

# **Renting in Kentucky: Recovery Housing**



**Cara Stewart, JD**  
**Kentucky Voices for Health**  
**May 4, 2021**

# KVH Background

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KVH is a coalition of individuals and organizations working together to improve the health of ALL Kentuckians.

## What we do:

- Promote just and equitable policies
- Advocate and educate
- Build clout through collaboration
- Lift up the voices of Kentuckians



# 6 WAYS

THE AMERICAN RESCUE PLAN HELPS KENTUCKIANS



The American Rescue Plan Act (ARPA) provides immediate relief to Kentuckians facing the health and economic consequences of COVID-19. Many Kentuckians have already begun to see direct impacts in their bank accounts, through extended unemployment insurance, and increased assistance to pay for food, healthcare, and housing. ARPA also provides state and local governments with funding to invest in public health, child care, infrastructure, jobs, and more. Together, this relief will help Kentucky put the COVID-19 pandemic behind us, strengthen our economy, and build back better.

BELOW ARE 6 DIRECT WAYS MOST KY HOUSEHOLDS WILL GET HELP. **CHECK TO SEE IF YOU ARE ELIGIBLE!**

## Stimulus Checks



### WHAT IS IT?

\$1,400 direct payments are being sent to 1.4 million Kentuckians to support economic recovery. Altogether, 92% of the state population will receive a total of \$5.7 billion.



### WHO DOES IT HELP?

Children and adult dependents in households earning up to \$75,000 for individuals and \$150,000 for married couples. A family of four can receive up to a \$5,600 stimulus payment.



### HOW DO YOU GET IT?

To receive the stimulus payment you must **file a tax return for 2020**, even if you don't usually pay federal taxes. Assistance is available for filing tax returns through Voluntary Income Tax Assistance (VITA) programs. Filers can also use free online tax filing services found on the IRS website.

**4.1**  
MILLION  
KENTUCKIANS  
ARE ELIGIBLE FOR  
STIMULUS  
CHECKS

## Child Tax Credits (CTC)



### WHAT IS IT?

All parents will receive \$3,600 for children under 6 years old, and \$3,000 for children ages 6-17. This includes families with very low incomes who have not been eligible in the past. Households will now be able to receive the whole CTC as a direct payment, not just a credit against the taxes owed.



THIS CREDIT WILL REDUCE

**CHILD  
POVERTY  
BY  
49%**



### WHO DOES IT HELP?

1.1 million Kentucky children and their families are eligible for the expanded Child Tax Credit (CTC). In total, the expanded tax credit will send \$1.8 billion to Kentucky families and reduce child poverty by an estimated 49%.



### HOW DO YOU GET IT?

To receive the credit, families will need to **file a 2020 tax return**, even if you don't usually pay federal taxes. Assistance is available for filing tax returns through Voluntary Income Tax Assistance (VITA) programs. Filers can also use free online tax filing services found on the IRS website.

## Marketplace Subsidies & Special Enrollment Period



### WHAT IS IT?

More financial help is available to lower the cost of marketplace health insurance. Many Kentuckians will see large savings on monthly premiums.



### WHO DOES IT HELP?

More than 122,000 Kentuckians are now eligible for new or enhanced subsidies on the marketplace. An estimated 7,100 Kentuckians are newly eligible for a \$0 premium marketplace benchmark plan on [healthcare.gov](http://healthcare.gov).

**7,100**  
KENTUCKIANS  
ARE NOW ELIGIBLE FOR A  
**\$0** PREMIUM  
THROUGH  
HEALTHCARE.GOV



### HOW DO YOU GET IT?

You must **submit an application** to [healthcare.gov](http://healthcare.gov) by August 15, 2021. If you are already enrolled in a marketplace plan, simply **"report a change"** to update the application. Use the find a kynector tool to get local help.

# SNAP Food Assistance

SNAP ELIGIBLE HOUSEHOLDS WILL RECEIVE  
**15%**  
INCREASE IN MAXIMUM BENEFITS UNTIL  
**SEPT. 30, 2021**

## WHAT IS IT?

All SNAP eligible households will continue to receive benefits through September 30, 2021. Kentucky has also received additional funding to improve access to online grocery shopping.

