

STATE OF NEW YORK  
SUPREME COURT                      COUNTY OF ALBANY

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PARBATTIE LAKERAGH, GGJ CORPORATION,  
WEBERENTIN PROPERTIES LLC and DB PROPERTY  
SERVICES LLC,

**SUMMONS**

Plaintiffs,

-against-

Index No.:

THE STATE OF NEW YORK, and ANDREW M. CUOMO  
in his capacity as Governor of the State of New York,

Defendants.


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You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue in Albany County is that the defendants maintain their principal offices there, and plaintiff DB Property Services LLC maintains its principal office there.

Dated:                      Troy, N.Y.  
                                    March 12, 2021

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STATE OF NEW YORK  
SUPREME COURT                      COUNTY OF ALBANY

PARBATTIE LAKERAGH, GGJ CORPORATION,  
WEBERENTIN PROPERTIES LLC and DB  
PROPERTY SERVICES LLC,

**COMPLAINT**

Plaintiffs,

Index No.:

-against-

THE STATE OF NEW YORK, and ANDREW M.  
CUOMO in his capacity as Governor of the State of New  
York,

Defendants.

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Plaintiffs PARBATTIE LAKERAGH, GGJ CORPORATION, WEBERENTIN  
PROPERTIES LLC and DB PROPERTY SERVICES LLC, as and for a Complaint against the  
above-captioned Defendants, alleges as follows:

**NATURE OF THE CASE**

1. This is an action challenging the constitutionality of Part A of the “COVID-19  
Emergency Eviction and Foreclosure Prevention Act of 2020” (“CEEFPFA”), a true and accurate  
copy of which is annexed hereto as **Exhibit A**.

2. CEEFPFA grants tenants extraordinary control over the progress of eviction cases.  
In short, the law allows a tenant to *grant itself* an automatic stay of an existing case, or prevent the  
landlord from suing a new case altogether, until at least May 1, 2021, simply by declaring  
“hardship.” The tenant is the sole arbiter of whether it qualifies for a protected hardship—the  
tenant simply reviews a form prescribed in CEEFPFA, checks a box, and the result is absolutely  
binding on the landlord and the eviction court. There is no judicial review and no appeal. The  
court must stay the action (or the pre-suit landlord must abstain from suing) until “at least” the

May 1 date currently specified. Thus, tenants will set the priority of cases for the foreseeable future, with those who check the box taking the stay and moving their cases to the back of the line (no matter how long the tenant has been in default), and only those who do not check the box eligible to go forward in the ordinary course (no matter how briefly the tenant has been in default).

3. Furthermore, a CEEFPA Hardship Declaration has lasting impacts beyond May 1, 2021. Tenants who submit a Hardship Declaration unilaterally alter the burden of proof in eviction proceedings, when they are finally allowed to proceed. (Exhibit A §11.) For those tenants, and only those tenants, it become the landlord's burden to rebut the "presumption" that the tenant is afflicted by the type of COVID-related hardship that qualifies as a defense to eviction under the separate Tenant Safe Harbor Act (Chapter 127 of the Laws of 2020). Thus, on a case-by-case basis, tenants decide for themselves whether to pass the burden of proof to the landlord or not, and the eviction court's hands are tied on the matter.

4. As alleged below, CEEFPA is unconstitutional for several reasons. First, it violates the separation of powers firmly established in the NYS Constitution. The Legislature has breached the judicial sphere by divesting the eviction courts of the uniquely judicial function of determining what cases qualify for a stay of proceedings or stay of eviction, and instead has delegated that role to *interested parties in the case*, namely the tenants themselves. CEEFPA also encroaches on the judiciary by allowing the tenants to dictate the burden of proof in hardship determinations on an *ad hoc* basis simply by making bare elections in the conclusory hardship form.

5. Second, the law is unconstitutionally vague, because it delegates this extraordinary power to the tenants without any standards or safeguards to prevent arbitrary or inequitable application. The language of the hardship form is loosely-drawn, subjective, and would require

careful interpretation even by a trained, dispassionate jurist; it is unrealistic to expect an untrained and interested party to do so fairly.

6. Third, CEEFPA violates the landlords' rights to procedural due process and the right to petition, by denying them recourse for challenging a tenant's hardship claim.

7. Fourth, CEEFPA violates the landlords' right to petition the government for grievances, guaranteed by the First Amendment of the U.S. Constitution, and Article I §9 of the United State Constitution by, likewise, denying them recourse for challenging a tenant's hardship claim.

8. Each of the plaintiffs are landlords who are directly impacted by CEEFPA. Each of them have tenants who are not paying their rent, but who have prevented the Plaintiffs from proceeding with eviction remedies. CEEFPA purports to bar the landlords from being heard in the eviction courts on whether hardship stays until May 1 are warranted, and saddled with a burden-of-proof-shifting election of the tenant which is illegal and arbitrary.

