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2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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

AN ACT establishing the "COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2021"; in relation to eviction proceedings; and to provide for the expiration of certain provisions upon the expiration thereof (Part A); and in relation to foreclosure proceedings; and providing for the expiration of certain provisions upon the expiration thereof (Subpart A); in relation to tax sales; and providing for the expiration of certain provisions upon the expiration thereof (Subpart B); to establish hardship declarations for owners of commercial real property; and providing for the expiration of such provisions upon the expiration thereof (Subpart C); and to authorize every governing body of an assessing unit and local assessor to extend to the 2021 assessment roll, the renewal of the exemptions received on the 2020 assessment roll; and to provide for the expiration of such provisions upon the expiration thereof (Subpart D) (Part B)

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

1 Section 1. This act enacts into law components of legislation relating
2 to eviction and foreclosure protections. Each component is wholly
3 contained within a Part identified as Parts A through B. The effective
4 date for each particular provision contained within such Part is set
5 forth in the last section of such Part. Any provision in any section
6 contained within a Part, including the effective date of the Part, which
7 makes reference to a section "of this act", when used in connection with
8 that particular component, shall be deemed to mean and refer to the
9 corresponding section of the Part in which it is found. Section four of
10 this act sets forth the general effective date of this act.

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

LBD07084-01-1

§ 2. Short title. This act shall be known and may be cited as the "COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2021".

§ 3. Legislative intent. The Legislature finds and declares all of the following:

On March 7, 2020, Governor Andrew Cuomo proclaimed a state of emergency in response to the Coronavirus disease (COVID-19) pandemic. Measures necessary to contain the spread of COVID-19 have brought about widespread economic and societal disruption, placing the state of New York in unprecedented circumstances.

COVID-19 presents a historic threat to public health. Hundreds of thousands of residents are facing eviction or foreclosure due to necessary disease control measures that closed businesses and schools, and triggered mass-unemployment across the state. The pandemic has further interrupted court operations, the availability of counsel, the ability for parties to pay for counsel, and the ability to safely commute and enter a courtroom, settlement conference and the like.

Stabilizing the housing situation for tenants, landlords, and homeowners is to the mutual benefit of all New Yorkers and will help the state address the pandemic, protect public health, and set the stage for recovery. It is, therefore, the intent of this legislation to avoid as many evictions and foreclosures as possible for people experiencing a financial hardship during the COVID-19 pandemic or who cannot move due to an increased risk of severe illness or death from COVID-19.

As such, it is necessary to temporarily allow people impacted by COVID-19 to remain in their homes. A limited, temporary stay is necessary to protect the public health, safety and morals of the people the Legislature represents from the dangers of the COVID-19 emergency pandemic.

PART A

Section 1. Definitions. For the purposes of this act: 1. "Eviction proceeding" means a summary proceeding to recover possession of real property under article seven of the real property actions and proceedings law relating to a commercial unit or any other judicial or administrative proceeding to recover possession of real property relating to a commercial unit.

2. "Landlord" includes a landlord, owner of a commercial property and any other person with a legal right to pursue eviction, possessory action or a money judgment for rent, including arrears, owed or that becomes due during the COVID-19 covered period, as defined in section 1 of chapter 127 of the laws of 2020.

3. "Tenant" includes a commercial small business tenant, as defined in section 131 of the economic development law, lawful occupant of a commercial unit, or any other person responsible for paying rent, use and occupancy, or any other financial obligation under a commercial lease or tenancy agreement, but does not include a commercial tenant or lawful occupant with a seasonal use lease where such tenant has a primary residence to which to return to.

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

"NOTICE TO TENANT: If you have lost income or had increased costs during the COVID-19 pandemic, or moving would pose a significant health risk for you or a member of your household due to an increased risk for

1 severe illness or death from COVID-19 due to an underlying medical
2 condition, and you sign and deliver this hardship declaration form to
3 your landlord, you cannot be evicted until at least May 1, 2021 for
4 nonpayment of rent or for holding over after the expiration of your
5 lease. You may still be evicted for violating your lease by persistently
6 and unreasonably engaging in behavior that substantially infringes on
7 the use and enjoyment of other tenants or occupants or causes a substan-
8 tial safety hazard to others.

9 If your landlord has provided you with this form, your landlord must
10 also provide you with a mailing address and e-mail address to which you
11 can return this form. If your landlord has already started an eviction
12 proceeding against you, you can return this form to either your land-
13 lord, the court, or both at any time. You should keep a copy or picture
14 of the signed form for your records. You will still owe any unpaid rent
15 to your landlord. You should also keep careful track of what you have
16 paid and any amount you still owe.

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

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

24 I am a tenant, lawful occupant, or other person responsible for paying
25 rent, use and occupancy, or any other financial obligation under a lease
26 or tenancy agreement at (address of commercial unit).