## WHO DOES IT HELP?

As of February 2021, approximately 625,400 Kentuckians are receiving SNAP. As of March 2021, 203,885 households have gotten more grocery money due to the "max allotment". Beginning in late April 2021, the USDA will provide max allotment benefits to additional households with the lowest incomes. Many college students are also newly eligible for SNAP during the pandemic.

## HOW DO YOU GET IT?

**Apply today at [kynect.ky.gov](http://kynect.ky.gov).** Even if you have applied and been denied in the past, you may now be eligible. Stimulus payments and some unemployment insurance benefits will not be counted as income.

# P-EBT School Meals at Home

## WHAT IS IT?

The Pandemic Electronic Benefit Transfer (P-EBT) was established for families to get reimbursed for buying food to replace the free school meals children would have been receiving had they been in school during the COVID-19 pandemic.

THIS WILL HELP  
AN ESTIMATED  
**600,000**  
**KIDS**  
GET SCHOOL MEALS  
AT HOME

## HOW DO YOU GET IT?

Eligibility is automatic for all of Kentucky's public and private school children who attended school virtually or through "hybrid" learning with a mix of virtual and in-person classes that receive free/reduced price meals through the National School Lunch Program (NSLP) and students enrolled in Community Eligibility Provision (CEP) schools. For children attending schools that are not CEP, families can submit an application to be approved for free/reduced price schools meals.

**Lost or discarded your P-EBT card, or want to check your balance?** Call **888.979.9949** for help.

**Was your child(ren) all-virtual, but received the hybrid amount or no P-EBT at all?** Call **855.306.8959** to request a reconsideration.

Additional information can be found here in English and Spanish.

# Housing Relief

## WHAT IS IT?

ARPA makes an additional \$357 Million in housing assistance available to Kentuckians.

## WHO DOES IT HELP?

Up to 250,000 Kentucky families and their landlords are eligible for assistance. Additional funds are available to support people experiencing homelessness and people who are behind on mortgage payments.

## HOW DO YOU GET IT?

Apply for **rent relief** at the Healthy at Home Eviction Relief Fund. Apply for **homeowners assistance** at the Kentucky Homeownership Protection Center. To be directed to the regional **homeless service provider or local shelter**, contact Homeless and Housing Coalition of Kentucky at **502-223-1834**.

