is likely to lead to additional delays and fiscal crises that further worsen housing instability.[51]

Ultimately, these implementation challenges prevented some struggling renters and homeowners from receiving cash assistance in time to stay current on housing payments. Such payment delinquencies, which are hard for many people to recover from, have left them vulnerable to eviction and foreclosure when freezes and moratoriums expire. Moreover, if homeowners and renters do face foreclosure and eviction, they may face difficulties buying and renting homes in the future. For these reasons, the need for direct housing payment assistance remains. If lawmakers wait until the freezes are lifted to provide assistance, any delay in the implementation may result in mass evictions, as more than 250,000 evictions have been filed in courts and will be immediately enforceable when the freezes are lifted.

CONSOLIDATED APPROPRIATIONS ACT MITIGATION EFFORTS

The Consolidated Appropriations Act signed into law on December 27, 2020, included more than $900 billion in COVID-19-related relief. In addition to extending CARES Act unemployment assistance, the bill included several emergency provisions and appropriations that address housing instability.[52] As explained below, these provisions include extended federal eviction freezes and foreclosure moratoriums, housing assistance payments to be distributed by state and local governments, increasing funding for the federal Housing Choice Voucher Program, and increasing funding targeted for affordable housing and community development. Overall, these initiatives improve upon the mitigation efforts included in the CARES Act by targeting assistance directly to housing programs. However, the amount of funding continues to fall significantly short of the estimated need, and many tenants will remain vulnerable to eviction (legal and illegal) in the coming months.

Specifically, the law extended the U.S. Centers for Disease Control and Prevention eviction moratorium through January 31, 2021 (a deadline that the Biden Administration later extended to March 31, 2021), and it allocated $25 billion in state grants for emergency rental assistance. Unlike the state grants included in the CARES Act, these grants target rental assistance to renter households experiencing COVID-19 related housing instability who are below 80% of area median income.[53] Specifically, 90% of the funds must be used to provide financial assistance for rent, rental arrears, utilities and home energy costs and arrears, and other rental expenses. State and local governments must prioritize renter households experiencing unemployment for more than 90 days and whose income is at or below 50% of area median income, helping to ensure that tenants with the most need are assisted first.[54]

This $25 billion in rental assistance is helpful, but it is insufficient to meet current needs. The National Low-Income Housing Coalition estimates that nearly $100 billion in direct rental assistance is required.[55] Moreover, the bill limits emergency housing assistance to three months of rent, which may leave renters at risk of eviction if the pandemic continues to disrupt employment. The bill also prohibits states from assisting applicants with prospective rental payments until they have helped reduce the household's rental arrears.[56] Because many tenants are currently in arrears due to the relative lack of housing assistance under the CARES Act, this limitation implies that much of the new emergency assistance will be used to assist with rental obligations that accrued in

2020, and it may fail to cover new obligations that arise in 2021.

In addition to emergency rental assistance, the bill included a $25.8 billion appropriation for the federal tenant-based rental assistance program (Housing Choice Vouchers), which expanded the program by $1.9 billion above the 2020 enacted level. Of that amount, $43.4 million must be used to assist individuals and families who are homeless.[57] While these programs are essential parts of federal housing policy, the increase over non-emergency levels is relatively small.

We recommend preventative policies that keep owners and renters in their homes and programs that facilitate rapid rehousing of people who lose their homes due to foreclosure or eviction.

Beyond assistance for individuals, the Consolidated Appropriations Act also included place-based initiatives aimed at supporting investment in affordable housing and neighborhoods hardest hit by COVID-19. The Act included a $7.8 billion appropriation to the federal Public Housing Fund,[58] which was $387 million above the 2020 enacted level.[59] It established a new floor for the Low-Income Housing Tax Credit (LIHTC) program used for rehabilitation of affordable housing or paired with other federal subsidies.[60] The LIHTC expansion is intended to promote private investment in affordable housing.[61] Finally, the legislation included $3 billion in funding to assist community development financial institutions that invest in neighborhoods disproportionately affected by the pandemic, and it extended the New Markets Tax Credit program through 2025.[62] These programs may help address long-term affordable housing needs and the uneven geographic impact of the pandemic and will help a greater share of those households facing the housing affordability and instability challenges.

