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HOUSE DEMOCRATIC POLICY COMMITTEE

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA

HOUSE DEMOCRATIC POLICY COMMITTEE HEARING
Topic: COVID-19 Eviction Mitigation Legislation
G-50 Irvis Office Building – Harrisburg, PA
August 10, 2020

AGENDA

- 2:00 p.m. Welcome and Opening Remarks
- 2:10 p.m. Panel One:
- Marc Stier
Director, PA Budget and Policy Center
 - Michael Tukeva
President and CEO, Pocono Mountains United Way
 - Gale Schwartz
Associate Director for Policy and Strategic Initiatives, Housing Alliance of PA
 - Andrea Custis
President and CEO, Urban League of Philadelphia
- 2:40 p.m. *Questions & Answers*
- 3:00 p.m. Panel Two:
- Sue Wasserkrug
Program Administrator, Good Shepherd Mediation Program
 - Rasheedah Phillips
Managing Attorney of Housing Policy, Community Legal Services, Inc.
 - Vikram Patel
Staff Attorney, Community Legal Services, Inc.
 - Bob Damewood
Staff Attorney, Regional Housing Legal Services
 - Erin DeRosa
Landlord
- 3:40 p.m. *Questions & Answers*
- 4:00 p.m. Closing Remarks

[Home](#) / House Co-Sponsorship Memoranda

House Co-Sponsorship Memoranda

House of Representatives Session of 2019 - 2020 Regular Session

MEMORANDUM

Posted: June 29, 2020 03:04 PM
From: [Representative Maureen E. Madden](#) and [Rep. Michael H. Schlossberg](#)
To: All House members
Subject: COVID-19 Eviction Mitigation Bill Package

Among all the hardships Pennsylvanians are facing across the state due to COVID-19, the fear of possibly losing their home is one of the most prominent. While our constituents are undergoing record levels of unemployment and hour reduction, they now have to face the grueling reality of paying rent. While we work hard to protect our essential workers and our most at risk individuals, it is our duty to also ensure that they can stay safe and secure in their own homes.

For this reason, we plan on introducing a bill package to help renters by establishing the Tenant Eviction Mitigation Program. The bill package will:

- require landlords to create a payment plan option for tenants that may have lost income due to a statewide emergency like COVID-19;
- prohibit landlords from charging late fees on rent payments to tenants with lost income during a statewide emergency; and
- create a landlord-tenant mediation and counseling program to help resolve issues before an eviction is required.

Being evicted from a home is traumatizing for tenants and overwhelmingly costly to landlords, especially during a global pandemic when everyone's safety is threatened. We must ensure that all Pennsylvania residents are equipped to continue battling this pandemic, future pandemics, and all declarations of emergency to come. We hope you will join us in maintaining what we as legislators were elected to do protecting and advocating for life, liberty, and the pursuit of happiness for all.

Document #1

Description: Require landlords to create a payment plan option for tenants that may have lost income due to a statewide emergency like COVID-19.

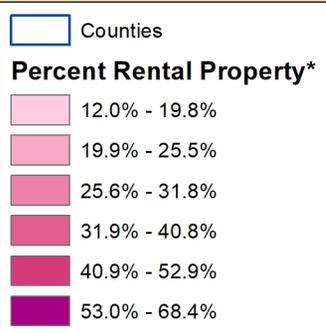
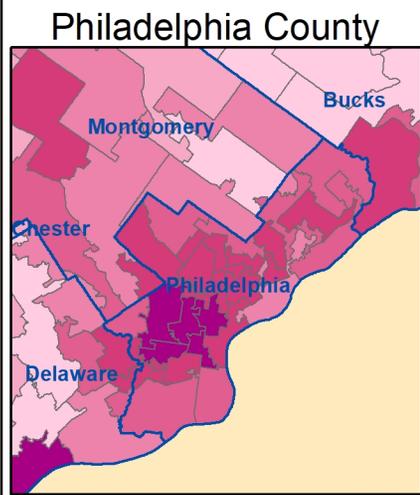
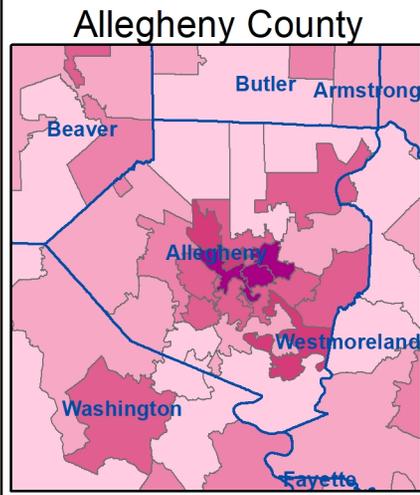
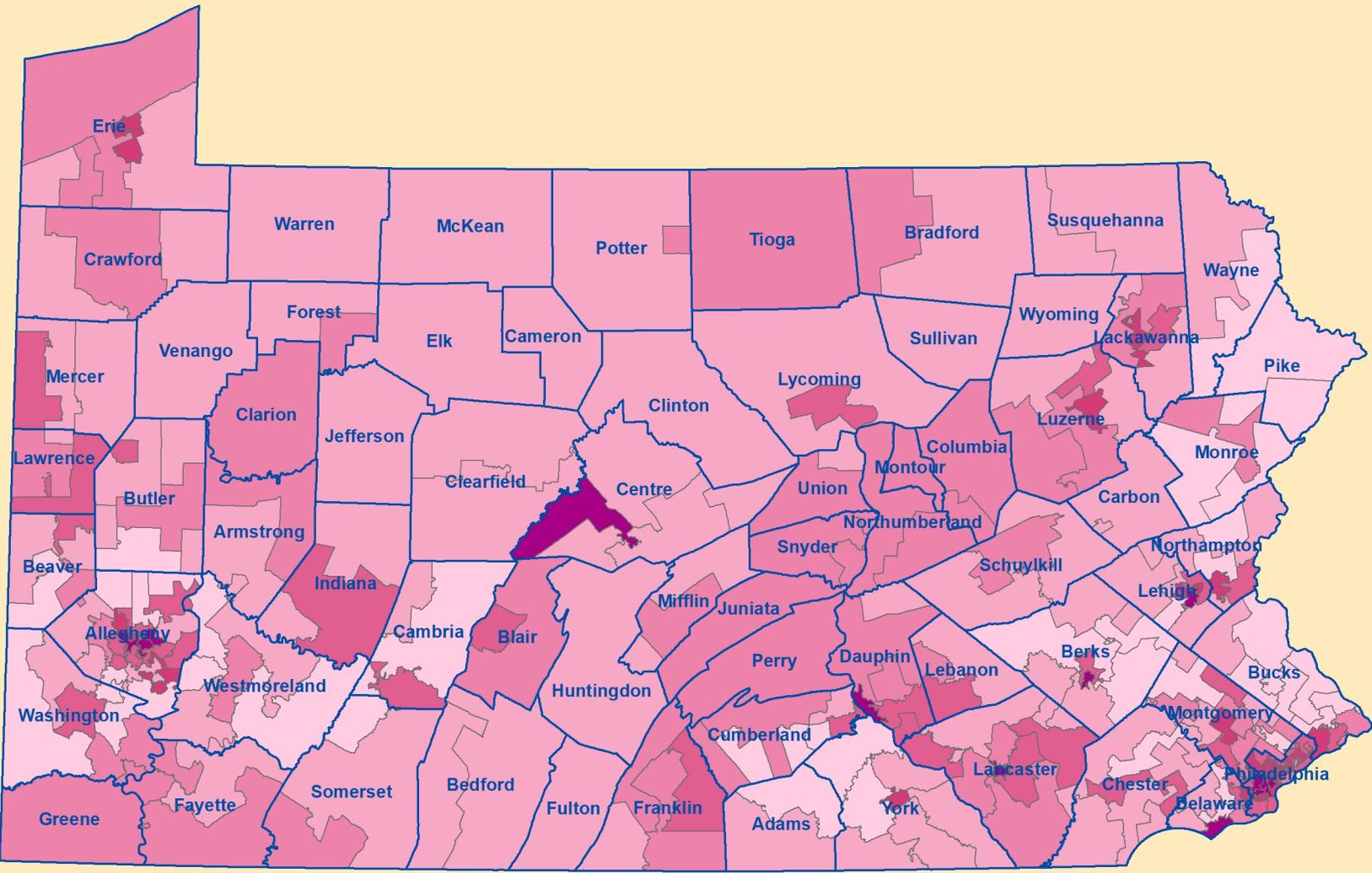
Document #2