9. The Plaintiffs seek declaratory and injunctive relief, and a preliminary injunction and temporary restraining order pending the outcome of the action.

### **THE PARTIES**

10. Plaintiff Parbattie Lakeragh is a natural person residing at 1027 Willet Street, Schenectady, New York. Together with her husband, Ms. Lakeragh owns real property located on Broadway in the City of Schenectady, New York, which she rents to tenants. As more fully set forth below, Ms. Lakeragh has tenants who have been in default for over seven months, who have prevented her from advancing her eviction remedies by claiming hardship under CEEFPA.

11. Plaintiff GGJ Corporation is a New York domestic business corporation with a principal place of business at 442 Clinton Avenue, Albany, New York. Gus Lazides is the owner

of GGJ. GGJ owns two buildings on Clinton Avenue in Albany with apartment units that it rents to tenants. Tenants in one of the buildings have not paid rent for a year, and a tenant in the other building has failed to pay rent nearly every month for a year. Moreover, the defaulted tenants in both buildings are now holdovers—their leases expired February 28, 2021. Lazides, through GGJ, initiated summary eviction proceedings against the tenants before the enactment of CEEFPA, which the tenants have stayed by filing conclusory Hardship Declarations.

12. Plaintiff Weberent Properties LLC (“WBR”) is a New York domestic limited liability company with a principal place of business at 212 Winton Road North, Rochester, N.Y. Richard Tyson is the principal owner of WBR. WBR owns a building on Portland Avenue in the City of Rochester, in which it rents to tenants. None of the tenants in that building have paid rent for at least 6 months. WBR initiated summary eviction proceedings against the tenants, three of which have just been stayed by the tenants’ filing of conclusory CEEFPA Hardship Declarations.

13. Plaintiff DB Property Services LLC (“DPS”) is a New York domestic limited liability company with a principal place of business at 1843 Central Avenue, Albany, New York. DPS is a small business owned by Vernon Bostick. DPS owns real property on Livingston Avenue in the City of Schenectady, New York. It has a tenant who has not paid rent for two months. He is currently unable to bring eviction proceedings against the tenant, because she has given him a conclusory Hardship Declaration form.

14. Defendant Andrew M. Cuomo is the Governor of the State of New York, and the head of the Executive branch of the state government, with executive responsibility for enforcing the laws of the State of New York. The Governor’s primary residence is in Albany, New York, and the Governor’s primary office is in the New York State Capitol Building Albany, New York 12224.

15. Defendant State of New York is of course a sovereign state of the United States, organized pursuant to the Constitution of the State of New York, and having its capitol in Albany, New York.

### **JURISDICTION AND VENUE**

16. This Court has jurisdiction over this action for a declaratory judgment and injunctive relief pursuant to Article VI, §7 of the New York State Constitution, Judiciary Law §140-b, and CPLR §3001.

17. Venue is proper in this Court pursuant to CPLR §503(a) because the defendants maintain their principal offices in Albany County, and because a substantial part of the events or omissions giving rise to the claims occurred in Albany County. Albany is also the County in which plaintiff DB Property Services maintains its principal office (see ¶13 *supra*).

### **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

#### **A. The Legal Framework Before COVID-19**

18. Landlord-tenant law is rooted in the common law. Although statutory provisions concerning landlord-tenant practice (such as rent control laws) have been adopted over the years, the basic rights and responsibilities of landlords and their tenants derive from the judge-made law of contracts and real property.

19. The landlord's right to reclaim possession from a defaulting tenant also emanates from the common law.<sup>1</sup> Over the years, New York has erected certain statutory tools through which the landlord might peaceably seek that relief in court (discussed below), but the right of

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<sup>1</sup> Alleyne v. Townsley, 110 A.D.2d 674, 675 (2d Dep't 1985) ("Although resort to a summary proceeding to regain possession of real property has become the rule rather than the exception ... the common-law action for ejectment still survives in New York and is more properly referred to as an action to recover possession of real property []. The common-law principles governing the ejectment action are unchanged, unless explicitly modified by statute.").

possession itself is not a statutory creation, it is inherent in the contractual terms that define the tenant's default, and the landlord's fee ownership. In other words, the statutes offer a procedural vehicle for the landlord to vindicate its substantive common law right before a judge.

20. There are two different paths for reclaiming property from a tenant in the Real Property Actions and Proceedings Law (RPAPL). One is the "Action to Recover Real Property" in RPAPL Article 6, which is a conventional plenary action brought by the landlord, as plaintiff, upon a summons and complaint in the Supreme Court.