RECOMMENDATIONS FOR MITIGATING HOUSING INSTABILITY DURING THE PANDEMIC

As the federal response evolves alongside the pandemic, an effective response would include policies focused on preventing the displacement of owners and renters, create viable pathways for revenue recovery on the part of landlords and mortgage providers, and expand and evolve a housing safety net that facilitates rapid rehousing of people who lose their homes to foreclosure or eviction. The authors recommend that policymakers prioritize interventions that provide relief directly to individuals facing housing instability. The first form of relief—direct housing payment assistance—is necessary even when indirect assistance (like unemployment insurance) or non-monetary direct interventions (like eviction freezes and foreclosure moratoriums) are available. The second form of emergency relief is the implementation of effective and enforceable eviction freezes and foreclosure moratoriums.

Housing Payment Assistance

The authors recommend both preventative

policies that keep owners and renters in their homes and programs that facilitate rapid re-housing of people who lose their homes due to foreclosure or eviction. The $25 billion in rental assistance passed as part of the 2021 Consolidated Appropriations Act falls short of the $100 billion of the estimated need.[63] Future federal policy responses should include continued housing-specific monetary assistance for renters or homeowners.

We recommend reinstatement of the Homelessness Prevention and Rapid Re-Housing (HPRR) program, which successfully ran from 2009-2012. The HPRR program was similar to the emergency rental assistance grants included in the Consolidated Appropriations Act,[64] but it was more comprehensive. For example, the program specifically provided funding for rehousing programs, as well as temporary housing solutions like hotel and motel vouchers.[65] A fully funded HPRR program could provide direct aid to struggling tenants and homeowners, including financial assistance and housing relocation and stabilization services. Struggling homeowners should also be provided direct assistance with mortgage payments, property taxes, property insurance, utilities, and other housing related costs.[66]

We also recommend that lawmakers continue to leverage existing tools, such as the Section 8 Housing Choice Voucher program, to take advantage of established federal administrative frameworks that can help minimize problems and delays during the program rollout.[67] Though the Consolidated Appropriations Act included a $1.9 billion increase in Housing Choice Voucher funding over 2020 enacted levels, we recommend further expansion of this tenant-based rental assistance program. We believe that such targeted interventions to prevent homelessness through tenant and homeowner assistance will be more effective than place-based strategies or indirect assistance programs. An expansion of the Housing Choice Voucher Program would also benefit from strengthened protections for subsidized renters. Landlord discrimination with respect to a tenant's source of income remains a major issue for voucher-assisted tenants, and while some state, county, and local jurisdictions maintain source of income protection laws for voucher-assisted households, coverage and enforcement are currently uneven. Working

now toward more permanent fixes for this long-standing problem will benefit all voucher-assisted households, and it will further the fair housing goals associated with the Housing Choice Voucher Program.

Eviction Freezes and Foreclosure Moratoriums

Eviction freezes and foreclosure moratoriums will continue to play a significant role in mitigating housing instability, so it is essential that lawmakers take steps to ensure such laws are both effective and adequately enforced.[68] A look at the 27 cities tracked as part of Eviction Lab's Eviction Tracking System shows a total of 162,563 eviction filings since March 15, 2020. Because low-income tenants are particularly vulnerable to enforcement failures, we recommend that states implement a right to counsel in eviction proceedings during these extreme circumstances.[69] Recall that while many states have implemented eviction moratoriums to prevent a wave of evictions, housing advocates nevertheless report a flood of wrongful eviction cases nationwide. Housing instability will likely increase if unemployment rates continue to rise and foreclosure moratoriums and eviction freezes expire. This will lead to a further surge of eviction cases, precipitating additional housing instability and homelessness.[70]

Eviction freezes and foreclosure moratoriums will continue to play a significant role in mitigating housing instability, so it is essential that lawmakers take steps to ensure such laws are both effective and adequately enforced.