27 YOU MUST INDICATE BELOW YOUR QUALIFICATION FOR EVICTION PROTECTION BY
28 SELECTING OPTION "A" OR "B", OR BOTH.

29 A. () I am experiencing financial hardship, and I am unable to pay my
30 rent or other financial obligations under the lease in full or obtain an
31 alternative suitable commercial property because of one or more of the
32 following:

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

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

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

42 4. Moving expenses and difficulty I have securing an alternative
43 commercial property make it a hardship for me to relocate to another
44 residence during the COVID-19 pandemic.

45 5. Other circumstances related to the COVID-19 pandemic have negative-
46 ly affected my ability to obtain meaningful employment or earn income or
47 have significantly reduced my household income or significantly
48 increased my expenses.

49 To the extent that I have lost household income or had increased
50 expenses, any public assistance, including unemployment insurance,
51 pandemic unemployment assistance, disability insurance, or paid family
52 leave, that I have received since the start of the COVID-19 pandemic

1 does not fully make up for my loss of household income or increased
2 expenses.

3 B. () Vacating the premises and moving into a new commercial property
4 would pose a significant health risk because I or one or more members of
5 my household have an increased risk for severe illness or death from
6 COVID-19 due to being over the age of sixty-five, having a disability or
7 having an underlying medical condition, which may include but is not
8 limited to being immunocompromised.

9 I understand that I must comply with all other lawful terms under my
10 commercial tenancy, lease agreement or similar contract. I further
11 understand that lawful fees, penalties or interest for not having paid
12 rent in full or met other financial obligations as required by my
13 commercial tenancy, lease agreement or similar contract may still be
14 charged or collected and may result in a monetary judgment against me.
15 I further understand that my landlord may be able to seek eviction after
16 May 1, 2021, and that the law may provide certain protections at that
17 time that are separate from those available through this declaration.

18 Signed:

19 Printed name:

20 Date signed:

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

24 § 2. Pending eviction proceedings. Any eviction proceeding pending on
25 the effective date of this act, including eviction proceedings filed on
26 or before March 7, 2020, or commenced within thirty days of the effec-
27 tive date of this act shall be stayed for at least sixty days, or to
28 such later date that the chief administrative judge shall determine is
29 necessary to ensure that courts are prepared to conduct proceedings in
30 compliance with this act and to give tenants an opportunity to submit
31 the hardship declaration pursuant to this act. The court in each case
32 shall promptly issue an order directing such stay and promptly mail the
33 respondent a copy of the hardship declaration in English, and, to the
34 extent practicable, the tenant's primary language, if other than
35 English.

36 § 3. Pre-eviction notices. A landlord shall include a "Hardship Decla-
37 ration" in 14-point type, with every written demand for rent made pursu-
38 ant to subdivision 2 of section 711 of the real property actions and
39 proceedings law, with any other written notice required by the commer-
40 cial lease or tenancy agreement, law or rule to be provided prior to the
41 commencement of an eviction proceeding, and with every notice of peti-
42 tion served on a tenant. If the translation of the hardship declaration
43 in the tenant's primary language is not available on the office of court
44 administration's public website, as provided by section ten of this act,
45 it shall be the landlord's responsibility to obtain a suitable trans-
46 lation of the hardship declaration in the tenant's primary language.
47 Such notice shall also include:

48 1. a mailing address, telephone number and active email address the
49 tenant can use to contact the landlord and return the hardship declara-
50 tion; and

51 2. a list of all not-for-profit legal service providers actively
52 handling housing matters in the county where the subject premises are

1 located. Such lists shall be prepared and regularly updated, to the
2 extent practicable, for such purpose and published on the website of the
3 office of court administration.

4 § 4. Prohibition on initiation of eviction proceeding. If there is no
5 pending eviction proceeding and a tenant provides a hardship declaration
6 to the landlord or an agent of the landlord, there shall be no initi-
7 ation of an eviction proceeding against the tenant until at least May 1,
8 2021, and in such event any specific time limit for the commencement of
9 an eviction proceeding shall be tolled until May 1, 2021.

10 § 5. Required affidavit. 1. No court shall accept for filing any peti-
11 tion or other filing to commence an eviction proceeding unless the peti-
12 tioner or an agent of the petitioner files an affidavit of service,
13 under penalty of perjury, demonstrating the manner in which the peti-
14 tioner or the petitioner's agent served a copy of the hardship declara-
15 tion in English and the tenant's primary language, if other than
16 English, with any rent demand and with any other written notice required
17 by the commercial lease or tenancy agreement, law or rule to be provided
18 prior to the commencement of an eviction proceeding, and an affidavit
19 under penalty of perjury:

20 a. attesting that at the time of filing, neither the petitioner nor
21 any agent of the petitioner has received a hardship declaration from the
22 respondent or any other tenant or occupant of the commercial unit that
23 is the subject of the proceeding, or

24 b. attesting that the respondent or another tenant or occupant of the
25 commercial unit that is the subject of the proceeding has returned a
26 hardship declaration, but the respondent is persistently and unreason-
27 ably engaging in behavior that substantially infringes on the use and
28 enjoyment of other tenants or occupants or causes a substantial safety
29 hazard to others, with a specific description of the behavior alleged.

