



May 28, 2020 Update (#130)

To: Board Members
From: Charles H. Greenthal Management Corp.
Re: Update Regarding New Proposed Legislation in New York State Related to Evictions & Remote Meetings/Notarizations

Charles H. Greenthal Management Corp. remains committed to sharing updates with you to ensure you have the information you need to make informed decisions and plan for the future, as we continue to navigate this pandemic. We want to bring to your attention two new laws currently under consideration by the State, as they related to evictions and remote meetings/notarizations.

Proposed NYS Law Prohibiting Residential Evictions During the COVID-19 Pandemic.

The NYS State Senate and Assembly are convening this week virtually. One Bill that the Legislature will take up is [S. 8192B/ A10290B](#) sponsored by Senator Hoylman and Assembly member Dinowitz. The original version prohibited residential and commercial evictions but is now limited to just residential evictions and the hardship concerns have been addressed.

Presently, the legislation prohibits the eviction of residential tenants for non-payment of rent, who have suffered financial hardship from March 7th to the date in a region that none of the restrictions of the prior existing Executive Orders apply.

Under this legislation, the tenant would need to assert financial hardship as a defense to the non-payment proceeding. This appears to place the burden of proof of establishing such hardship upon the tenant. Although these changes are important, the proposed legislation does not adequately address recovery for the owner and extends the economic hardship of owners for an undetermined period as they contend with operation and maintenance costs and provide shelter for millions of New Yorkers.

In order to be fairer to landlords, some attorneys have suggested that “*loss of income*” be more clearly defined, so as not to capture those who have a temporary diminishment of resources that does not truly impact their ability to pay rent. There is a big difference between someone who lost their job versus a person who took a temporary pay cut for long-term solvency of the firm.

It is insufficient to include only liquid assets as criteria for further examination. Judges should consider all factors to determining hardship. Since there is no correlating forgiveness of utilities and property taxes, if enacted, owners would be subsidizing tenants. The legislation is silent about making owner whole or even partially compensated for loss of revenue by real estate taxes or other obligations. The legislation is also unclear as to hardship specifically related to COVID-19 losses (i.e. impairment of income specifically due to COVID-19 related issues like shutdown or illness, not merely anyone who experienced an economic loss during the COVID-19 period).

Finally, the end of the COVID period should be more precisely defined as the current definition could add months or even a year to the relevant period of non-payment for affected units. Owners cannot simultaneously operate their properties at the same level for the next year while continuously deferring payments and meeting their other obligations, such as property taxes.

While the bill bars evictions and allows a monetary judgment, a judgement does not have much utility if a tenant does not or cannot pay the rent.

Bill Introduced to Establish an Interim Residential Rent Relief Program

This week legislators are poised to vote on a modest form of tenant relief. Called the “Emergency Rent Relief Act of 2020”, [Senate Bill S8419](#), the bill would provide vouchers to landlords on behalf of a small subset of rent-burdened tenants who lost income during the pandemic. To be eligible, a landlord's tenants must earn below 80 percent of an area's median income and have been paying more than 30 percent of their household income in rent before March 7th. The vouchers would help cover missing rent payments between April and July. Funding would come from money designated for New York's recovery in the first federal stimulus, with total spending capped at \$100 million

Bill Introduced to Codify Remote Practices and Procedures

[Senate Bill S8317A](#) has been introduced in the New York State Senate by Senator Brian A. Benjamin. This bill would codify in law the COVID-19 Executive Orders relating to the remote conduct of certain practices and procedures utilizing electronic and/or audio-visual technologies. It would modernize state laws regarding remote meetings and remote notarization.

CHG will continue to monitor the status of the proposed legislation and will report back to you as new information becomes available.