

STATE OF NEW YORK

6726

2021-2022 Regular Sessions

IN SENATE

May 13, 2021

Introduced by Sen. MARTUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend chapter 381 of the laws of 2020 establishing the "COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020", in relation to the effectiveness of such chapter

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 4 of section 1 of part A of chapter 381 of the
2 laws of 2020 establishing the "COVID-19 Emergency Eviction and Foreclo-
3 sure Prevention Act of 2020", as amended by chapter 104 of the laws of
4 2021, is amended to read as follows:

5 4. "Hardship declaration" means the following statement, or a substan-
6 tially equivalent statement in the tenant's primary language, in
7 14-point type, published by the office of court administration, whether
8 in physical or electronic written form:

9 "NOTICE TO TENANT: If you have lost income or had increased costs
10 during the COVID-19 pandemic, or moving would pose a significant health
11 risk for you or a member of your household due to an increased risk for
12 severe illness or death from COVID-19 due to an underlying medical
13 condition, and you sign and deliver this hardship declaration form to
14 your landlord, you cannot be evicted until at least [~~August 31~~] June 30,
15 2021 for nonpayment of rent or for holding over after the expiration of
16 your lease. You may still be evicted for violating your lease by persis-
17 tently and unreasonably engaging in behavior that substantially
18 infringes on the use and enjoyment of other tenants or occupants or
19 causes a substantial safety hazard to others.

20 If your landlord has provided you with this form, your landlord must
21 also provide you with a mailing address and e-mail address to which you
22 can return this form. If your landlord has already started an eviction
23 proceeding against you, you can return this form to either your land-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 lord, the court, or both at any time. You should keep a copy or picture
2 of the signed form for your records. You will still owe any unpaid rent
3 to your landlord. You should also keep careful track of what you have
4 paid and any amount you still owe.

5 For more information about legal resources that may be available to
6 you, go to www.nycourts.gov/evictions/nyc/ or call 718-557-1379 if you
7 live in New York City or go to www.nycourts.gov/evictions/outside-nyc/
8 or call a local bar association or legal services provider if you live
9 outside of New York City. Rent relief may be available to you, and you
10 should contact your local housing assistance office.

11 TENANT'S DECLARATION OF HARDSHIP DURING THE COVID-19 PANDEMIC

12 I am a tenant, lawful occupant, or other person responsible for paying
13 rent, use and occupancy, or any other financial obligation under a lease
14 or tenancy agreement at (address of dwelling unit).
15 YOU MUST INDICATE BELOW YOUR QUALIFICATION FOR EVICTION PROTECTION BY
16 SELECTING OPTION "A" OR "B", OR BOTH.

17 A. () I am experiencing financial hardship, and I am unable to pay my
18 rent or other financial obligations under the lease in full or obtain
19 alternative suitable permanent housing because of one or more of the
20 following:

21 1. Significant loss of household income during the COVID-19 pandemic.

22 2. Increase in necessary out-of-pocket expenses related to performing
23 essential work or related to health impacts during the COVID-19 pandem-
24 ic.

25 3. Childcare responsibilities or responsibilities to care for an
26 elderly, disabled, or sick family member during the COVID-19 pandemic
27 have negatively affected my ability or the ability of someone in my
28 household to obtain meaningful employment or earn income or increased my
29 necessary out-of-pocket expenses.

30 4. Moving expenses and difficulty I have securing alternative housing
31 make it a hardship for me to relocate to another residence during the
32 COVID-19 pandemic.

33 5. Other circumstances related to the COVID-19 pandemic have negative-
34 ly affected my ability to obtain meaningful employment or earn income or
35 have significantly reduced my household income or significantly
36 increased my expenses.

37 To the extent that I have lost household income or had increased
38 expenses, any public assistance, including unemployment insurance,
39 pandemic unemployment assistance, disability insurance, or paid family
40 leave, that I have received since the start of the COVID-19 pandemic
41 does not fully make up for my loss of household income or increased
42 expenses.

43 B. () Vacating the premises and moving into new permanent housing would
44 pose a significant health risk because I or one or more members of my
45 household have an increased risk for severe illness or death from
46 COVID-19 due to being over the age of sixty-five, having a disability or
47 having an underlying medical condition, which may include but is not
48 limited to being immunocompromised.

49 I understand that I must comply with all other lawful terms under my
50 tenancy, lease agreement or similar contract. I further understand that
51 lawful fees, penalties or interest for not having paid rent in full or

1 met other financial obligations as required by my tenancy, lease agree-
2 ment or similar contract may still be charged or collected and may
3 result in a monetary judgment against me. I further understand that my
4 landlord may be able to seek eviction after [~~August 31~~] June 30, 2021,
5 and that the law may provide certain protections at that time that are
6 separate from those available through this declaration.