30 2. Upon accepting a petition pursuant to article 7 of the real proper-
31 ty actions and proceedings law, the attorney, judge or clerk of the
32 court, as the case may be, shall determine whether a copy of the hard-
33 ship declaration in English and the tenant's primary language, if other
34 than English, is annexed to the served notice of petition and, if not,
35 shall ensure that the hardship declaration is attached to such notice.
36 Service of the notice of petition with the attached hardship declaration
37 shall be made by personal delivery to the respondent, unless such
38 service cannot be made with due diligence, in which case service may be
39 made under section 735 of the real property actions and proceedings law.
40 At the earliest possible opportunity, the court shall seek confirmation
41 on the record or in writing from the respondent that the respondent has
42 received the hardship declaration and that the respondent has not
43 submitted a hardship declaration to the petitioner, an agent of the
44 petitioner, or the court. If the court determines a respondent has not
45 received a hardship declaration, then the court shall stay the proceed-
46 ing for a reasonable period of time, which shall be no less than ten
47 business days or any longer period provided by law, and provide the
48 respondent with a copy of the hardship declaration in English and the
49 respondent's primary language, if other than English, to ensure the
50 respondent received and fully considered whether to submit the hardship
51 declaration.

52 § 6. Pending proceedings. In any eviction proceeding in which an
53 eviction warrant has not been issued, including eviction proceedings
54 filed on or before March 7, 2020, if the tenant provides a hardship
55 declaration to the petitioner, the court, or an agent of the petitioner
56 or the court, the eviction proceeding shall be stayed until at least May

1 1, 2021. If such hardship declaration is provided to the petitioner or
2 agent, such petitioner or agent shall promptly file it with the court,
3 advising the court in writing the index number of all relevant cases.

4 § 7. Default judgments. No court shall issue a judgment in any
5 proceeding authorizing a warrant of eviction against a respondent who
6 has defaulted, or authorize the enforcement of an eviction pursuant to a
7 default judgment, prior to May 1, 2021, without first holding a hearing
8 after the effective date of this act upon motion of the petitioner. The
9 petitioner or an agent of the petitioner shall file an affidavit attest-
10 ing that the petitioner or the petitioner's agent has served notice of
11 the date, time, and place of such hearing on the respondent, including a
12 copy of such notice. If a default judgment has been awarded prior to the
13 effective date of this act, the default judgment shall be removed and
14 the matter restored to the court calendar upon the respondent's written
15 or oral request to the court either before or during such hearing and an
16 order to show cause to vacate the default judgment shall not be
17 required.

18 § 8. Post warrant of eviction. a. (i) In any eviction proceeding in
19 which an eviction warrant has been issued prior to the effective date of
20 this act, but has not yet been executed as of the effective date of this
21 act, including eviction proceedings filed on or before March 7, 2020,
22 the court shall stay the execution of the warrant at least until the
23 court has held a status conference with the parties. (ii) In any
24 eviction proceeding, if the tenant provides a hardship declaration to
25 the petitioner, the court, or an agent of the petitioner or the court,
26 prior to the execution of the warrant, the execution shall be stayed
27 until at least May 1, 2021. If such hardship declaration is provided to
28 the petitioner or agent of the petitioner, such petitioner or agent
29 shall promptly file it with the court, advising the court in writing the
30 index number of all relevant cases.

31 b. In any eviction proceeding in which a warrant has been issued,
32 including eviction proceedings filed on or before March 7, 2020, any
33 warrant issued shall not be effective as against the occupants, unless,
34 in addition to the requirements under section 749 of the real property
35 actions and proceedings law for warrants, such warrant states:

36 (i) The tenant has not submitted the hardship declaration and the
37 tenant was properly served with a copy of the hardship declaration
38 pursuant to this section, listing dates the tenant was served with the
39 hardship declaration by the petitioner and the court; or

40 (ii) The tenant is ineligible for a stay under this act because the
41 court has found that the tenant is persistently and unreasonably engag-
42 ing in behavior that substantially infringes on the use and enjoyment of
43 other tenants or occupants or causes a substantial safety hazard to
44 others, with a specific description of the behavior.

45 c. No court shall issue a warrant directed to the sheriff of the coun-
46 ty or to any constable or marshal of the city in which the property, or
47 a portion thereof, is situated, or, if it is not situated in a city, to
48 any constable of any town in the county, that does not comply with the
49 requirements of this section.

50 d. No officer to whom the warrant is directed shall execute a warrant
51 for eviction issued that does not comply with the requirements of this
52 section.