THE MAJORITY OF FUNDS  
WILL HELP PEOPLE

UP TO  
**80%**

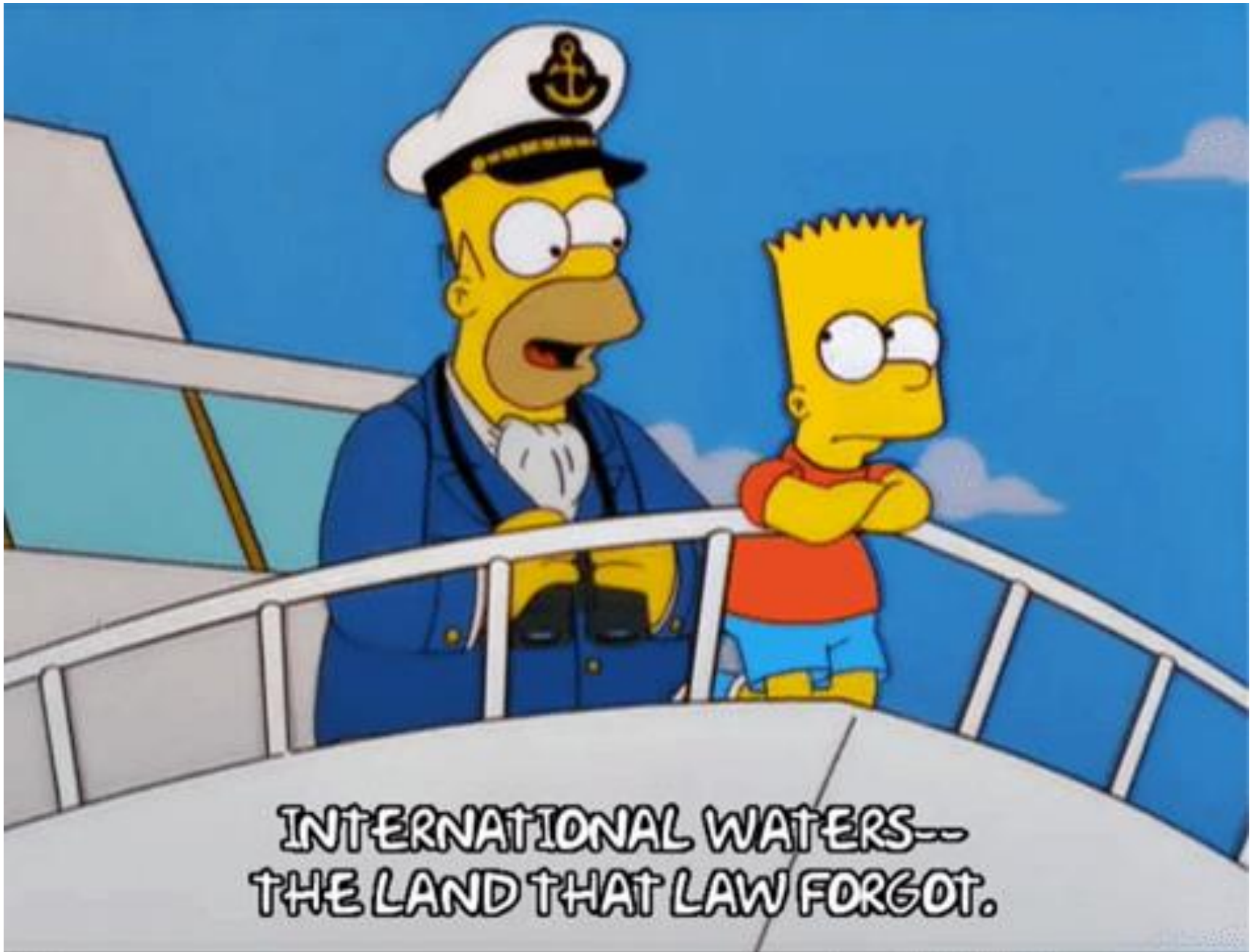
OF AREA MEDIAN INCOME WHO  
RENT THEIR HOMES



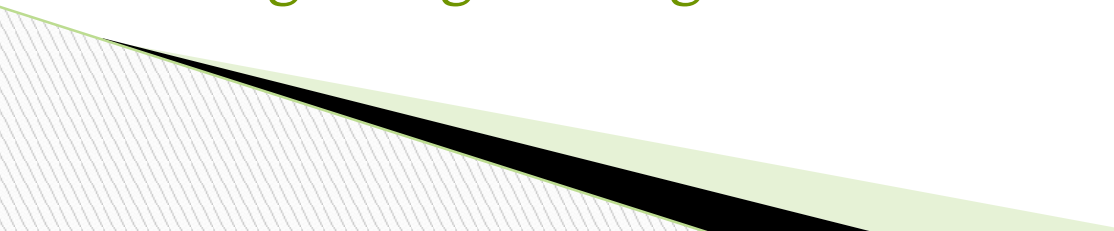
For links to resources and a list of Frequently Asked Questions (FAQ) visit:  
[tinyurl.com/ARPAforKentuckians](https://tinyurl.com/ARPAforKentuckians)







# Intersectionalities in Housing

- ❖ Service Providers: Know how to provide case management services and help families apply for homes & assistance, but generally don't know how to structure tax-credit projects and access other funds available for affordable housing, including recovery housing
  - ❖ Low income housing developers know how to apply for tax credits and structure deals, but generally don't know how to provide supportive services to families, including recovery services
  - ❖ Whatever most people think the “law” is in Kentucky regarding housing Kentuckians rent generally isn't...
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# Housing, Homelessness, Mental Health, and SUD

- ❖ All Basic Human Need policies should be designed inclusively, but *housing policies* create an exacerbated need
- ❖ “In comparison to other adults, those who had been homeless were SIX times more likely to have had an alcohol or drug program and three times more likely to have had a psychiatric illness.” - Greensburg & Rosenheck