Description: Prohibit landlords from charging late fees on rent payments to tenants with lost income during a statewide emergency.

Document #3

Description: Create a landlord-tenant mediation and counseling program to help resolve issues before an eviction is required.

Percentage of Property Renter Occupied*



*Data Provided by the U.S. Census Bureau's 2018 American Community Survey



CAN'T PAY YOUR RENT?

YOU HAVE OPTIONS:

1

Don't Wait To Ask For Help

Don't wait until it's too late. Reach out to assistance providers early on so you don't have to worry about an eviction or utility shutoff.

2

Pay What You Can

Even if you cannot pay the full amount, pay what you can towards rent and utility bills, and make sure to call your creditors to explain your situation. Please note that the full amounts of your bills will eventually be owed.

3

Keep Your Home

Right now, you cannot be legally evicted. If you are receiving threats from your landlord, go to PoconoUnitedWay.org or call 211.

Go to PoconoUnitedWay.org or
call 211 for more information.



Pocono Mountains
United Way

RENT RELIEF PROGRAM

Are you unemployed or had your income reduced due to COVID-19? Need help paying your rent?

The statewide Rent Relief Program may be able to help.

Renters may receive assistance equal to 100% of their monthly rent (up to \$750 a month) for a maximum of six months between March 1 and November 30, 2020.

Individuals must be a renter and resident of Monroe County at the time of application. Renters must document at least a 30% reduction in annual income since March 1 due to COVID-19 or must have become unemployed after March 1.

Household income cannot exceed the annual income shown below for household size:

	1 PERSON HOUSEHOLD	2 PERSON HOUSEHOLD	3 PERSON HOUSEHOLD	4 PERSON HOUSEHOLD	5 PERSON HOUSEHOLD	6 PERSON HOUSEHOLD	7 PERSON HOUSEHOLD	8 PERSON HOUSEHOLD
MAXIMUM YEARLY INCOME	\$55,400	\$63,300	\$71,200	\$79,100	\$85,500	\$91,800	\$98,100	\$104,500

Renters and landlords must complete application and provide supporting documents (proof of income, unemployment compensation, residency, lease agreement, household size). Upon approval, payments will be made directly to landlords and renters will receive an award letter that a payment was made.

Applications can be submitted to Pocono Mountains United Way from July 6 - September 30, 2020. To fill out an application please visit www.PoconoUnitedWay.org/rent-relief-program. Completed applications can be emailed to RRP@PoconoUnitedWay.org, or dropped off or mailed to:

Pocono Mountains United Way
301 McConnell Street
Stroudsburg, PA 18360

For more information, please contact PoconoInfo at 570-517-3954.



Pocono Mountains
United Way



Housing Alliance
of Pennsylvania

TESTIMONY OF
GALE SCHWARTZ, ASSOCIATE DIRECTOR FOR POLICY & STRATEGIC INITIATIVES,
HOUSING ALLIANCE OF PENNSYLVANIA
TO THE HOUSE DEMOCRATIC POLICY COMMITTEE
ON COVID-19 EVICTION MITIGATION LEGISLATION
AUGUST 10, 2020

The Housing Alliance of Pennsylvania is a statewide nonprofit membership organization dedicated to increasing access to safe and affordable homes for all Pennsylvanians. The diversity of our membership provides us with a unique perspective on a range of housing issues including eviction. Our members include low income renters, organizations serving low income renters, organizations serving people experiencing homelessness, housing developers, housing authorities, and local governments. Our members also include rental property owners and landlords.

The Housing Alliance and our members recognize the need for a balance between the needs and interests of landlords, tenants, and the community to achieve a strong and healthy rental market.