53 e. Unless the warrant contains the information contained in paragraph
54 (ii) of subdivision b of this section, if any tenant delivers the
55 hardship declaration to the officer to whom the warrant is directed, the
56 officer shall not execute the warrant and shall return the hardship form

1 to the court indicating the appropriate index/case number the form is
2 associated with.

3 § 9. Sections two, four, six and paragraph (ii) of subdivision a of
4 section eight of this act shall not apply if the tenant is persistently
5 and unreasonably engaging in behavior that substantially infringes on
6 the use and enjoyment of other tenants or occupants or causes a substan-
7 tial safety hazard to others, provided:

8 1. If an eviction proceeding is pending on the effective date of this
9 act, but the petitioner has not previously alleged that the tenant
10 persistently and unreasonably engaged in such behavior, the petitioner
11 shall be required to submit a new petition with such allegations and
12 comply with all notice and service requirements under article 7 of the
13 real property actions and proceedings law and this act.

14 2. If the court has awarded a judgment against a respondent prior to
15 the effective date of this act on the basis of objectionable or nuisance
16 behavior, the court shall hold a hearing to determine whether the tenant
17 is continuing to persist in engaging in unreasonable behavior that
18 substantially infringes on the use and enjoyment of other tenants or
19 occupants or causes a substantial safety hazard to others.

20 3. For the purposes of this act, a mere allegation of the behavior by
21 the petitioner or an agent of the petitioner alleging such behavior
22 shall not be sufficient evidence to establish that the tenant has
23 engaged in such behavior.

24 4. If the petitioner fails to establish that the tenant persistently
25 and unreasonably engaged in such behavior and the tenant provides or has
26 provided a hardship declaration to the petitioner, petitioner's agent or
27 the court, the court shall stay or continue to stay any further
28 proceedings until at least May 1, 2021.

29 5. If the petitioner establishes that the tenant persistently and
30 unreasonably engaged in such behavior or the tenant fails to provide a
31 hardship declaration to the petitioner, petitioner's agent or the court,
32 the proceeding may continue pursuant to article 7 of the real property
33 actions and proceedings law and this act.

34 § 10. Translation of hardship declaration. The office of court admin-
35 istration shall translate the hardship declaration, as defined in
36 section one of this act, into Spanish and the six most common languages
37 in the city of New York, after Spanish, and shall post and maintain such
38 translations and an English language copy of the hardship declaration on
39 the website of such office beginning within fifteen days of the effec-
40 tive date of this act. To the extent practicable, the office of court
41 administration shall post and maintain on its website translations into
42 such additional languages as the chief administrative judge shall deem
43 appropriate to ensure that tenants have an opportunity to understand and
44 submit hardship declarations pursuant to this act.

45 § 11. Rebuttable presumption. A hardship declaration in which the
46 tenant has selected the option indicating a financial hardship shall
47 create a rebuttable presumption that the tenant is experiencing finan-
48 cial hardship, in any judicial or administrative proceeding that may be
49 brought, for the purposes of establishing a defense under chapter 127 of
50 the laws of 2020, an executive order of the governor or any other local
51 or state law, order or regulation restricting the eviction of a tenant
52 suffering from a financial hardship during or due to COVID-19 provided
53 that the absence of a hardship declaration shall not create a presump-
54 tion that a financial hardship is not present.

55 § 12. If any clause, sentence, paragraph, section or part of this act
56 shall be adjudged by any court of competent jurisdiction to be invalid

1 and after exhaustion of all further judicial review, the judgment shall
2 not affect, impair or invalidate the remainder thereof, but shall be
3 confined in its operation to the clause, sentence, paragraph, section or
4 part of this act directly involved in the controversy in which the judg-
5 ment shall have been rendered.

6 § 13. This act shall take effect immediately and sections one, two,
7 three, four, five, six, seven, eight, nine, ten and twelve of this act
8 shall expire May 1, 2021.

9 PART B

10 Section 1. This Part enacts into law components of legislation relat-
11 ing to mortgage foreclosure, tax foreclosure, credit discrimination and
12 tax renewal exemption protections. Each component is wholly contained
13 within a Subpart identified as Subparts A through D. The effective date
14 for each particular provision contained within such Subpart is set forth
15 in the last section of such Subpart. Any provision in any section
16 contained within a Subpart, including the effective date of the Subpart,
17 which makes reference to a section "of this act", when used in
18 connection with that particular component, shall be deemed to mean and
19 refer to the corresponding section of the Subpart in which it is found.
20 Section three of this Part sets forth the general effective date of this
21 Part.

22 SUBPART A

23 Section 1. Application. This section shall apply to any action to
24 foreclose a mortgage relating to commercial real property, provided the
25 owner or mortgagor of such property is a natural person, regardless of
26 how title is held, and owns ten or fewer commercial units whether
27 directly or indirectly. The ten or fewer commercial units may be in more
28 than one property or building as long as the total aggregate number of
29 ten units includes the primary commercial property of the natural person
30 requesting such relief and the remaining units are currently occupied by
31 a tenant or are available for rent.