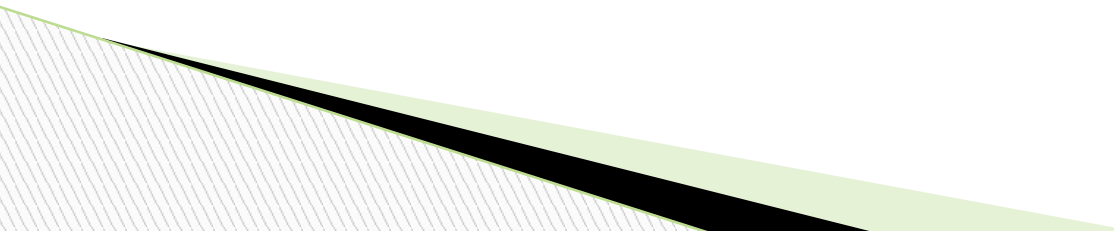




# History of URLTA

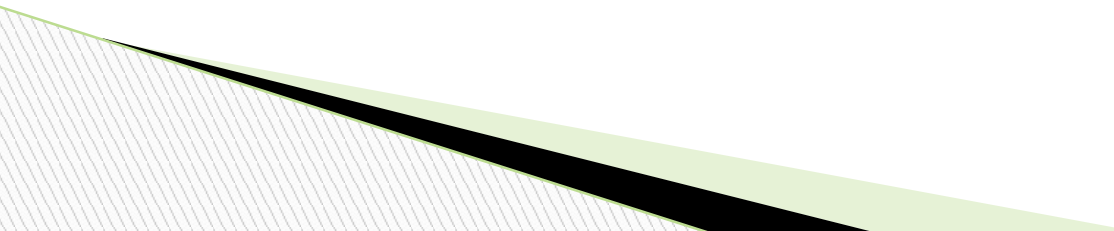
- ❖ Based on a 1972 model bill by the National Conference of Commissioners on State Laws, the purpose of URLTA is to “encourage landlords and tenants to maintain and improve the quality of housing,” and clarify the “rights and obligations of landlords and tenants.”
- ❖ This law was passed by the Kentucky state legislature in 1974 and re-adopted in 1984 following a State Supreme Court decision.
- ❖ Cities and counties must choose whether they want to opt into implementing URLTA.
- ❖ Only 4 Counties, and 15 cities have adopted URLTA.
- ❖ Notable areas without URLTA: Owensboro, Paducah, Bowling Green, Elizabethtown and Frankfort

# Benefits of URLTA

- ❖ Gives landlords and tenants the clarity they need to maintain and improve the quality of housing.
  - ❖ Makes our court systems more efficient.
  - ❖ Standardizes the terms of a lease, so tenants and landlords know what to expect, regardless of where they live in Kentucky.
  - ❖ Balances the property rights of landlords with the health, safety, and privacy rights of tenants.
- 

# Under URLTA

URLTA gives tenants and landlords basic rights, such as the following:

- ❖ Landlords are required to maintain the property.
  - ❖ Landlords must give 48 hours notice before entering the property.
  - ❖ Landlords are required to provide proof of damage before they keep the security deposit.
  - ❖ Landlords cannot evict a tenant in retaliation for reporting a housing problem to a code enforcement agency.
  - ❖ There is a clear and expedited process to evict tenants who don't pay rent.
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# Without URLTA

- ? Kentucky Supreme Court *Miles v. Shauntee* 1983
  - Under Common Law “It has been a long standing rule in Kentucky that a tenant takes the premises as he finds them. *The landlord need not exercise even ordinary care to furnish reasonably safe premises, and he is not generally liable for injuries caused by defects therein.*”
- ? Kentucky and Arkansas are the only two states that do not establish habitability standards for housing statewide

# Excerpts from URLTA vs. non-URLTA Leases

## Glasgow non-URLTA lease

- ❖ “We will try to give you prior notice of our work schedule, if possible.”
- ❖ “We reserve the right to alter the rate of monthly rent or other charges.”
- ❖ “We may use the security deposit for any damage or cost we suffer due to your default.”

## Lexington URLTA lease

- ❖ “Except in case of emergency, landlords must give 48 hours notice.”
- ❖ “Lease shall be automatically renewed with the same conditions and terms on a month to month basis after its expiration date unless otherwise notified by the landlord.”
- ❖ “At the termination of occupancy, the landlord shall inspect the premises and compile a comprehensive listing of any damage to the unit which is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage.”