7 Signed:

8 Printed name:

9 Date signed:

10 NOTICE: You are signing and submitting this form under penalty of law.
11 That means it is against the law to make a statement on this form that
12 you know is false."

13 § 2. Sections 4, 6 and 7 of part A of chapter 381 of the laws of 2020
14 establishing the "COVID-19 Emergency Eviction and Foreclosure Prevention
15 Act of 2020", as amended by chapter 104 of the laws of 2021, are amended
16 to read as follows:

17 § 4. Prohibition on initiation of eviction proceeding. If there is no
18 pending eviction proceeding and a tenant provides a hardship declaration
19 to the landlord or an agent of the landlord, there shall be no initi-
20 ation of an eviction proceeding against the tenant until at least
21 [~~August 31~~] June 30, 2021, and in such event any specific time limit for
22 the commencement of an eviction proceeding shall be tolled until [~~August~~
23 ~~31~~] June 30, 2021.

24 § 6. Pending proceedings. In any eviction proceeding in which an
25 eviction warrant has not been issued, including eviction proceedings
26 filed on or before March 7, 2020, if the tenant provides a hardship
27 declaration to the petitioner, the court, or an agent of the petitioner
28 or the court, the eviction proceeding shall be stayed until at least
29 [~~August 31~~] June 30, 2021. If such hardship declaration is provided to
30 the petitioner or agent, such petitioner or agent shall promptly file it
31 with the court, advising the court in writing the index number of all
32 relevant cases.

33 § 7. Default judgments. No court shall issue a judgment in any
34 proceeding authorizing a warrant of eviction against a respondent who
35 has defaulted, or authorize the enforcement of an eviction pursuant to a
36 default judgment, prior to [~~August 31~~] June 30, 2021, without first
37 holding a hearing after the effective date of this act upon motion of
38 the petitioner. The petitioner or an agent of the petitioner shall file
39 an affidavit attesting that the petitioner or the petitioner's agent has
40 served notice of the date, time, and place of such hearing on the
41 respondent, including a copy of such notice. If a default judgment has
42 been awarded prior to the effective date of this act, the default judg-
43 ment shall be removed and the matter restored to the court calendar upon
44 the respondent's written or oral request to the court either before or
45 during such hearing and an order to show cause to vacate the default
46 judgment shall not be required.

47 § 3. Subdivision a of section 8 of part A of chapter 381 of the laws
48 of 2020 establishing the "COVID-19 Emergency Eviction and Foreclosure
49 Prevention Act of 2020", as amended by chapter 104 of the laws of 2021,
50 is amended to read as follows:

51 a. (i) In any eviction proceeding in which an eviction warrant has
52 been issued prior to the effective date of this act, but has not yet
53 been executed as of the effective date of this act, including eviction
54 proceedings filed on or before March 7, 2020, the court shall stay the

1 execution of the warrant at least until the court has held a status
2 conference with the parties. (ii) In any eviction proceeding, if the
3 tenant provides a hardship declaration to the petitioner, the court, or
4 an agent of the petitioner or the court, prior to the execution of the
5 warrant, the execution shall be stayed until at least [~~August 31~~] June
6 30, 2021. If such hardship declaration is provided to the petitioner or
7 agent of the petitioner, such petitioner or agent shall promptly file it
8 with the court, advising the court in writing the index number of all
9 relevant cases.

10 § 4. Subdivision 4 of section 9 of part A of chapter 381 of the laws
11 of 2020 establishing the "COVID-19 Emergency Eviction and Foreclosure
12 Prevention Act of 2020", as amended by chapter 104 of the laws of 2021,
13 is amended to read as follows:

14 4. If the petitioner fails to establish that the tenant persistently
15 and unreasonably engaged in such behavior and the tenant provides or has
16 provided a hardship declaration to the petitioner, petitioner's agent or
17 the court, the court shall stay or continue to stay any further
18 proceedings until at least [~~August 31~~] June 30, 2021.

19 § 5. Section 13 of part A of chapter 381 of the laws of 2020 estab-
20 lishing the "COVID-19 Emergency Eviction and Foreclosure Prevention Act
21 of 2020", as amended by chapter 104 of the laws of 2021, is amended to
22 read as follows:

23 § 13. This act shall take effect immediately and sections one, two,
24 three, four, five, six, seven, eight, nine, ten and twelve of this act
25 shall expire [~~August 31~~] June 30, 2021.

26 § 6. This act shall take effect immediately; provided that the amend-
27 ments to chapter 381 of the laws of 2020 made by this act shall be
28 subject to the expiration and repeal of such provisions and shall expire
29 and be deemed repealed therewith.