Eviction is a negative outcome for tenants, landlords, and communities as a whole. A high percentage of low income households are caught in a cycle of housing instability, unaffordable rent, and poor housing conditions that are unsafe especially for children. The cost of an eviction can be high for landlords as well with research showing combined court fees, lost revenue, and turnover costs totaling approximately \$5,000 per eviction. Many landlords operate on tight margins and / or are small businesses that are vulnerable to even small disruptions in income. Lastly, evictions send ripples throughout the community with costs borne by local governments, schools, employers, hospitals, emergency shelters, financial assistance programs, the courts, and more. No one – neither the tenant nor the landlord - wins when there is an eviction.

Prior to the pandemic, there were too many households that experienced eviction. Matthew Desmond, the author of the book *Evicted*, said “If incarceration had come to define the lives of men from impoverished black neighborhoods, eviction was shaping the lives of women. Poor black men were locked up. Poor black women were locked out. Eviction isn’t just a byproduct of poverty, but a driver of it.”

During and after the pandemic, warning signs point to an “eviction tsunami.” Half of low-income renters work in the industries hardest hit by unemployment due to the COVID-19 pandemic. The number of COVID-19 cases is rising in the US rather than declining, leading to great uncertainty of when the

economy will begin to recover. Once the economy begins to recover, early reports show that jobs will not return at the same rate they were lost. The economic impact of the pandemic looks to be long-lasting, putting more households at risk of eviction and homelessness.

The impact of an eviction on a family is long-lasting. Here's what we know.

- 1. There are significant, harmful unintentional consequences resulting from eviction. Housing instability negatively impacts children's health and educational outcomes.¹**
- 2. The lack of available affordable housing makes it difficult for a family, once evicted, to find a suitable alternative living arrangement in a short period of time.**
- 3. Homelessness should be avoided at all costs because of the impact that it has on families and children. In addition, local and state governments bear the cost of increased homelessness.**
- 4. Renters may have legitimate defenses to the eviction but are seldom represented by lawyers and therefore have difficulty making their case.**
- 5. Low-income households struggle to afford housing and therefore the threat of eviction due to inadequate finances is common.**
- 6. Good landlords play an important role in providing housing for our lowest income households. Both landlords and tenants should be able to access assistance and be better supported when a tenant is in trouble.**

The pandemic has disproportionately impacted low wage workers and therefore renters and more resources and tools will be needed to avoid preventable evictions.

We at the Housing Alliance of PA urge the General Assembly to make available increased rental assistance resources to stem the tide of increased evictions as a result of COVID-19.

We support the creation of local tenant-landlord mediation programs which are designed to avoid court involvement to resolve disputes and therefore also prevent evictions.

Mediation offers significant advantages over court based interventions by saving time and money and is overall a more flexible process. Most importantly, mediation has the potential to restore relationships by allowing space for both sides to effectively communicate.

¹ The Urban Institute. **How Housing Affects Children's Outcomes**. January 2019. <https://howhousingmatters.org/articles/housing-affects-childrens-outcomes/>

The mediator is a third and neutral party, who does not resolve a dispute for others, but helps the disputing parties resolve it themselves by supporting their constructive dialogue and interaction towards a mutually agreeable resolution. The mediators cannot impose the terms or force the parties to agree. Mediation differs from other dispute resolution processes such as litigation or arbitration in that the disputing parties make their own decisions and have agency in the final outcome.

Mediation is an ideal tool to be used in coordination with broader strategies to stabilize landlord-tenant relationships and preserve tenancy in uncertain times. Models of landlord tenant mediation programs have had high success rates in addressing disputes, preventing court involvement. For example, the Palo Alto Mediation Program, which provides pre and post filing mediation services, reports disputing parties coming to an agreement 80% of the time with both parties fulfilling the terms of the agreements 97% of the time². Evaluations of mediation programs around the country found that early intervention dispute resolution strategies such as pre-filing mediation programs along with legal advice and supportive services are effective at not just preventing eviction but strengthening landlord-tenant relationships³. Another benefit to pre-filing mediation is it allows flexibility to address the root cause of the landlord tenant conflict. While the vast majority of eviction filings cite non-payment of rent as the reason, more in depth interviews with tenants facing evictions show job and/or income loss, property management issues, health crisis, and domestic violence as the underlying causes leading to eviction.⁴

The Housing Alliance urges the General Assembly to provide funding for a mediation program that is flexible in its design, enabling local communities to make program design decisions that work best for them. We look forward to working with you to do so.

² The Palo Alto Mediation Program, **Got A Dispute?** (2020) Brochure

³ Eisenberg, D. T. and Ebner, N., **Disrupting the Eviction Crisis with Conflict Resolution Strategies** (April 24, 2020). 41 Mitchell Hamline Journal of Public Policy & Practice 125 (2020), U of Maryland Legal Studies Research Paper No. 2020-13

⁴ Cohen and Noble. **Preventing Eviction Filings: Piloting a Pre-filing Eviction Prevention Clinic** (May 2020) Urban Institute



Urban League of
Philadelphia

*Empowering Communities.
Changing Lives.*

To: House Democratic Policy Committee

Date: August 10th, 2020

From: Andrea L. Custis , President & CEO Urban League of Philadelphia

Good afternoon, distinguished members of the House Democratic Policy Committee. My name is Andrea Custis and I am the President and CEO of The Urban League of Philadelphia. We are an affiliate of the National Urban League, one of the oldest and largest community-based movements dedicated to empowering underserved urban communities.

At The Urban League, we aim to empower African-American and other underserved communities to achieve civil rights and socio-economic parity. Our mission is defined by the ABCs:

- Advocacy and Policy
- Business and Talent Diversity
- Community and Economic Development.

I am here to speak before you today because we have an eviction crisis on our hands that will continue to get worse if we do not take proper steps to mitigate it now.

Housing does not just affect one segment of a person's life. For a person experiencing housing instability, it can negatively impact health, employment opportunities, family members, financial status, and more. Evicting a person from his or her home or apartment has long-lasting ripple effects. A global pandemic only serves to heighten the impact.

Put aside COVID-19 for a moment. Even before the pandemic, there was one eviction every seven minutes (300,000 every month) in our country. Under normal circumstances, Philadelphia landlords seek to evict more than 20,000 households every year. Without a moratorium on evictions, more than 1,700 evictions would have been considered in May alone.