32 For purposes of this act, real property shall not include property
33 that is vacant and abandoned, as defined in subdivision 2 of section
34 1309 of the real property actions and proceedings law, which was listed
35 on the statewide vacant and abandoned property electronic registry, as
36 defined in section 1310 of the real property actions and proceedings
37 law, prior to March 7, 2020 and that remains on such registry.

38 Notwithstanding anything to the contrary, this act shall not apply to,
39 and does not affect any mortgage loans made, insured, purchased or secu-
40 ritized by a corporate governmental agency of the state constituted as a
41 political subdivision and public benefit corporation, or the rights and
42 obligations of any lender, issuer, servicer or trustee of such obli-
43 gations.

44 § 2. Definitions. For the purposes of this act, "Hardship Declaration"
45 means the following statement, or a substantially equivalent statement
46 in the mortgagor's primary language, in 14-point type, published by the
47 office of court administration, whether in physical or electronic writ-
48 ten form:

49 "NOTICE TO MORTGAGOR: If you have lost income or had increased costs
50 during the COVID-19 pandemic, and you sign and deliver this hardship
51 declaration form to your mortgage lender or other foreclosing party, you
52 cannot be foreclosed on until at least May 1, 2021.

1 If your mortgage lender or other foreclosing party provided you with
2 this form, the mortgage lender or other foreclosing party must also
3 provide you with a mailing address and e-mail address to which you can
4 return this form. If you are already in foreclosure proceedings, you may
5 return this form to the court. You should keep a copy or picture of the
6 signed form for your records. You will still owe any unpaid mortgage
7 payments and lawful fees to your lender. You should also keep careful
8 track of what you have paid and any amount you still owe.

9 MORTGAGOR'S DECLARATION OF COVID-19-RELATED HARDSHIP

10 I am the mortgagor of the property at (address of commercial unit).
11 Including my primary residence, I own, whether directly or indirectly,
12 ten or fewer commercial units. I am experiencing financial hardship, and
13 I am unable to pay my mortgage in full because of one or more of the
14 following:

- 15 1. Significant loss of household income during the COVID-19 pandemic.
- 16 2. Increase in necessary out-of-pocket expenses related to performing
17 essential work or related to health impacts during the COVID-19 pandem-
18 ic.
- 19 3. Childcare responsibilities or responsibilities to care for an
20 elderly, disabled, or sick family member during the COVID-19 pandemic
21 have negatively affected my ability or the ability of someone in my
22 household to obtain meaningful employment or earn income or increased my
23 necessary out-of-pocket expenses.
- 24 4. Moving expenses and difficulty I have securing an alternative
25 commercial property make it a hardship for me to relocate to another
26 property during the COVID-19 pandemic.
- 27 5. Other circumstances related to the COVID-19 pandemic have negative-
28 ly affected my ability to obtain meaningful employment or earn income or
29 have significantly reduced my household income or significantly
30 increased my expenses.
- 31 6. One or more of my tenants has defaulted on a significant amount of
32 their rent payments since March 1, 2020.

33 To the extent I have lost household income or had increased expenses,
34 any public assistance, including unemployment insurance, pandemic unem-
35 ployment assistance, disability insurance, or paid family leave, that I
36 have received since the start of the COVID-19 pandemic does not fully
37 make up for my loss of household income or increased expenses.

38 I understand that I must comply with all other lawful terms under my
39 commercial mortgage agreement. I further understand that lawful fees,
40 penalties or interest for not having paid my mortgage in full as
41 required by my commercial mortgage agreement may still be charged or
42 collected and may result in a monetary judgment against me. I also
43 understand that my mortgage lender or other foreclosing party may pursue
44 a foreclosure action against me on or after May 1, 2021, if I do not
45 fully repay any missed or partial payments and lawful fees.

46 Signed:

47 Printed Name:

48 Date Signed:

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

52 § 3. Any action to foreclose a mortgage pending on the effective date
53 of this act, including actions filed on or before March 7, 2020, or
54 commenced within thirty days of the effective date of this act shall be
55 stayed for at least sixty days, or to such later date that the chief
56 administrative judge shall determine is necessary to ensure that courts

1 are prepared to conduct proceedings in compliance with this act and to
2 give mortgagors an opportunity to submit the hardship declaration pursu-
3 ant to this act. The court in each case shall promptly issue an order
4 directing such stay and promptly mail the mortgagor a copy of the hard-
5 ship declaration in English, and, to the extent practicable, the
6 mortgagor's primary language, if other than English.

