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**Before the House Financial Services Committee, Subcommittee on Housing,
Community Development, and Insurance**

**The Rent is Still Due: America's Renters, COVID-19, and an Unprecedented Eviction
Crisis**

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Good morning, my name is Cashauna Hill and I am the executive director of the Louisiana Fair Housing Action Center (LAFHAC). I want to thank Chair Maxine Waters and subcommittee Chair William Lacy Clay for the opportunity to address the subcommittee about some of the threats we see to renting families in Louisiana and how Congress can intervene. We are immensely grateful for your consistent support and advocacy on behalf of those most impacted by COVID-19 and the resulting economic crisis. I would also like to thank Ranking Member Patrick McHenry, subcommittee Ranking Member Steve Stivers, and all members of the subcommittee for welcoming us here today.

The Fair Housing Action Center is a non-profit, civil rights organization established in 1995 to eradicate housing discrimination and segregation. We are based in New Orleans and serve all of Louisiana as the only full-service fair housing advocacy group in the state. LAFHAC's work includes educational offerings, investigations into housing discrimination, litigation, and policy advocacy activities. We are dedicated to fighting housing discrimination because it is an illegal and divisive force that perpetuates poverty and segregation, and limits access to opportunity.

An Opportunity to Do Better

At the Louisiana Fair Housing Action Center, we have a lot of experience recovering from disasters. Whether from Hurricanes Katrina and Rita that devastated South Louisiana in 2005, the following levee breaches that drowned New Orleans, or the Great Flood of 2016 in the Baton Rouge area, we know that in all of their destruction and tragedy, disasters are an opportunity to imagine a different future. We have a chance now to deploy the resources and supports needed to right past wrongs that made so many members of our community vulnerable to COVID-19 in the first place. We missed that opportunity in New Orleans after Katrina, when our city received one of the largest investments in housing assistance in American history. Despite that investment, the city now faces higher levels of housing segregation than before the storm and it is in the most segregated, black neighborhoods where we have seen the highest rates of COVID-19.¹ It is imperative that we learn from our mistakes and do far better this time.

¹ J. Adelson. (April 20, 2020). "Glaring' racial disparities found in coronavirus infection rates in these New Orleans neighborhoods. *NOLA.com/The Times Picayune*. Available at: www.nola.com/news/coronavirus/article_0ea8b004-8357-11ea-81e3-ff26d085e141.html.

The Situation in Louisiana

To make good on this opportunity, we must address the challenges we face head on and I want to illustrate those challenges through the story of Danielle Seymour. Ms. Seymour was working not one, but three hospitality jobs when the pandemic hit in March. Her jobs at the local basketball arena, waiting tables on Bourbon Street, and helping to run a Tulane University cafeteria all disappeared within the same week as New Orleanians sheltered in place to slow the Coronavirus.² At the time, Ms. Seymour was staying in an extended stay hotel as she waited for an inspection on a rental home. Without income, many of the hotel's clients were short on rent and despite a local eviction moratorium, the proprietor moved to evict everyone. When Ms. Seymour and other families asserted their rights to stay safe from the coronavirus, the owner hired a security guard to cut off door locks and barge into rooms with a gun drawn. It was likely only the swift work of our local legal aid attorneys and their efforts to attract local news attention that kept the situation from devolving further. Ultimately, the hotel was closed, but our partners at Southeast Louisiana Legal Services were able to help Ms. Seymour find temporary housing.

I wish Ms. Seymour's story was an outlier, but nearly half of all renters in Louisiana, and approaching two-thirds of renters in New Orleans, were paying more than they could afford on rent and utilities before COVID-19.³ With so many families already teetering on the edge, Louisiana is poised to see the worst recession of any state as a result of the COVID-19 pandemic.⁴ According to WalletHub, this is due to the large share of Louisiana's workers with jobs in the hospitality or oil and gas industries, and our nearly non-existent safety net.

Like Ms. Seymour, hundreds of thousands of our residents lost income and jobs when they stayed home to keep us all safe. Louisiana's unemployment system was overwhelmed and the long delays in receiving assistance meant that many renters were late on April and May rent. Even if they are now paying on time, most will struggle to catch up on this back rent before eviction courts are scheduled to reopen on June 15th. In late May, 41% of Louisiana renters had little confidence they would make June 1st rent.⁵ All of these factors set the scene for a wave of evictions and homelessness when emergency eviction suspensions are lifted.

As is true across the country, the effects of COVID-19 have fallen disproportionately on Louisiana's low-income and black households. In a state where 32% of the population is

² Baurick, T. and Vargas, R.A. (April 3, 2020). "Motel staff arrested after forcibly evicting long-term tenants in New Orleans East during pandemic." *NOLA.com/The Times-Picayune*. Available at www.nola.com/news/coronavirus/article_9b535d52-7604-11ea-95c3-0f6cf76ae319.html.