Now consider our current situation. We are early in the month, so rent has likely come due for many residents. At the end of last month, unemployment relief benefits expired, which left millions without the extra \$600 they relied on for necessary expenses. Of the 43 states and Washington, D.C. where eviction moratoriums were enacted, 24 of those have expired. Experts fear a surge in evictions, leading to a surge in homelessness. The Aspen Institute estimates anywhere from 19 to 23 million Americans will be evicted by the end of September.

Eviction impacts your credit score and ability to find suitable housing opportunities. When an evicted person goes to the bank, what do they look at? FICO scores and financial hardships. Eviction might mean pulling your children out of school and away from their friends and



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teachers. The impact of that change can be significant and have long-term effects on social development. Eviction leaves individuals on the streets with no permanent address, which complicates job applications and interviews, especially in the age of social distancing.

I think about the 54-year-old grandmother who came to us for help. She had a daughter addicted to opioids and two granddaughters to care for. She always thought it would be impossible to own her own home, until she came to the Urban League. We were able to provide her with the education and financial consulting she needed to become a homeowner. Now, she has her own home and custody of her two granddaughters, who were able to stay in school and maintain stability.

I think about the countless young men and women who come to us looking for assistance. Sometimes their credit is average, sometimes they don't have all the money up front. But, they're willing to work hard and we're willing to work with them. Unfortunately, there are many individuals, young and old, who do not even know these services are available to them, and do not take full advantage.

There are ways that we can begin to solve this crisis, but it's going to take a collective effort.

Payment plans are an absolutely crucial piece of solving the eviction crisis. Without a payment plan, landlords will just evict tenants, no questions asked. Landlords are simply looking for money, and they will bring in somebody else who will pay them that money. Payment plans give the tenant a chance to stay in the home or apartment, pay what he or she can at the time, and arrange the rest for a later date. It's a reasonable and necessary compromise.

Mediation is another effective way to prevent high eviction rates. Mediation provides both landlords and tenants with an opportunity to say their piece and reach a mutually agreeable plan to get the rent paid. Many landlords don't understand that, by and large, tenants are willing to do almost anything to stay in their home. They just want an opportunity to do so, rather than being thrown out on their ear because they missed a payment or getting charged an exorbitant amount in fees because they paid a little late.

It is even more important than ever before to ensure that landlords are working with tenants, rather than against them. Millions of Americans have lost their jobs during this months-long pandemic. Millions of Americans have been sickened by the coronavirus, unable to work for days or weeks at a time; for many, that means no income for part or all of that time.

The impact on the economy and homelessness will be drastic in Philadelphia and around the state if we do not take action soon. If landlords begin to evict their tenants en masse, homelessness will boom. Who will want to bring their business to cities and towns if people are homeless and living in poverty on the streets?



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Eviction moratoriums alone are not enough. They simply delay the inevitable — renters are still accumulating debt on other bills and expenses. I urge all members of this panel — and all members of the House and Senate — to pass these three bills, and do so soon.

Do it for black and brown communities.

Do it for children, so they can stay in school and keep necessary stability.

Do it for families, who are working as hard as they can to make ends meet, and just need a little bit of a break their way.

Do it for Pennsylvania.

Please do not hesitate to reach out to me for more information at my email address (acustis@urbanleaguephila.org)

Yours In The Movement,

Andrea L. Custis
President & CEO
The Urban League of Philadelphia



MEDIATION PROGRAM

Where Conflict Can Be Resolved

Philadelphia, Pennsylvania

(215) 843-5413

www.phillymediators.org

Testimony of Sue Wasserkrug, Good Shepherd Mediation Program
Before the House Democratic Policy Committee
On the Eviction Mitigation Bill Package
August 10, 2020

Good afternoon. My name is Sue Wasserkrug, and I am the Program Administrator at Good Shepherd Mediation Program. Established in 1984, GSMP is a community justice center in Philadelphia that offers a range of services including: mediation and facilitation, training and consulting, and restorative justice processes. Our mission is to encourage peace, reconciliation, and social justice, and to empower individuals to resolve conflicts. Prior to becoming a mediator, I worked as a public interest attorney, at two nonprofits in Philadelphia, the Homeless Advocacy Project and SeniorLAW Center.

Thank you for this opportunity to share my thoughts about the use of mediation to prevent eviction during the Covid-19 pandemic.

Mediation is a process for resolving disputes with the help of a trained, objective third-party called a mediator. The mediator facilitates a communication session between two individuals experiencing conflict and then writes up any settlement or agreement that is reached. Mediators are trained to help disputants clarify the issues, understand each other's perspectives, examine their options, and reach an agreement that works for both of them. Approximately 85 percent of the disputes that come to mediation result in a written settlement agreement between the parties. A mediated settlement is always a win-win, since the parties had input and agreed to the result, as opposed to a win-lose, which is the typical outcome in court.

The mediator does not offer advice (legal or otherwise) and does not make decisions for the parties. When legal issues are in dispute, or legal rights are at stake, the mediator refers

the parties to an attorney or other advocate. Because of the unique nature of the landlord-tenant relationship, tenants participating in mediation at GSMP are pro-actively referred to TURN, the Tenant Union Representative Network, a nonprofit that provides advocacy and other services to tenants in Philadelphia.

Like litigation, mediation is not necessarily the best dispute resolution process for every conflict. Mediation is particularly well-suited for disputes involving parties who have an on-going relationship of some kind. The participants might be parents of the same child, they might be co-workers or roommates, or they might be landlord and tenant. A mediation session provides a safe space for the parties to express their concerns and craft solutions that work. The process can unblock any clogs in the communication flow between parties, thereby reducing the possibility of repeated conflict in the future. Clearly this pandemic has put extreme strain on everyone; and mediation offers a lower-stress option for landlords and tenants to overcome some of the challenges we all are experiencing.

As a mediation center, we have no authority to compel individuals to participate in mediation. Consequently, we say that mediation is voluntary. However, in circumstances such as a pandemic, the mediation process can be used in a program such as the one that you have proposed, to divert potential litigants out of court, in an attempt to prevent eviction and homelessness and to build stronger communities.