7 § 4. The foreclosing party shall include a "Hardship Declaration" in
8 14-point type, with every notice provided to a mortgagor. If the trans-
9 lation of the hardship declaration in the mortgagor's primary language
10 is not available on the office of court administration's public website,
11 as provided by section nine of this act, it shall be the foreclosing
12 party's responsibility to obtain a suitable translation of the hardship
13 declaration in the mortgagor's primary language. Such notice shall also
14 include a mailing address, telephone number and active email address the
15 mortgagor can use to contact the foreclosing party and return the hard-
16 ship declaration.

17 § 5. If a mortgagor provides a hardship declaration to the foreclosing
18 party or an agent of the foreclosing party, there shall be no initiation
19 of an action to foreclose a mortgage against the mortgagor until at
20 least May 1, 2021, and in such event any specific time limit for the
21 commencement of an action to foreclose a mortgage shall be tolled until
22 May 1, 2021.

23 § 6. No court shall accept for filing any action to foreclose a mort-
24 gage unless the foreclosing party or an agent of the foreclosing party
25 files an affidavit, under penalty of perjury:

26 (i) of service demonstrating the manner in which the foreclosing
27 party's agent served a copy of the hardship declaration in English and
28 the mortgagor's primary language, if other than English, with the
29 notice, if any, provided to the mortgagor, and

30 (ii) attesting that at the time of filing, neither the foreclosing
31 party nor any agent of the foreclosing party has received a hardship
32 declaration from the mortgagor.

33 At the earliest possible opportunity, the court shall seek confirma-
34 tion on the record or in writing that the mortgagor has received a copy
35 of the hardship declaration and that the mortgagor has not returned the
36 hardship declaration to the foreclosing party or an agent of the fore-
37 closing party. If the court determines a mortgagor has not received a
38 hardship declaration, then the court shall stay the proceeding for a
39 reasonable period of time, which shall be no less than ten business days
40 or any longer period provided by law, to ensure the mortgagor received
41 and fully considered whether to submit the hardship declaration.

42 § 7. In any action to foreclose a mortgage in which a judgment of sale
43 has not been issued, including actions filed on or before March 7, 2020,
44 if the mortgagor provides a hardship declaration to the foreclosing
45 party, the court, or an agent of the foreclosing party or the court, the
46 proceeding shall be stayed until at least May 1, 2021. If such hardship
47 declaration is provided to the foreclosing party or agent of the fore-
48 closing party, such foreclosing party or agent shall promptly file it
49 with the court, advising the court in writing the index number of all
50 relevant cases.

51 § 8. In any action to foreclose a mortgage in which a judgment of sale
52 has 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 actions
54 filed on or before March 7, 2020, the court shall stay the execution of
55 the judgment at least until the court has held a status conference with
56 the parties. In any action to foreclose a mortgage, if the mortgagor

1 provides a hardship declaration to the foreclosing party, the court, or
2 an agent of the foreclosing party or the court, prior to the execution
3 of the judgment, the execution shall be stayed until at least May 1,
4 2021. If such hardship declaration is provided to the foreclosing party
5 or agent of the foreclosing party, such foreclosing party or agent shall
6 promptly file it with the court, advising the court in writing the index
7 number of all relevant cases.

8 § 9. The office of court administration shall translate the hardship
9 declaration, as defined in section one of this act, into Spanish and the
10 six most common languages in the city of New York, after Spanish, and
11 shall post and maintain such translations and an English language copy
12 of the hardship declaration on the website of such office beginning
13 within fifteen days of the effective date of this act.

14 § 10. A hardship declaration shall create a rebuttable presumption
15 that the mortgagor is suffering financial hardship, in any judicial or
16 administrative proceeding that may be brought, for the purposes of
17 establishing a defense under an executive order of the governor or any
18 other local or state law, order or regulation restricting actions to
19 foreclose a mortgage against a mortgagor suffering from a financial
20 hardship during or due to the COVID-19 pandemic provided that the
21 absence of a hardship declaration shall not create a presumption that a
22 financial hardship is not present.

23 § 11. If any clause, sentence, paragraph, section or part of this act
24 shall be adjudged by any court of competent jurisdiction to be invalid
25 and after exhaustion of all further judicial review, the judgment shall
26 not affect, impair or invalidate the remainder thereof, but shall be
27 confined in its operation to the clause, sentence, paragraph, section or
28 part of this act directly involved in the controversy in which the judg-
29 ment shall have been rendered.

30 § 12. This act shall take effect immediately and sections one, two,
31 three, four, five, six, seven, eight, nine and eleven of this act shall
32 expire May 1, 2021.

33 SUBPART B

34 Section 1. Application. This act shall apply to any action to fore-
35 close on delinquent taxes or sell a tax lien relating to commercial real
36 property, provided the owner or mortgagor of such property is a natural
37 person, regardless of how title is held, and owns ten or fewer commer-
38 cial units whether directly or indirectly. The ten or fewer commercial
39 units may be in more than one property or building as long as the total
40 aggregate number of ten units includes the primary commercial property
41 of the natural person requesting such relief and the remaining units are
42 currently occupied by a tenant or are available for rent.