# URLTA Codifies Industry Best Practices

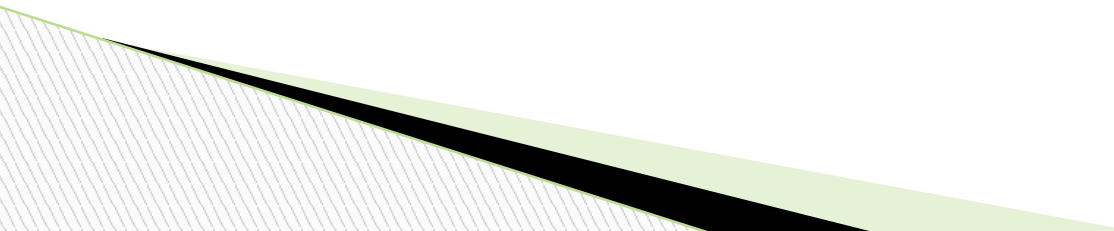
- ❖ Good landlords are already doing the things outlined in URLTA. Most landlords in Kentucky are good landlords.
- ❖ Only “bad apples” would have to change things under URLTA.
- ❖ Both renters and landlords benefit from this. Giving clear rules and responsibilities for both parties.
- ❖ The rest of the landlords would benefit from URLTA because it sets clear “rules of the game” and reduces confusion and conflict.
- ❖ Taxpayers stand to benefit from the reduction in unnecessary court costs due to evictions under standards that vary from lease to lease and jurisdiction to jurisdiction.

# Grassroots Advocacy for URLTA

- ❖ Community advocates in Barren and Warren Counties have been working since 2007 to advocate for renters' rights.
- ❖ Formed the multi-agency Homeless and Housing Coalition of South Central Kentucky (HHCSCCK) to advocate for passage of URLTA, prevent evictions, and improve the quality of affordable rental housing.
- ❖ WKU Students formed the Student Coalition for Renters' Rights
- ❖ HHCKSK and WKU students partnered to create the *Barren River Area Renters' Handbook: Protecting Yourself and Your Family When the Laws Don't*, a handbook for renters in areas without URLTA protections.
- ❖ Engaged statewide organizations, such as HHCK, KFTC, KEJC, KVH, and others to advocate for a bill to enact URLTA statewide.



# Why Does This Matter for Recovery Housing?

- ❖ Recovery Housing is Rental Housing
  - ❖ The ADA **does not** cover strictly residential private apartments and homes, *but if Recovery Housing is a place of public accommodation*, the ADA applies.
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# What is a Recovery Residence?

- ❖ “Recovery residence” (RR) is a broad term describing a sober, safe, and healthy living environment that promotes recovery from alcohol and other drug use and associated problems. Many thousands exist in the United States that vary in size, organization, and target population. (The exact number of recovery residences is unknown since many RRs are not regulated by government or independent organizations.) At a minimum, RRs offer peer-to-peer recovery support with some providing professionally delivered clinical services all aimed at promoting abstinence based, long-term recovery.
- ❖ Recovery residences are sober living environments, meaning that residents are expected to abstain from alcohol and illegal drug use. Each credentialed recovery residence publishes policies on relapse sanctions and readmission criteria and other rules governing group living. Recovery residences may require abstinence from particular types of medications according to individual policy.
- ❖ Citation: A primer on recovery residences: Frequently asked questions. (2012). National Association of Recovery Residences.

# Kentucky & NARR Certification

- ❖ NARR: National Alliance for Recovery Residences, works with state level affiliates to create and administer certification of recovery residences in each state
- ❖ Currently Standard 3.0 of guidelines for what makes a good recovery residence
- ❖ Kentucky is *unique*: First and Only State Government affiliate
- ❖ “Kentucky Recovery Housing Network” which is a program *within* the Department for Behavioral Health
- ❖ <https://dbhdid.ky.gov/dbh/krhn.aspx>

# Kentucky & NARR Certification

- ❖ **Kentucky just became a NARR affiliate April 1, 2021**
  - This is all very new and evolving
  - Incremental Rollout
  - Initially KORE: Kentucky Opioid Response Effort
  - MOUD: Medication for Opioid Use Disorder - Bed Expansion - 8 recovery operators applied for an received that grant, which included NARR certification
  - 1st in Kentucky were the Serenity Apartments at Chrysalis House in Lexington Kentucky with 5 separate buildings that were certified individually
- ❖ NARR certification uses a “carrot” approach rather than “stick”

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# Kentucky & NARR Certification

## Kentucky Recovery Housing Network

(502) 782-8478

JonathanE.Philpot@ky.gov

<http://dbhdid.ky.gov/dbh/krhn.aspx>

The Kentucky Recovery Housing Network (KRHN), housed within the Department for Behavioral Health, Developmental and Intellectual Disabilities, is proud to be the state's NARR affiliate.