³ American Community Survey, 2018 1-year estimates, Gross Rent as a Percentage of Household Income in the Past 12 Months.

⁴ McCann, Andrew. (March 31, 2020). "State Economies Most Exposed to Coronavirus." WalletHub, Available at wallethub.com/edu/state-economies-most-exposed-to-coronavirus/72631/.

⁵ U.S. Census Bureau, Household Pulse Survey, May 21-May 26, 2020. Available at www.census.gov/data/tables/2020/demo/hhp/hhp4.html.

black, African Americans make up 54% of COVID-19 deaths.⁶ In New Orleans, many of the census tracts with the highest COVID-19 per capita rates correlate with majority black neighborhoods that have also seen the highest eviction rates. New Orleans pre-COVID eviction rate of 5.2% was double the national average and in some majority-black neighborhoods like Little Woods in New Orleans East, the eviction rate was as high as 10.4%.⁷ Little Woods now has some of the highest per capita Coronavirus infection rates as well. A deeper investigation by Jane Place Neighborhood Sustainability Initiative's (JPNSI) Eviction Court Monitoring Project also shows that 57% of all tenants facing eviction in New Orleans pre-COVID were black women.⁸

Without additional federal assistance, we expect the reopening of eviction courts to only deepen this disparity. LAFHAC supports the Rent and Mortgage Cancellation Act because it would make renters, homeowners, landlords, and lenders whole, and would immediately halt this coming tidal wave of evictions. Short of rent and mortgage cancellation, Louisiana renters and landlords desperately need a massive rental assistance program like the \$100 billion set aside for rental assistance in the HEROES Act.

For those renters who cannot access rental assistance, JPNSI's eviction court monitoring report shows exactly how crucial it is to fully fund eviction defense. Data from the report suggest that ensuring all renters in eviction court have an attorney, could cut eviction rates in half. Of the 671 cases observed in the report, only 15% of the 41 renters who had representation were evicted, compared to 65% of 630 renters without.⁹ One of the cases monitors observed involved an unrepresented woman who had recently given birth and was on disability. Her disability check was late, but when it arrived she paid rent and the late fee on the 6th of the month. The landlord refused to accept the payment and she and her newborn were evicted. An attorney could have easily prevented this unnecessary eviction because the Fair Housing Act allows people with disabilities to request reasonable accommodations, such as paying rent on a different date to account for when disability checks arrive. Congress can protect renters from eviction by ensuring that the final version of the HEROES Act continues to include \$11.5 billion for Emergency Solutions Grants (ESG). Local jurisdictions can use that funding to provide eviction defense, among other services for those at risk of or experiencing homelessness.

Gaps in Renter Protections

⁶ Louisiana Department of Health. COVID-19 Deaths in Louisiana. June 5, 2020, available at: <http://ldh.la.gov/coronavirus/>

⁷ Finger, D. and Jane Place Neighborhood Sustainability Initiative. (March 2019). *New Orleans Eviction Geography: Results of an Increasingly Precarious Housing Market*, Available at https://storage.googleapis.com/wzukusers/user-27881231/documents/5c95369d185a9kbj1pY4/JPNSI_Evictions_Final.pdf.

⁸ Unequal Burden, Unequal Risk: Households Headed by Black Women Experience Highest Rates of Eviction. (June 2020). Jane Place Neighborhood Sustainability Initiative. Available at:

<https://storage.googleapis.com/wzukusers/user-27881231/documents/1b0abaec16347ae90699173731e91ae/Unequal%20Burden%2C%20Unequal%20Risk%20Eviction%20Report%20JPNSI%20Final.pdf>

⁹ Unequal Burden, Unequal Risk.

Another crucial element of the HEROES Act is the extension of the CARES Act eviction moratorium to cover all renters. The CARES Act moratorium was an important step in the right direction, but has proved incredibly difficult to implement at the local level and leaves far too many renters out.

Covered properties under the CARES Act include those that accept nearly all housing subsidies as well as any property with a federally backed mortgage. In New Orleans, data suggest that eviction cases will disproportionately come from CARES Act-covered properties.¹⁰ Federal databases of multifamily properties with federally backed loans and subsidized developments suggest at least half of all renters in New Orleans would be covered by the CARES Act. However, it is incredibly difficult to project the exact number of covered properties because our estimates do not include rentals in doubles, triples, and four-plexes with federally backed mortgages. Additionally, the Act covers “any property that participates in” programs like the Housing Choice Voucher Program (“Section 8”), suggesting that all units in a property that accepts vouchers are covered even if they are not all directly subsidized.¹¹ Unfortunately, it is virtually impossible for a renter to look up their landlord’s mortgage to see if it is federally-backed. In many cases, it requires the last four digits of a landlord’s social security number. Most renters also have no idea whether their neighbor is using a Section 8 voucher. The result is that most renters won’t have any way to determine whether they’re covered and it is already proving remarkably difficult to enforce the act and educate the public about it.