43 For purposes of this act, real property shall not include property
44 that is vacant and abandoned, as defined in subdivision 2 of section
45 1309 of the real property actions and proceedings law, which was listed
46 on the statewide vacant and abandoned property electronic registry, as
47 defined in section 1310 of the real property actions and proceedings
48 law, prior to March 7, 2020 and that remains on such registry.

49 § 2. Definitions. For purposes of this act: 1. "Tax lien" means an
50 unpaid tax, special ad valorem levy, special assessment or other charge
51 imposed upon real property by or on behalf of a municipal corporation or
52 special district or other public or private entity which is an encum-
53 brance on real property, whether or not evidenced by a written instru-
54 ment.

2. "Tax foreclosure and tax lien sale" shall mean any such tax lien sale or tax foreclosure pursuant to article 11 of the real property tax law, or any general, special or local law related to real property tax lien sales or real property tax foreclosures.

3. "Hardship Declaration" means the following statement, or a substantially equivalent statement in the owner's primary language, in 14-point type, whether in physical or electronic written form:

"OWNER DECLARATION OF COVID-19-RELATED HARDSHIP

I am the owner of the commercial property at (address). Including my primary commercial property, I own, whether directly or indirectly, ten or fewer commercial units. I am experiencing financial hardship, and I am unable to pay my full tax bill because of one or more of the following:

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

2. Increase in necessary out-of-pocket expenses related to performing essential work or related to health impacts during the COVID-19 pandemic.

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

4. Moving expenses and difficulty I have securing an alternative commercial property make it a hardship for me to relocate to another property during the COVID-19 pandemic.

5. Other circumstances related to the COVID-19 pandemic have negatively affected my ability to obtain meaningful employment or earn income or have significantly reduced my household income or significantly increased my expenses.

6. One or more of my tenants has defaulted on a significant amount of their rent payments since March 1, 2020.

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

I understand that lawful fees, penalties or interest for not having paid my taxes in full may still be charged or collected and may result in a foreclosure action against me on or after May 1, 2021, if I do not fully repay any missed or partial payments and fees.

Signed:

Printed Name:

Date Signed:

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

§ 3. 1. A commercial real property owner may submit a "Hardship Declaration" to any village, town, city, school district, county, or other entity or person which conducts tax foreclosures or tax lien sales.

2. At least thirty days prior to the date on which a sale of a tax lien is scheduled to occur, or upon the filing of a petition of foreclosure of a tax lien, the enforcing officer or other person or entity conducting such tax lien sale or tax foreclosure shall notify the owner of the affected property of such owner's rights under this act and shall notify the owner that a copy of the hardship declaration can be accessed

1 on the New York State Department of Tax and Finance's website and also
2 provide a link to such declaration form. For the purposes of this act,
3 "enforcing officer" shall have the same meaning as defined in subdivi-
4 sion 3 of section 1102 of the real property tax law. The New York State
5 Department of Tax and Finance shall publish a copy of the hardship
6 declaration on its website.

7 3. The submission of such a declaration, unless withdrawn by the
8 owner, shall act as a temporary stay applicable to all entities and
9 persons of all such tax lien sales and tax foreclosure actions and
10 proceedings against such owner for such property that have been
11 commenced or could have been commenced before May 1, 2021.

12 4. While such stay is in effect, no other action or proceeding shall
13 be commenced to recover any part of such delinquent taxes.

14 5. Any applicable statutes of limitation for the commencement of any
15 action or proceeding to sell a tax lien or foreclose a tax lien is
16 tolled until such stay has expired. The obligation to pay the balance of
17 such delinquent taxes is not rendered invalid, released or extinguished
18 by such stay.

19 6. A hardship declaration shall create a rebuttable presumption that
20 the owner is experiencing financial hardship, in any judicial or admin-
21 istrative proceeding that may be brought, for the purposes of establish-
22 ing a defense under an executive order of the governor or any other
23 local or state law, order or regulation restricting actions to sell a
24 tax lien or foreclose a tax lien against an owner suffering from a
25 financial hardship during or due to the COVID-19 pandemic, provided
26 that the absence of a hardship declaration shall not create a presump-
27 tion that a financial hardship is not present.

28 § 4. This act shall take effect immediately and sections one and two
29 and subdivisions one, two, three, four and five of section three shall
30 expire May 1, 2021.

31 SUBPART C

32 Section 1. Application. 1. This act shall apply to an owner of commer-
33 cial real property, provided the owner or mortgagor of such property is
34 a natural person, regardless of how title is held, and owns ten or fewer
35 commercial units whether directly or indirectly. The ten or fewer
36 commercial units may be in more than one property or building as long as
37 the total aggregate number of ten units includes the primary commercial
38 property of the natural person requesting such relief and the remaining
39 units are currently occupied by a tenant or are available for rent.

