

# STATE OF NEW YORK

2163

2021-2022 Regular Sessions

## IN ASSEMBLY

January 14, 2021

Introduced by M. of A. NIOU, CARROLL, SIMON -- read once and referred to the Committee on Housing

AN ACT to suspend rent payments for certain tenants in response to the outbreak of coronavirus; and to amend the state finance law, in relation to establishing the COVID-19 rental assistance fund

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

- 1 Section 1. For the purposes of this act:  
2 (a) "actual income" means (i) for a residential tenant, all wages,  
3 tips, overtime, salary, recurring gifts, returns on investment, welfare  
4 assistance, social security payments, child support payments, unemploy-  
5 ment benefits, emergency federal, state or local assistance, or any  
6 other form of income that may be used to pay rent; and (ii) for a not-  
7 for-profit corporation or small business, all revenue, including emer-  
8 gency federal, state or local assistance, or any other form of income  
9 that may be used to pay rent, received minus the amount of any wages or  
10 salary paid to employees of the not-for-profit corporation or small  
11 business.  
12 (b) "landlord" means the person or entity to whom a tenant owes rent;  
13 (c) "rent" means the amount charged in consideration for the use and  
14 occupancy of real property pursuant to a written or oral rental agree-  
15 ment or statute;  
16 (d) "state of emergency" means the state of emergency declared by  
17 executive order 202 that began on March 7, 2020.  
18 (e) "covered tenant" includes a residential tenant having the same  
19 meaning as paragraph (a) or (b) of subdivision 1 of section 235-f of the  
20 real property law, or those who otherwise pay for the use and occupancy  
21 of a residential dwelling, except for a residential tenant receiving a  
22 local, state or federal income based rental subsidy, a tenant that is a  
23 not-for-profit corporation, or a tenant that is a small business as  
24 defined by section 131 of the economic development law.

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

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1 § 2. (a) (i) Notwithstanding any other provision of law, rule or regu-  
2 lation to the contrary, any covered tenant in the state that has lost  
3 earned income, has been forced to close their place of business, or  
4 whose business activities have been substantially curtailed resulting in  
5 a loss of income as a result of government ordered restrictions in  
6 response to the outbreak of coronavirus disease 2019 (COVID-19), shall  
7 be responsible for rent payments up to thirty percent of their current  
8 income or their contractual rent, whichever is less, per month for the  
9 duration of ninety days following the effective date of this act.

10 (ii) Where a tenant is authorized to pay an amount that is less than  
11 their contractual or statutory rent pursuant to this act, the tenant  
12 shall provide the landlord with a written and signed statement affirming  
13 the tenant's aggregate actual income for the thirty days prior to the  
14 date such rent was due. Such payment shall absolve the tenant of any  
15 further obligation to pay rent and any difference between the rent that  
16 would have been contractually or statutorily owed and the amount paid  
17 pursuant to this paragraph shall be waived, except where a tenant later  
18 receives additional income, such rent obligations shall be recalculated.

19 (iii) In a summary proceeding for the non-payment of rent under arti-  
20 cle 7 of the real property actions and proceedings law, a tenant may  
21 raise a payment made pursuant to this act as a defense to non-payment.  
22 If the amount of the tenant's actual income is in dispute, the court  
23 shall review documentation of the tenant's income in camera, unless  
24 otherwise deemed necessary by the court. Notwithstanding any other  
25 provision of law to the contrary, pay stubs, copies of checks and signed  
26 letters from the tenant's employer, and other customary documentation of  
27 income shall constitute prima facie evidence of the tenant's actual  
28 income and shall be presumptively admissible in such summary proceeding.

29 (b) Any tenant whose lease expires during the state of emergency shall  
30 have the option of extending such lease under the terms existing prior  
31 to the expiration of the lease for a period of up to ninety days after  
32 the expiration of the state of emergency.

33 (c) Late fees, interest or other penalties shall not be collectable  
34 for rent accrued during the existence of the state of emergency.

35 § 3. Notwithstanding any other law to the contrary, a landlord that  
36 has lost rental income pursuant to this act and has not been fully  
37 compensated by emergency federal, state or local assistance, may apply  
38 to the division of housing and community renewal for relief. The commis-  
39 sioner may, upon satisfaction of the veracity of the landlord's applica-  
40 tion and to the extent possible, authorize the distribution of any emer-  
41 gency aid available through the COVID-19 rental assistance fund pursuant  
42 to section 99-ii of the state finance law in response to the outbreak of  
43 the novel coronavirus disease 2019 (COVID-19), to any such landlord in  
44 the amount of rental income lost. The commissioner of the division of  
45 housing and community renewal shall promulgate rules and regulations to  
46 effectuate this act.

47 § 4. Notwithstanding any other law to the contrary, no court shall  
48 accept for filing a petition to commence a new summary proceeding to  
49 recover possession of real property under article 7 of the real property  
50 actions and proceedings law for non-payment of rent for at least thirty  
51 days following the expiration of the state of emergency; provided any  
52 statute of limitations applicable to such summary proceedings shall be  
53 tolled for thirty days. In no event shall late or reduced rent payments  
54 during the state of emergency constitute the basis for a summary hold-  
55 over proceeding for the chronic nonpayment of rent.

1 § 5. The state finance law is amended by adding a new section 99-ii to  
2 read as follows:

3 § 99-ii. COVID-19 Rental assistance fund. 1. There is hereby estab-  
4 lished in the joint custody of the commissioner of housing and community  
5 renewal and the comptroller, a special fund to be known as the "COVID-19  
6 rental assistance fund".

7 2. Such fund shall consist of any unrestricted federal emergency  
8 assistance funding provided to the state that may be appropriated for  
9 such purpose, and all other moneys appropriated, credited, or trans-  
10 ferred thereto from any other fund or source pursuant to law. Nothing in  
11 this section shall prevent the state from soliciting and receiving  
12 grants, gifts or bequests for the purposes of the fund as defined in  
13 this section and depositing them into the fund according to law.

14 3. Moneys of the fund shall be expended only for relief due to reduced  
15 rental income caused by outbreak of novel coronavirus disease 2019  
16 (COVID-19).

17 4. Moneys shall be paid out of the fund on the audit and warrant of  
18 the comptroller on vouchers approved and certified by the commissioner  
19 of housing and community renewal. Any interest received by the comp-  
20 troller on moneys on deposit in the COVID-19 rental assistance fund  
21 shall be retained in and become part of such fund.

22 § 6. This act shall take effect immediately and shall be deemed to  
23 have been in full force and effect on and after March 7, 2020.