Low-income tenants are in the greatest jeopardy and can often be helped with modest resources. Many tenants in New York City threatened with eviction owe less than $600.[71] Studies show that a homeless individual can cost taxpayers more than $35,000 in programs and services including increased costs to the public health care system and the cost of emergency housing.[72] Studies also show that right-to-counsel initiatives save resources by preventing the use of homeless services and programs simply by keeping people in their homes.[73] A cost-benefit analysis in New York City showed that a right-to-counsel program would reduce evictions by 77% and save $320 million each year.[74] Keeping people in their homes is also an important public health goal during this pandemic. A civil right to counsel in eviction proceedings will help achieve this goal.

Landlords are almost always represented in court by attorneys while many tenants do not have representation.[75] Many tenants would have strong legal defenses to prevent eviction but lack the knowledge and skills to prevail without assistance.[76] In Chicago, having an attorney decreased tenants' "odds of getting an eviction order by about 25%."[77] In an evaluation of a legal assistance program for low-income tenants in New York City's Housing Court, the results demonstrated that having legal counsel produced large differences in outcomes for the low-income tenants. "For example, only 22% of represented tenants had final judgments against them, compared with 51% of tenants without legal representation," the evaluation said.[78] Harvard researchers have also empirically shown that Massachusetts' outcomes are materially improved for tenants when they have access to full legal representation.[79]

Currently, New York City, San Francisco, and Newark have right-to-counsel programs for tenants in eviction.[80] Various pilot programs have demonstrated that a targeted approach for supporting low-income housing court litigants in danger of homelessness with legal, financial, and social service interventions can keep them from homelessness.[81] In New York City, when Housing Court eviction cases were "resolved by [the Office of Civil Justice's] legal services providers, 84% of households represented in court by lawyers were able to remain in their homes, not only saving thousands of tenancies but also promoting the preservation of affordable housing and neighborhood stability."[82] Many reports have concluded that the monetary benefits of representing eligible beneficiaries in eviction and foreclosure proceedings far outweigh the costs of providing these services.[83]

Thus, in an effort to further stave off homelessness once the eviction and foreclosure forbearance measures have expired, we recommend a 5-year right-to-counsel program of civil legal aid in eviction and foreclosure cases. The right-to-counsel program would be funded by competitively granting awards to governmental entities to assist low-income tenants and homeowners. This would ensure that they obtain housing benefits to which they are entitled and would assist them in housing courts when faced with losing their apartments or homes.[84] The award recipients' programs should focus on making full legal representation available to low-income tenants facing eviction in housing court or termination in a public housing authority proceeding, and to low-income homeowners facing foreclosure.[85] The Consolidated Appropriations Act includes $20 million in competitive grants for free legal assistance to low-income tenants facing eviction, but this remains insufficient given the enormity of the problem.[86]

As federal funds are unlikely to meet all needs related to legal representation regarding housing

issues, we strongly recommend that states fund such programs as needed. We note that up to 10% of the emergency rental assistance provided under the Consolidated Appropriations Act can be used for "housing stability services." While it is unclear what the phrase "housing stability services" includes, the statute refers to "case management and other services related to the novel coronavirus disease (COVID-19) outbreak."[87] We believe that states should interpret this language broadly to include legal services, and they should use this funding to support right-to-counsel programs.

RECOMMENDATIONS FOR MITIGATING HOUSING INSTABILITY AFTER THE PANDEMIC

The second priority is to develop place-based interventions that mitigate housing instability in the years after the pandemic ends. Legislators should resist creating something from whole cloth. Existing place-based intervention strategies, including the LIHTC program and a reformed OZ program, can be used to quickly and efficiently support long-term demand for affordable housing, as many investors already participate in these programs. To ensure that the benefits of these interventions flow to neighborhood residents instead of investors, the law should prioritize affordable housing and development that is likely to directly benefit community residents.[88]

During the Great Recession, a significant barrier to advancing these objectives was the lack of resources. The LIHTC program struggled to provide adequate incentives during a recession period. Although the Consolidated Appropriations Act effectively increased the size of LIHTC benefits for certain transactions, those changes may prove insufficient to attract affordable housing investment during an economic downturn. During the Great Recession, the Tax Credit Assistance Program and Tax Credit Exchange Program provided direct grants to promote affordable housing development, helping to sustain LIHTC investment.[89] Lawmakers should consider reinstating those grant programs during the recovery period and preemptively during future housing crises.