40 For purposes of this act, real property shall not include property
41 that is vacant and abandoned, as defined in subdivision 2 of section
42 1309 of the real property actions and proceedings law, which was listed
43 on the statewide vacant and abandoned property electronic registry, as
44 defined in section 1310 of the real property actions and proceedings
45 law, prior to March 7, 2020 and that remains on such registry.

46 2. Hardship declaration. For purposes of this act, "hardship declara-
47 tion" shall mean the following statement, or a substantially equivalent
48 statement in the owner or mortgagor's primary language, in 14-point
49 type, whether in physical or electronic written form, and the department
50 of financial services shall publish a copy of the hardship declaration
51 on its website:

52 "NOTICE TO OWNER/MORTGAGOR: If you have lost income or had increased
53 costs due to the COVID-19 pandemic, and you sign and deliver this hard-
54 ship declaration form to your lending institution, you cannot be

1 discriminated against in the determination of whether credit should be
2 extended or reported negatively to a credit reporting agency until at
3 least May 1, 2021.

4 If a lending institution provided you with this form, the lending
5 institution must also provide you with a mailing address and e-mail
6 address to which you can return this form. You should keep a copy or
7 picture of the signed form for your records.

8 OWNER/MORTGAGOR DECLARATION OF COVID-19-RELATED HARDSHIP

9 I am the OWNER/MORTGAGOR of the property at (address of commercial
10 unit). Including my primary commercial property, I own, whether direct-
11 ly or indirectly, ten or fewer commercial units. I am experiencing
12 financial hardship, and I am unable to pay my mortgage in full because
13 of one or more of the following:

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

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

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

23 4. Moving expenses and difficulty I have securing an alternative
24 commercial property make it a hardship for me to relocate to another
25 commercial property during the COVID-19 pandemic.

26 5. Other circumstances related to the COVID-19 pandemic have negative-
27 ly affected my ability to obtain meaningful employment or earn income or
28 have significantly reduced my household income or significantly
29 increased my expenses.

30 6. One or more of my tenants has defaulted on a significant amount of
31 their rent payments since March 1, 2020.

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

38 Signed:

39 Printed Name:

40 Date Signed:

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

44 3. Discrimination in credit decisions. Notwithstanding any law to the
45 contrary, lending institutions shall not discriminate in the determi-
46 nation of whether credit should be extended to any owner of commercial
47 real property as defined in subdivision one of this section because, as
48 provided for in this act, such owner has been granted a stay of mortgage
49 foreclosure proceedings, tax foreclosure proceedings or of tax lien
50 sales, or that an owner of commercial real property as defined in subdi-
51 vision one of this section is currently in arrears and has filed a hard-
52 ship declaration with such lender.

53 4. Prohibition on negative credit reporting. Notwithstanding any law
54 to the contrary, as provided for in this act, the granting of a stay of
55 mortgage foreclosure proceedings, tax foreclosure proceedings or tax
56 lien sales, or that an owner of commercial real property as defined in

subdivision one of this section is currently in arrears and has filed a hardship declaration with their lender shall not be negatively reported to any credit reporting agency.

§ 2. This act take effect immediately and shall expire May 1, 2021.

SUBPART D

Section 1. Notwithstanding any other provision of law, in the interest of the health and safety of the public due to the novel coronavirus, COVID-19 pandemic, every governing body of an assessing unit and local assessor shall extend to the 2021 assessment roll, the renewal of the exemptions received on the 2020 assessment roll pursuant to sections 467 and 459-c of the real property tax law, relating to persons age sixty-five and older and for certain persons with disabilities and limited income, and no renewal application shall be required of any eligible recipient who received either exemption on the 2020 assessment roll in order for such eligible recipient to continue receiving such exemption at the same amount received on the 2020 assessment roll, except as herein provided. Provided however, that the local assessor shall make available renewal applications through postal mail or electronic means in order for eligible recipients to file renewal applications in the event that such eligible recipient determines his or her income has changed in a manner that would grant him or her a greater exemption than what was present on the 2020 assessment roll; and provided further that such governing body may adopt a local law or resolution which includes procedures by which the assessor may require a renewal application to be filed when he or she has reason to believe that an owner who qualified for the exemption on the 2020 assessment roll may have since changed his or her primary residence, added another owner to the deed, transferred the property to a new owner, or died; and provided further that no governing body of an assessing unit or local assessor may require eligible recipients to appear in person to file a renewal application for any reason.

§ 2. This act shall take effect immediately and shall expire May 1, 2021. This act shall be deemed to have been in full force and effect on and after March 7, 2020.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section, item, subpart or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, item, subpart or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through D of this act shall be as specifically set forth in the last section of such Subparts.

§ 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such
2 invalid provisions had not been included herein.
3 § 5. This act shall take effect immediately provided, however, that
4 the applicable effective date of Parts A through B of this act shall be
5 as specifically set forth in the last section of such Parts.