Because mediation is confidential, we believe it is best conducted outside of court, through a community-based organization, whether that is a free-standing mediation center or an organization with a mediation program. By removing the process from the courthouse, we remove the possibility that the parties will confuse the proceeding with a hearing or that they will be worried about “losing.” Collaboration is more likely to occur in the less formal environment of a community organization.

I am pleased that our House Democrats are putting forward this Eviction Mitigation Bill Package. I also am pleased to see that you have included the provision of various resources for the tenants. Because the mediator is neutral, it is critical that both parties have access to

all of the information about their rights, responsibilities, and local resources that they need to reach a satisfactory and realistic agreement. In addition, the waiving of late fees and the implementation of payment plans are aspects of the bill package that can provide useful guideposts to encourage meaningful dialogue in order to move the parties toward a resolution.

When landlords and tenants are empowered to tackle their issues together, the result is not just a win-win, but it's a win-win-win: a win for the landlord, a win for the tenant, and a win for the community.

Thank you very much.



Testimony Before the House Democratic Policy Committee
Rasheedah Phillips, Managing Attorney of Housing Policy, Community Legal Services
August 10, 2020

Good afternoon, my name is Rasheedah Phillips, and I am Managing Attorney of Housing Policy at Community Legal Services of Philadelphia. Thank you to State Representatives Madden and Schlossberg for advancing the COVID-19 Eviction Mitigation Legislation, and for the opportunity to testify in support of this extremely urgent legislation today.

Community Legal Services provides free legal advice and representation to over 2,000 low-income tenants living in private and subsidized housing each year, as well as significant advocacy locally, statewide, and nationally around affordable housing and protection of tenant rights. I appreciate the opportunity to speak today on behalf of thousands of other Pennsylvanians - particularly renters - who cannot access additional supports when an emergency - be it loss of employment or a global pandemic - threatens their safety and housing stability.

The legislative package recognizes that the only way Pennsylvanians can “stay safe and stay home” during a global pandemic is if they have homes to go to and homes to remain in. Its protections work to ensure families are not put out of their homes and thrust into homelessness, and as a result, more vulnerable and exposed to COVID-19. Without such protections, mass evictions signal the threat of mass reinfection as people cannot find shelter. The legislative package before you today is well-balanced and well-designed to help thousands of families avoid such unnecessary risks, and to ensure that people have a fair chance at getting back on track. That is the surest path to safety and health for Pennsylvanians during this time.

The legislation also recognizes the significant public health risk that eviction brings with it, prior to the pandemic but especially now, where people who will be evicted will be unable to access masks, medication, or other essential items and necessities from their home, and at a time where they may be less credit-worthy for an application, unable to gather security deposits or access their old deposits, making it nearly impossible to access a new place to live. Beyond the damage to individuals and families who are forced into cycles of poverty and housing instability, evictions and forced displacement unravel the fabric of a community, helping to ensure that neighbors remain strangers and that their collective capacity to promote civic engagement remains untapped.



The **Eviction Prevention Counseling Program** expands a tenant and landlord's options to negotiate and attempt to find resolutions that work for both sides. Unit turnover and bringing in new people to a unit during this time is potentially disastrous, while litigation is time-consuming and costly. A landlord's most sure path to accessing future rent is to stick with the tenant they have and try to work through the crisis together. It gives both parties the benefit of time, without taking away any rights of a landlord to move toward eviction should the conciliation not work out.

The **Rent Recovery During COVID-19 Emergency** bill recognizes that, even as businesses slowly begin to re-open, it will take several months for employers to recover and they will not be able to hire all staff back immediately. Low wage workers and others who have not been able to work from home will need to grapple with the transition back to a steady income, and all that comes along with that - inconsistent bus routes, finding a functioning childcare or care for older children not able to return to their classrooms. Together with the bill **Prohibiting Late Fees on Missed Rent**, it offers a temporary measure that will ensure that tenants have a reasonable opportunity to catch up, and that landlords are more likely to recover rent payments.

COVID-19 has stolen much from every single one of us, but for some, it has exacted an even more devastating toll on people's lives and livelihoods. The COVID-19 pandemic has significantly exacerbated the difficulties facing Black women, seniors, people with disabilities, queer and transgender people, and others who routinely face housing instability due to systemic oppression and racism. In May 2020, for example, the Philadelphia Inquirer reported that in Philadelphia, Black patients are dying from COVID-19 at a rate more than 30% higher than the death rate among white patients, a pattern that is holding consistent in communities across the country.

As a result, we find ourselves as a country having to consider questions and solutions that we have never had to before, all with urgency, sensitivity, and balance. Passing the Eviction Mitigation legislation ensures that many of us can continue to have a place to call home and can help start the process of healing and rebuilding our communities, in the face of a pandemic that has changed our entire world, and where housing remains the best form of protection, health, and safety. I urge you to vote in favor of the legislative package in full.



**Testimony Before The House Democratic Policy Committee
Vikram Patel, Attorney, Housing Unit, Community Legal Services
Aug. 10, 2020**

Good afternoon and thank you for this opportunity to address all of you. My name is Vik Patel and I am an attorney in the Housing Unit at Community Legal Services and I am here speaking in support of the bills in the three bills proposed by Rep. Madden and Rep. Schlossberg. This kind of legislation will allow the time, space, and mechanisms to ensure that tenants have access to safe and affordable housing while giving landlords and tenants the space to resolve disputes during these trying times.

First, though, I'd like to express our gratitude to Rep. Madden and Rep. Schlossberg for their leadership in this field and for proposing these bills.

As part of my work at Community Legal Services, I represent and advise tenants through the Philadelphia Eviction Prevention Project. Every day, we receive calls from numerous tenants who are struggling right now because of the pandemic. Many tenants have lost their jobs and have run into barriers navigating the overburdened unemployment compensation system. And those tenants who have been receiving unemployment compensation just saw a significant drop in their pay with the expiration of the \$600/week from Pandemic Unemployment Compensation. Though there have been some discussions in Congress about reinstating Pandemic Unemployment Compensation, it may come back at only \$200/week and Pres. Trump's Executive Order over the weekend is unlikely to result in an actual increase to Unemployment Compensation. This issue is not just isolated to the major metropolitan areas like Philadelphia and Pittsburgh. Unemployment is hitting Pennsylvanians all across the state. Just last month, about 80% of claims came from workers living outside Philadelphia and Allegheny County.