The recently enacted OZ legislation offers another pool of capital that could be tapped to increase the supply of affordable housing. However, for this place-based tool to help distressed communities, there must be an affirmative effort for investments to reflect the affordable housing needs of the residents within designated opportunity zones.[90] Ideally, such tax incentives would incorporate procedures for screening projects and approval would be required by an administering agency with expertise in development within low-income communities.[91] We propose a program of competitively awarded grants to certified Community Development Financial Institutions (CDFIs) and qualified non-profit housing organizations that partner with Qualified Opportunity Funds (QOFs) to develop affordable housing. Certified CDFIs are part of the existing landscape of community lenders that often provide funding for affordable housing developments.[92]

The U.S. Treasury Department's Community Development Financial Institutions Fund (CDFI Fund) would allocate these grants through a competitive application process to certified CDFIs or qualified nonprofits with an affordable housing mission that can partner with a QOF on an affordable housing project.[93] The goal of partnering a

QOF with a certified CDFI Fund or qualified non-profit is to steer the approximately $10 billion of QOF equity into sorely needed affordable housing projects in opportunity zones instead of the hotel and luxury apartment projects that have already tainted the OZ tool's reputation.

By providing grants directly to nonprofits that will perform targeted activities—such as the provision of affordable housing or the creation of homeless shelters—the government can increase the likelihood that expenditures will support activities that are most necessary during the pandemic. The Consolidated Appropriations Act included $1.75 billion to assist community development financial institutions that invest in neighborhoods disproportionately impacted by the pandemic, funding that could conceivably be used for this proposal.[94]

To implement this incentive, the Internal Revenue Service, the CDFI Fund, and the Department of Housing and Urban Development would need to work together to coordinate the distribution and oversight of additional funds. All agencies need to have employees high enough on the administrative chain communicate with each other and incentivize subordinates to coordinate. Furthermore, employees in each agency need to work together to analyze and manage the program and its outcomes.[95] FortunatelyA, these agencies are already called upon to coordinate the administration of tax incentives for affordable housing and community development, such as the New Markets Tax Credit. By taking advantage of established cross-agency administrative structures, lawmakers can minimize the administrative burdens associated with the new grant.

As our nation faces unprecedented housing and financial disruptions, the investments we make now will not only help those bearing the greatest burden during the crisis, but they can eliminate the shouldering of these burdens for generations to come.

CONCLUSION

In this Policy Spotlight, we have set forth two significant priorities: direct mitigation of housing instability during the pandemic, and place-based interventions to mitigate long-term housing instability and geographic inequality.

We recommend the following approaches to mitigate housing instability during the pandemic:

- Reinstatement of the Homelessness Prevention and Rapid Re-Housing program
- Expansion of the Section 8 Housing Choice Voucher Program, as well as source of income protections for voucher-assisted renters
- Establishment at the state level of a 5-year right-to-counsel program of civil legal aid in eviction and foreclosure cases.

We recommend the following approaches to mitigate long-term housing instability:

- Reinstatement of the Tax Credit Assistance Program and Tax Credit Exchange Program during the recovery period, and laws that allow these programs to be quickly reinstated during future crises
- Expansion of competitively awarded grants to certified Community Development Financial Institutions and qualified non-profit housing organizations that partner with Qualified Opportunity Funds to develop affordable housing.

After a year of tremendous sacrifice, struggle, and loss, the steps taken at all government levels have prevented an unprecedented and swift-moving housing crisis. Still, stable housing requires substantial long-term investments in households and housing markets facing housing instability. Shoring up the substantial investments already made with ongoing direct rental and mortgage payment assistance, a new civil right to counsel in evictions, and flexible funds for place-based interventions to promote affordable housing development will help prevent a wave of evictions in the coming months and prevent the seeding of future crises. As our nation faces unprecedented housing and financial disruptions, the investments we make now will help those bearing the greatest burden during the crisis. The investments can eliminate these burdens for generations to come.

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