Our mission is to support those in recovery from substance use disorders by improving access to recovery residences through established standards, a fair and transparent certification process, community engagement, education, technical assistance, research, and advocacy.

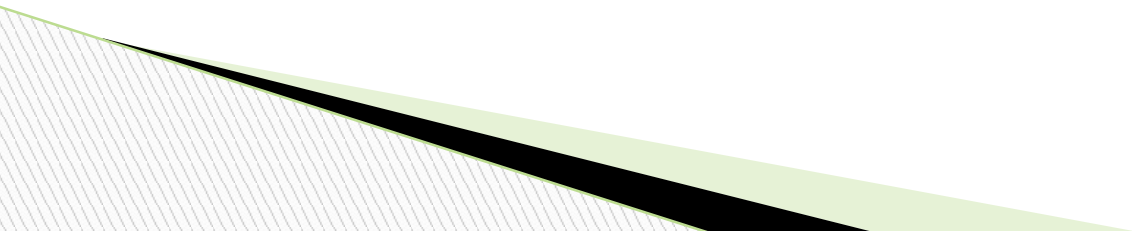
We are particularly anxious to connect with recovery residence providers who may not know about KRHN. For more information, please contact Jonathan Philpot, Program Administrator.

Frankfort, Kentucky

# Kentucky & NARR Certification

## ❖ Partnerships and Funding: Most are Joint Efforts

- ❖ Largest Recovery Housing is Recovery Kentucky, which is a joint effort by the Department for Local Government (DLG), the Department of Corrections, and Kentucky Housing Corporation (KHC).
- ❖ These agencies developed a financial plan that has provided construction and operational financing, including a \$2.5 million annual allocation of Low Income Housing Tax Credits (LIHTC or Tax Credits) from KHC, which will generate a total equity investment of approximately \$30 million for construction costs. Operational funding includes approximately \$3 million from DLG's Community Development Block Grant (CDBG) program and approximately \$5 million from the Department of Corrections.





# The Eviction Process

1. Non-Payment/Breach of the Lease/Either Party Terminates Tenancy
2. Notice
3. The Hearing
4. Appeal or Enforcement of Judgment

**You Can Only Be Evicted by a Judge in Court**

# Termination of Tenancy

## ❖ Generally something happens before Notice and filing of a Forcible Detainer Complaint:

- Non-Payment of Rent
- Material Breach of the Lease (examples may include a violation of a pet policy or damage to the premises)
- Termination of Month to Month Tenancy: Pursuant to KRS 383.195, the Landlord or the Tenant may terminate a Tenancy at Will or At Sufferance with one month's written notice.
  - A Month to Month Tenancy at Will or by Sufferance exists by law after the lease term expires if no formal renewal.
  - No reason need be given by either party.

## ❖ **THINGS ARE VERY VERY** different in Jefferson County in 2021 because of advocacy there!

# Notice Provided to Tenant

## URLTA

### How Notice is Provided:

Notice to vacate must be hand delivered to tenant or mailed registered or certified mail. KRS 383.560(3)(c) with some exceptions noted.

## Non-URLTA

### How Notice is Provided:

Service of notice preferably is to be hand-delivered personally to tenant or by certified or registered mail. Courts have found that posting to the door or mail is sufficient.

# Notice Provided to Tenant

## URLTA

Time period for eviction must be stated on Notice:

- Nonpayment of rent – 7 day notice with right to cure (KRS 383.660(2))
- Material compliance with rental agreement – 14 day notice (KRS 383.660(1))
- Periodic Tenancy – 7 day notice for week-to-week tenancy (KRS 383.695(2))
- 30 day notice from periodic rental date for month to month tenancy (like Pack) KRS 383.695(2)
- Tenancy begun upon the termination of a written lease (KRS 383.695(3))

## NON-URLTA

Time period for eviction should be stated on Notice:

- Time period for eviction due to the nature of the alleged breach should be designated in lease if occurring during lease term. Otherwise, 30 days.
- After expiration of the lease term, KRS 383.195 requires one month's notice in writing to terminate tenancy at will or by sufferance
  - With Month to Month Tenancy, case law has dictated that the where the tenancy is from month to month, the one month notice to vacate must run until the next periodic rental date (example: rent is due on the 5th of the month, notice to vacate given on January 22 must run until March 5, not just February 21.) Pack v. Feuchtenberger, Ky., 22 S.W.2d 914 (1930), interpreting predecessor to KRS 383.195, Reck & Riehl v. Caulfield, Ky., 112 S.W. 843 (1908), David v. Hall, 6 Ky. 444 (1984)

# Notice Provided to Tenant

## URLTA

### Right to Cure

Tenants have an unqualified right to “cure” the breach of the lease for nonpayment of rent within 7 days of issuance of notice, and a right to “cure” a material breach of the lease within 14 days, if possible (see *Housing Authority of Covington v. Turner*, 295 S.W.3d 123 (Ky. Ct. App. 2009))

## Non-URLTA

### Right to Cure:

No designated right to cure (unless stated in lease) so at the discretion of the landlord.

# Waiver of Right to Prosecute Eviction

## URLTA

KRS 383.675. Acceptance of rent with knowledge of a default by the tenant or acceptance of performance that varies from the terms of the rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that breach without issuance of a new Notice. Often occurs in non-payment cases.

## Non URLTA

Acceptance of rent for a period following the proposed termination date operates as a waiver of the termination notice requiring that a new notice be issued before an FED action can be maintained. See Daily v. Kelly, Ky., 200 S.W.2d 114 (1946); Rich v. Kelly, Ky., 99 S.W. 953 (1907).

# The Hearing

- ❖ Four main issues are focused upon at hearing:
  - Is there a landlord-tenant relationship? (No property sellers/property buyers)
  - Was there non-payment or a material breach of the lease?
  - Was proper Notice given pursuant to Statute and Case Law?
  - Is the Defendant still in possession of the property?

# The Hearing

## URLTA

- Repair and Deduct. KRS 383.635.
- Wrongful Failure to Supply necessary Services. KRS 383.640.
- No Retaliatory Evictions. KRS 383.705.
- Unlawful Ouster. KRS 383.640.
- Termination of Rental Agreement. KRS 383.625.
- Damages and Attorneys Fees. KRS 383.640; KRS 383.655
- Requires Strict Compliance by Tenant
- Small Claims for overage?

## Non-URLTA

- No Implied Warrant of Habitability: Miles v. Shauntee, Ky., 664 S.W.2d 512 (1983) held generally that there is no implied warranty of habitability.
- In Non-URLTA jurisdictions, there is no guarantee by the lessor that a rented home or apartment is fit and safe for human habitation.



# Appeal of Judgment

- ❖ RIGHT TO APPEAL. KRS 383.255(1). Perfecting appeal within seven calendar days stays execution. KRS 383.255(2).
- ❖ Appeal is Governed by Kentucky Civil Rule 72.
- ❖ Appeal Bond: Should be paid to stay execution. However, see Fickey v. Cross Creek Apartments, Ltd., Ky. App., 700 S.W.2d 807 (1985) - absent deposit, enforcement of district court judgment would not be stayed pending appeal.

# Execution of Judgment

- WRIT OF RESTITUTION. KRS 383.245. May be issued if Appeal not timely filed. Sheriff or constable will not physically remove personal items on property. Sheriff or constable is there to ensure there is no breach of peace. Landlord or authorized agent must remove property.

# THE HEARING



# MYTHS

“If my Landlord won’t fix anything,  
I can just put my rent in escrow.”



# MYTHS

“I didn’t get a **REAL** eviction notice, just something my Landlord had typed up.”



# MYTHS

“If it’s winter, I can’t be evicted.”

“If I’m disabled, I can’t be evicted.”

“Once I explain to the Judge they will give me more time.”

# MYTHS

“My rent is \$900. I tried to pay my Landlord \$800 and he wouldn’t take it!”

“It’s court day and I have the money now, doesn’t he have to take it and let me stay?”

# Contact Information

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[cara@kyvoicesforhealth.org](mailto:cara@kyvoicesforhealth.org)