It also seems unlikely that we will have a return to normalcy and a return to work any time soon. We have recently seen a significant uptick in COVID-19 cases with tens of thousands of new cases a day and about five million cases total nationwide. Many schools in Pennsylvania are debating whether or not they will reopen and some, like Philadelphia have already announced that they will begin the school year in an online-only format. With their kids learning from home, many parents will also need to stay home regardless of whether they have a job to return to.

In order to provide some relief, the State launched a rental assistance program that covers \$750/month for up to six months. Though this program will help a number of tenants, there are many that will not receive the benefits of this program. In order to participate in the program and receive the assistance, the tenant's landlord must agree to waive any amount of rent above \$750. As such, we've heard of landlords who will not participate in the program and landlord attorneys

who are advising their clients not to participate. Once again, this is not a problem that is just isolated to Philadelphia and Pittsburgh. In the majority of counties across Pennsylvania (43 out of 67), the Fair Market Rent for a two-bedroom apartment is above \$750. In most of the state, families, especially families with children, will not be able to get their rent covered by the State's rental assistance program.

As we approach the end of the Governor's eviction moratorium, tenants will need tools and protections if we want to avoid a massive number of evictions across the state. These bills offer some of those.

First, tenants will need to have access to reasonable payment plans. It will take time for tenants to get back on their feet. It would be devastating to both tenants and the state as a whole if tenants were required to immediately pay all of their back rent during the pandemic in order to avoid eviction. Even short payment plan periods, two or three months for example, would require tenants to devote the majority of their monthly income just to rent, leaving little or no room for any other necessities.

Second, landlords cannot be allowed to collect late fees during the pandemic. Once again, it's going to take time for tenants to pay off any back rent. Late fees would make that back rent a hole no one can climb out of. In addition, tenants have not fallen behind on rent through any fault of their own but instead because of the widespread tragedy we are all grappling with. In times like these, no one should be allowed to profit off the suffering of others and allowing for the collection of late fees at this time is exactly that.

Third, tenants and landlords need another venue besides court to discuss disputes. An eviction filing, regardless of the outcome of the case, makes it much harder for a tenant to access housing in the future. Many landlords simply will not rent to a tenant with an eviction filing. In addition, the court process is time consuming and expensive for everyone involved. A robust mediation system will save landlords money while preserving tenants' access to safe and affordable housing.

The impending wave of evictions is also not going to hit all Pennsylvanians equally. Because of systematic racial inequality, Black communities across Pennsylvania were the most affected by housing instability before the pandemic. During the pandemic, Black communities across Pennsylvania have been hit the hardest with a disproportionate infection rate and more severe economic losses. If we do not get these types of protections in place, Black communities across Pennsylvania will be hit the hardest once again.

If we do not act now, this wave of evictions will destabilize our state, wreck our economy, and hinder our recovery from this crisis. I urge you, for the sake of the state and all those who have been affected by the pandemic, put these types of protections for tenants in place before it's too late. Thank you.

Testimony of Robert Damewood, Regional Housing Legal Services
before the House Democratic Policy Committee
on the Eviction Mitigation Bill Package
August 10, 2020

Good afternoon. My name is Bob Damewood and I'm a staff attorney in the Pittsburgh office of Regional Housing Legal Services. I'm here to express support for the bills proposed by Rep. Madden and Rep. Schlossberg,

RHLS provides free legal services to non-profit organizations that develop affordable housing or engage in other development activities that benefit low-income Pennsylvanians. Since 1973 we have assisted in the completion of over a billion dollars' worth of housing development projects throughout the State. Although we occasionally represent tenant organizations, nearly all of our clients are non-profit, community-based owners of rental housing. We submit these comments on our own behalf, not on behalf of any of our clients.

I echo the testimony of my colleagues Rasheedah Phillips and Vikram Patel – tenants urgently need help and the relief offered in this package of bills is essential. For the last four months, a historically high number of American renter households have been unable to pay their monthly rent on time. According to a survey by Apartment List, 36% of all renter households were unable to pay rent on time in July.

I also echo the sentiment that secure housing is not only important for those whose lives have been upended by the pandemic, it is also essential for the public health. This is not the time for thousands of renters to be out looking for new places to live or worse, to become homeless. This *is* the time to stabilize Pennsylvania's housing market, and the relief offered in the Eviction Mitigation legislation would help do that.

With regard to the proposed late fee bill, prohibiting the assessment of late fees for missed rent payments during the COVID-19 pandemic would not only help tenants, it would provide much needed clarity and uniformity. The federal CARES Act provides similar relief, but only applies to certain types of properties, and since July 25, only if the mortgage on the property is in forbearance. A universal late fee prohibition would be much easier to understand and enforce.

Regarding the payment plan bill, RHLS agrees that offering reasonable repayment opportunities is an essential part of a comprehensive strategy to keep people housed. But we need to point out that it will not be sufficient to resolve many, or even most, COVID-related rent delinquencies. Payment plans only work if the tenant has income. The end of the emergency declaration does not mean automatic reemployment, and even tenants who are immediately re-employed when the emergency ends could owe six months of rent or more by then. A six-month or even twelve-month payment plan would be unaffordable. All the programs in the world, including a payment plan requirement, will fail if tenants cannot pay their rent. While this bill could help many tenants, but we urge you to pair it with increased and flexible funding for rental assistance.

Regarding the proposed eviction mediation bill, RHLS supports mandatory, pre-filing eviction diversion and mediation by trained mediators, but we caution that if the program is not well-designed, it could be detrimental to tenants. There are two points in particular that we urge the Committee to consider.

The first is the need to engage the Pennsylvania Housing Finance Agency and other stakeholders to ensure that the legislation is consistent with a well-designed program. PHFA is currently struggling to implement the COVID Relief Mortgage and Rental Assistance Grant Program that the legislature created hastily in May. Numerous statutory requirements are preventing Pennsylvanians from obtaining the assistance they need to avoid eviction or foreclosure. We urge this Committee to work with the administering agency on the drafting of this legislation. It is also imperative that landlords, tenants, mediators, court administrators, and rental assistance providers be consulted in designing an effective diversion/mediation program. We have no doubt that PHFA can pull together the right stakeholders if asked to do so.