We also expect these provisions to cause chaos and confusion across the state when eviction courts reopen. Because renters will not have access to the information necessary to show they live in a covered property, courts will need to do individual research on each property where an eviction is filed to ensure that the property is not federally subsidized or subject to a federally-backed mortgage. In Louisiana, most jurisdictions handle evictions in justice of the peace courts, which are woefully unprepared to handle these cases. Justices of the peace are often non-lawyers; they have few, if any, staff, and in some communities, it is common for court to be held in the justice of the peace’s garage, living room, or kitchen.

Since early April, LAFHAC’s staff has diverted months of staff time and energy to dealing with this hole in the CARES Act, since the bill leaves addressing this gap in protections up to each individual state. Along with our partners at Southeast Louisiana Legal Services, LAFHAC has attempted to educate our state supreme court justices, state attorney general, and city court judges and justices of the peace. In neighboring Arkansas, the State Supreme Court opted to issue an order that places the burden on landlords to show that they are not a “covered property,” rather than on the tenant.¹² The Louisiana Supreme Court failed to

¹⁰ Unequal Burden, Unequal Risk: Households Headed by Black Women Experience Highest Rates of Eviction. (June 2020). Jane Place Neighborhood Sustainability Initiative. Available at: <https://storage.googleapis.com/wzukusers/user-27881231/documents/1b0abaecc16347ae90699173731e91ae/Unequal%20Burden%2C%20Unequal%20Risk%20Eviction%20Report%20JPNSI%20Final.pdf>

¹¹ Coronavirus Aid, Relief, and Economic Security (CARES) Act, §4024 Temporary Moratorium on Eviction Filings, page 575.

¹² *IN RE RESPONSE TO THE COVID-19 PANDEMIC—EVICTION FILINGS*, 2020 Ark. 166 (Apr. 28, 2020),

issue a similar order, forcing LAFHAC and our partners to begin reaching out to the over 350 judicial jurisdictions across the state to encourage them to require landlords to sign affidavits affirming that their properties are not covered by the CARES Act, and thus that they can legally force a tenant out.

When eviction courts reopen on June 15th, New Orleans courts will have some protections in place to ensure dockets are not full of cases prohibited by the CARES Act, but in many smaller cities and towns, there are no protections at all. In Louisiana and across the country, there is now a patchwork of local policies that will determine whether renters are removed from their homes, often in violation of this federal law. We desperately need the uniform policy in the HEROES Act to ensure all renters are protected equally.

It's also important to note that the CARES Act and potential HEROES Act protections are being layered on top of each state's underlying landlord-tenant law, as well as emergency actions taken since the beginning of the COVID-19 pandemic. A recent survey of state eviction policy responses to the pandemic showed that the majority of states received less than one out of a total of five stars, noting their less than adequate tenant protections.¹³ Louisiana scored .38 out of 5, because landlords can still legally send threatening eviction notices to tenants, can still file evictions even if hearings can't be scheduled, there has been no suspension of late fees, and our moratorium does not extend past the emergency declaration, among other things.

This low score was not surprising to advocates, as Louisiana has long failed to provide meaningful protections for renters. Landlords can begin the process of removing families from their homes when they are only one day late or one dollar short on rent. Renters are regularly kicked out of their homes in retaliation for reporting health and safety violations. Additionally, landlords continue to use criminal background screening procedures to discriminate against people impacted by the racism intrinsic to America's system of mass incarceration.

Congress now has a key opportunity to improve protections for millions of Americans who rent. Though it is described as "rental assistance," we should be clear that renters will not touch any of the money in the \$100 billion fund in the HEROES Act. It would be paid directly from local jurisdictions to landlords and should be understood as a "landlord assistance" program as much as it is a renter assistance program. Therefore, we urge Congress to meet this moment and strongly advocate for these funds to be tied to basic renter protections. If we are going to make a massive investment in supporting landlords, then participating landlords should be asked to sign lease addendums with provisions that are already standard in many states and recommended by the Revised Uniform Residential Landlord Tenant Act (RURLTA) or HUD guidance.¹⁴ Those should include a 14-day right to

<https://opinions.arcourts.gov/ark/supremecourt/en/item/470061/index.do>.