The second critical issue is funding for legal representation. In order to trust the mediation process and commit to the outcome, the parties must know what rights they are giving up and what benefits they are receiving in exchange. They must also understand what obligations they are taking on and assess their ability to perform those obligations. In the landlord-tenant context, there is a significant disparity in the sophistication of the parties in terms of understanding their legal rights and options. There is also a significant power imbalance. Many tenants facing eviction will agree to an unaffordable payment plan because they think that is the only way to preserve their housing. Legal representation helps to overcome disparities in knowledge and negotiating power and ensure that settlement agreements are realistic and fair. Studies of tenant representation in mediation have found that tenants experience significantly better outcomes when they have legal representation. In the eviction context, this means preserving the tenancy and avoiding displacement.

For this reason, we ask that the Committee include substantial resources for legal representation of indigent tenants. The Pennsylvania Legal Aid Network should be engaged to determine the amount of funding that would be needed.

We also note that Representatives Innamorato, Kenyatta and Cephas have circulated a co-sponsorship memo for Legal Aid for Tenants Facing Eviction. We urge the Committee to include that bill in this legislative package.

Thank you for the opportunity to testify in support of this important legislation. I'm available to answer any questions you have.

Specific comments are attached

To: House Democratic Policy Committee
From: Regional Housing Legal Services
Re: Eviction Mitigation Bill Package Comments
Date: August 10, 2020

Regional Housing Legal Services provides free legal services to non-profit organizations that develop affordable housing or engage in other development activities that benefit low-income Pennsylvanians. Since 1973 we have assisted in the completion of over a billion dollars' worth of housing development projects throughout the State. Although we occasionally represent tenant organizations, nearly all of our clients are non-profit, community-based owners of rental housing. We submit these comments on our own behalf, not on behalf of any of our clients.

We greatly appreciate your desire to stabilize the housing situation of thousands of Pennsylvanians in the midst of the pandemic. Secure housing is not only important for the households whose lives have been upended by disease, job loss, school closures, and other concerns; it is also essential for the public health. This is not the time for thousands of renters to be out looking for new places to live or worse, to become homeless. This *is* the time for the state to invest in stabilizing the housing market. In addition to the tenant protections the Committee is considering, we urge you to focus resources on helping people pay their rent. All the programs in the world, including payment plans and mediation, will fail if tenants cannot pay their rent.

This recession is unlike any other in our history. It is not just a matter of a lack of jobs. Many have lost income because they are ill, a partner died, or they are staying home with children who have no physical school or child care program to go to. They need financial support.

We support your efforts to find solutions to keep Pennsylvania's renters housed during this pandemic. We offer the following comments on the specific bills.

D11649 – Late fees

Global comments:

Prohibiting the assessment of late fees and other fees during the COVID-19 pandemic is greatly needed. For the last four months, a historically high number of American renter households have been unable to pay their monthly rent on time: 25% in April (roughly 5½ times the historical average), increasing to 33% in May, 32% in June and 36% in July.¹ Anticipating this, Congress included a similar prohibition on late fees in the CARES Act for federally-assisted properties, including properties with a federally-backed mortgage. The CARES Act prohibition on late fees expired on July 25 for most properties, but remains in effect for properties where the mortgage is in forbearance. But it is difficult for a tenant or a court to determine whether a property has a federally-backed mortgage, let alone whether that mortgage is in forbearance. A Pennsylvania ban that covers all rental properties would provide needed clarity and uniformity.

¹ Apartment List; survey data available online at <https://www.apartmentlist.com/research/july-housing-payments>.

Specific comments:

- P. 1 lines 12 and 13: Please delete “impose” and replace it with “take any action to charge, collect or enforce”. After “rent or other fees” please insert “coming due”. These changes would aid in the retroactive application of the bill.

D11709 – Payment planGlobal comments:

We support this legislation, but wish to point out that requiring landlords to accept payment plans will not be sufficient to resolve many, or even most, COVID-related rent delinquencies. Payment plans only work if the tenant has income. Just because the emergency declaration ends does not mean the tenant is employed again or is receiving adequate unemployment benefits. Moreover, even tenants who are immediately re-employed when the emergency ends could owe six months of rent or more by then. A six-month or even twelve-month payment plan would be unaffordable. This bill could help many tenants, but it must be paired with increased and flexible funding for rental assistance.

Specific comments:

- This bill should be revised to amend Title 35 (Health and Safety) rather than amending the Landlord-Tenant Act. The bill would impose a temporary requirement in order to prevent residential displacement during a pandemic. Amendments to the Landlord and Tenant Act should be reserved for fundamental changes to the rights and obligations of landlords and tenants for an indefinite period.
- P. 1 line 20: Please delete “nonessential business closure”. A business, whether essential or not, may remain open but reduce workers’ hours or lay people off.
- P. 2 line 5: Please add to the end of the sentence, “that tenant is suffering from COVID-19, or that tenant is the primary caregiver for a household member suffering from or at risk of COVID-19”.
- P. 2 between lines 5 and 6: Please add “(4) evidence that tenant cannot continue tenant’s employment because tenant is the primary caregiver for a child whose school or child care facility has closed its physical presence due to the pandemic.
- P. 2 line 9: Please delete “six” and replace it with “twelve”.
- P. 2 line 29: Please delete “in 60 days” and replace it with “immediately.”

D11925 – Eviction Prevention Counseling ProgramGlobal comments:

We support the creation of a state-wide, mandatory, pre-filing eviction diversion/mediation program. We caution, however, that if the program is not well-designed, it could be detrimental to tenants.

1. Need to engage PHFA and other stakeholders

We urge the Committee to work closely with the Pennsylvania Housing Finance Agency to ensure that the legislation is consistent with a well-designed program. PHFA is currently struggling to implement the COVID Relief Mortgage and Rental Assistance Grant Program that

the legislature created hastily in May. Numerous statutory requirements are preventing Pennsylvanians from obtaining the assistance they need to avoid eviction or foreclosure. We urge this Committee to work with the administering agency on the drafting of this legislation. It is also imperative that landlords, tenants, mediators, court administrators, and rental assistance providers be consulted in designing an effective diversion/mediation program. We have no doubt that PHFA can pull together the right stakeholders.

2. Funding for legal representation

Informed consent is an essential element of any successful mediation program. In order to trust the process and commit to the outcome, the parties must know what rights they are giving up and what benefits they are receiving in exchange. They must also understand what obligations they are taking on and assess their ability to perform those obligations. In the landlord-tenant context, there is a significant disparity in the sophistication of the parties in terms of understanding their legal rights and options. There is also a significant power imbalance. Throughout the landlord-tenant relationship, including during the eviction process, tenants occupy a position of low negotiating power.² In this context, many tenants will agree to an unaffordable payment plan because they think that is the only way to preserve their housing. Legal representation helps to overcome disparities in knowledge and negotiating power and ensure that settlement agreements are realistic and fair. Studies of tenant representation in mediation have found that tenants experience significantly better outcomes when they have legal representation.³ In the eviction context, this means preserving the tenancy and avoiding displacement.⁴

For this reason, we ask that the Committee include substantial resources for legal representation of indigent tenants. The Pennsylvania Legal Aid Network should be engaged to determine the amount of funding that would be needed.

We also note that Representatives Innamorato, Kenyatta and Cephas have circulated a co-sponsorship memo for Legal Aid for Tenants Facing Eviction. We urge the Committee to include that bill in this legislative package.

3. Pre-filing eviction diversion

We fully support the approach set forth in the bill to require a notice of intent to evict, a referral for available resources, and a mediation of the landlord-tenant dispute before a complaint is filed with the managerial district judge (MDJ). Such an approach could save the parties money by resolving issues before the need to pay filing fees. If the mediation is performed by trained mediators instead of MDJs (in other words, diverted out of the court system) it could also save judicial resources.

² Rebecca Hare, *Mitigating Power Imbalance in Eviction Mediation: A Model for Minnesota*, 38 *Lan & Inequality* 148 (2020).

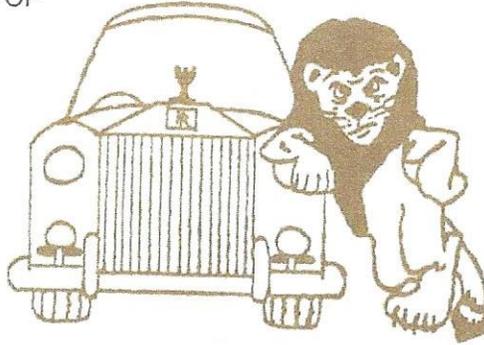
³ *Id.* At 159, citing Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel Is Most Needed*, 37 *Fordham Urban Law Journal* 37, 67–68 (2010) and Jean R. Sternlight, *Lawyerless Dispute Resolution: Rethinking a Paradigm*, 37 *Fordham Urban Law Journal* 381, 417 n.153 (2010).

⁴ *Id.* At 159-160.

Specific comments:

- P. 1 line 10: Please change “Counseling” to “Mediation”.
- Section 918(b): Please delete the entire Section and replace it with “Eligibility – All residential tenants shall be eligible for participation in the program.” There are many grounds for eviction other than non-payment of rent that could be resolved through mediation. Also, there is no way for a landlord to determine whether a tenant is in financial hardship.
- P. 2 line 4. Please delete “magisterial district court” and replace it with “a trained mediator”. MDJs should not be mediators. They are not trained in mediation. Moreover, if mediation fails the MDJ would then sit as judge but would carry bias from the mediation. The program can only work if there are local free mediation programs with trained mediators.
- Section 918(d): This section should be rewritten after consultation with PHFA and other stakeholders. While we cannot speak for the agency, PHFA may not have the capacity to provide direct services to individual tenants. It will probably be necessary to develop a network of local counseling agencies similar to the HEMAP program.
- Section 918(e): This section should also be rewritten after consultation with PHFA and other stakeholders. MDJs should not be the mediators.
- P. 3 line 21: The phrase “magisterial judges” should be removed and replaced with whichever entity or entities are determined to be better suited to provide mediation after consultation with stakeholders.
- Section 918(g): Please identify a source of funds other than the CARES Act funding that has been allocated to PHFA for the COVID Relief Mortgage and Rental Assistance Grant Program. Those funds are needed for rent and mortgage relief. Also, sufficient funding for legal representation should be provided for.
- P. 4 line 3: Please delete “in 60 days” and replace it with “immediately.”

FROM THE DESK OF



THOM GRECO

August 7, 2020

Democratic Policy Committee Chair
House of Representatives
Harrisburg, PA
Via email only to jdawes@pahouse.net

I am a landlord of residential properties in Wilkes Barre, PA. I understand the difficulties that have developed for many during these Covid Times. We are overlooking the protection of the rights of the residential rental landlords when government blindly sets forth a policy to cover all tenants rather than making exceptions for us to receive our rentals for apartments.

Many of my tenants receive payments on their social security, social security disability and other forms of government support. They also receive food stamps and recently got an increase in food stamps. These same tenants received a stimulus check for \$1200. While they could afford rent prior to the covid crisis – why now can they not afford to pay us rent? It's not that they can't afford to pay – but, you have enabled them to escape the payment of rent due to the moratorium on evictions.

What I suggest is a carve out that if their financial position has been the same or better – they can be evicted – how do you define their financial position – if they continue to receive their social security checks and food stamps without reduction and they stopped paying rent – then we can evict them. This can be challenged at the local magistrate when we file for that exception so we can at least get rentals from – not the disadvantaged but from those taking advantage of this moratorium on evictions.

We have mortgages, real estate taxes and utilities to pay. Why not give us a moratorium on payment of real estate taxes and an abatement on penalties and interest on real estate taxes equal to the time that you have enforced this moratorium on evictions?

Sincerely,

A handwritten signature in blue ink, appearing to read 'Thom Greco'. The signature is stylized with a long horizontal stroke and a circular flourish.

Thom Greco

THOM GRECO – PO BOX # 2 - WILKES BARRE, PA – 18703
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