¹³ *COVID-19 Housing Policy Scorecard*. Eviction Lab. Accessed June 7, 2020: <https://evictionlab.org/covid-policy-scorecard/>.

¹⁴ Revised Uniform Residential Landlord Tenant Act (RURLTA), National Conference of Commissioners on Uniform State Laws, 2015, available:

cure lease breaches, anti-retaliation protections, just cause protections, and a requirement that criminal background screening procedures meet HUD guidelines.¹⁵ We would be squandering these precious resources if we used them to pay rent to landlords, but didn't take these basic steps to ensure the longer-term stability of America's renting families.

Downstream Effects

I return now to the point I opened with—that if we do not address racial and other disparities early in our disaster recovery efforts, we are destined to amplify them. One of the highest profile examples of recovery gone wrong was the federally funded, state-administered Road Home rebuilding program after Hurricanes Katrina and Rita. Homeowners were offered rebuilding grants determined by the lesser of either pre-storm value of their damaged home, or the cost to rebuild. As a result, homeowners in segregated white neighborhoods, which had higher pre-storm home values, received higher grant awards than homeowners in predominantly African American neighborhoods, who were frequently awarded the lower pre-storm value of the home. This was true even when the homes were the same size and age, and the damage was similar. In 2008, LAFHAC led a lawsuit against HUD and the State of Louisiana alleging that the rebuilding grant formula was discriminatory, and had the effect of reinforcing historic patterns of segregation and disinvestment. HUD agreed to a \$62 million settlement in 2011, but by that time many African American homeowners had already made their decisions not to return based on the lower award amounts offered.

Black homeownership, previously on the rise in New Orleans, has declined since Katrina.¹⁶ As more African Americans are pushed back toward renting, COVID-19 and the resulting economic crisis are intensifying the vulnerability of our state's disproportionately black renter families.

Our local eviction suspension and the CARES Act moratorium are important protections, but they are only delaying an inevitable tsunami of evictions and homelessness when they expire. A plethora of research in the past decade definitively proves that evictions often trigger a spiral resulting in negative mental health outcomes for adults, poorer children's health, and families plunged deeper into poverty.¹⁷ These are not short-term effects. The impact of an eviction can last years, as an eviction judgment on one's record will often bar a renter from future housing opportunities.

[www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=2c1bcbbb-
ea0e-f63c-2ed9-3eabec3611ae&forceDialog=0](http://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=2c1bcbbb-
ea0e-f63c-2ed9-3eabec3611ae&forceDialog=0).

¹⁵ Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transaction, HUD, April 4, 2016, available at: www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF

¹⁶ A. Plyer and L. Gardere. (April 11, 2018). *The New Orleans Prosperity Index: Tricentennial Edition*. The Data Center. Available at: https://www.datacenterresearch.org/reports_analysis/prosperity-index/.

¹⁷ M. Desmond and R. Tolbert Kimbro. (February 24, 2015). "Eviction's Fallout: Housing, Hardship, and Health." *Social Forces*. Available at: https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf.

Without further assistance, tens of thousands of families in Louisiana will see their possessions piled on the curb, spend their grocery budget on emergency shelter, and end up doubled up in overcrowded relatives' homes, homeless shelters, or on the street. These impacts in particular, set the stage for a potential second wave of COVID-19 infections that would again disproportionately impact African Americans. These unnecessary evictions would also dramatically hamper our ability to re-open businesses. Louisiana's economy runs on tourism, and our musicians, chefs, and hotel workers can't be expected to welcome people back if they're trying to keep their furniture off the street and find a new place to live.

As we continue what has become a more than overdue national conversation about racism in America, I want to offer that we sit at a similar decision point in history as we did just before the Fair Housing Act was passed in 1968. At that time, the recently-released Kerner Commission report implored Congress to begin undoing residential segregation and to address the past harms done to black communities, lest we move toward "two societies, one black, one white—separate and unequal."¹⁸ Again, we have an opportunity to allocate the resources our communities needs, or watch as our failure further divides and segregates our country.

Fair housing advocates across the country understand that providing a just path forward begins with prioritizing unprecedented investments in rental assistance, baseline protections for renters, robust eviction defense programs, universal eviction moratoriums, and a recommitment to federal fair housing oversight to ensure our resources undo, rather than perpetuate, segregation.

On behalf of the Louisiana Fair Housing Action Center, I appreciate the opportunity to offer this testimony and will gladly be a resource on any issues discussed today.

¹⁸ *Report of the National Advisory Commission on Civil Disorder*. (February 29, 1968). National Advisory Commission on Civil Disorders. Available at: <https://www.ncjrs.gov/pdffiles1/Digitization/8073NCJRS.pdf>.