21. The other, much more commonly used path (by far) is the summary eviction proceeding under RPAPL Article 7, which the landlord may bring by petition in a County Court, city court, or local justice court.<sup>2</sup> (CEFFPA, at issue in this case, impairs access to both paths.) In theory, the summary eviction proceeding is the faster option, setting a procedure in which the petition may be returnable as few as ten days after service,<sup>3</sup> relief may be granted summarily if the tenant raises no triable questions on the return date,<sup>4</sup> trials (theoretically) can be scheduled promptly and, upon a judgment in favor of the landlord, the court can issue a warrant to the sheriff, authorizing him/her to remove the tenant on fourteen days' notice.<sup>5</sup>

22. Traditionally, in these disputes the courts have adjudicated questions concerning hardship to the tenant and the landlord, balancing the equities of the parties. For example, in summary eviction proceedings, the tenant can apply for a stay of the eviction warrant, if the circumstances "would occasion extreme hardship," which might include such circumstances as inability to secure other housing despite "due and reasonable efforts," "serious ill health," and

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<sup>2</sup> RPAPL §701.

<sup>3</sup> RPAPL §733.

<sup>4</sup> RPAPL §745.

<sup>5</sup> RPAPL §749.

“other extenuating life circumstances”<sup>6</sup> The landlord can oppose the tenant’s hardship application. The judge—as judges do—hears the parties, and decides the application based on the facts of the case.

**B. The COVID-Era Predecessors to CEEFPA: the Governor’s Executive Orders and the Tenant Safe Harbor Act**

**(i) The Governor’s Executive Orders**

23. On March 2, 2020, pursuant to Executive law §29-a, the Legislature enacted SB7919, which granted the Governor emergency powers to address the impacts of Coronavirus in New York. A copy of SB7819 is annexed hereto as **Exhibit C**.

24. The Governor followed with a long line of Executive Orders suspending the operation of numerous laws and government services, and directing all New Yorkers, except for defined “essential workers,” to stop going to work outside the home. Courts were practically closed. Eviction proceedings were no exception.

25. On March 20, 2020, the Governor issued Executive Order 202.8, which provided: “There shall be no enforcement of either an eviction of any tenant residential or commercial, or a foreclosure of any residential or commercial property for a period of 90 days” (*i.e.*, until June 18). A true and accurate copy of Executive Order 202.8 is annexed hereto as **Exhibit D**. That order was an across-the-board suspension—it did not purport to grant hardship clemency to individual tenants based on their circumstances, rather it treated all eviction proceedings, like nearly all other litigation, as the type of business that had to be put on hold.

26. On May 7, 2020, the Governor issued Executive Order 202.28, which modified the eviction moratorium and extended it to August 19, 2020. A true and accurate copy of that

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<sup>6</sup> RPAPL §753.



Executive Order is annexed hereto as **Exhibit E**. This new order, instead of barring all evictions, prohibited enforcement of evictions “for nonpayment of rent” against tenants that were eligible for unemployment benefits (*i.e.*, involuntarily unemployed) or “otherwise facing financial hardship due to the COVID-19 pandemic [.]” The order did not offer a definition of what qualified as “financial hardship due to” COVID. That was left for interpretation by judges on a case-by-case basis.<sup>7</sup>

(ii) **The Tenant Safe Harbor Act (Chapter 127 of the Laws of 2020)**

27. The modified moratorium from Executive Order 202.28 expired without renewal on August 19, 2020, but in the interim, on June 30, the Legislature passed and the Governor signed the Tenant Safe Harbor Act (“TSHA”). A true and accurate copy of the TSHA is annexed hereto as **Exhibit F**.

28. The TSHA allows residential tenants to assert COVID-related hardship as a defense in eviction proceedings. Specifically, it provides that “No court shall issue a warrant of eviction or judgment of possession against a residential tenant or other lawful occupant that has suffered a financial hardship during the COVID-19 covered period for the non-payment of rent that accrues or becomes due during the COVID-19 covered period.”<sup>8</sup> (Exhibit F, §1.)

29. Under the TSHA, the tenant may *claim* hardship as a defense. (*Id.* §2[2][a].) But it is for the *court* to *adjudicate* whether the tenant has a qualifying hardship, considering such

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<sup>7</sup> The Executive Order (202.28) prohibited landlords from “initiat[ing]” or “enforce[ing]” evictions against tenants that qualified for unemployment or otherwise suffered financial hardship “due to COVID-19,” but the absence of a definition made it likely that landlords might initiate proceedings believing their tenants’ non-payment was unrelated to COVID-19, and also likely that the tenants would disagree. If the tenant invoked Executive Order 202.28 in exception to a proceeding, it would of course be the judge who would determine if the tenant’s circumstances were protected by the moratorium.

<sup>8</sup> The TSHA defines “COVID-19 covered period” as the period beginning March 7, 2020 and ending when the restrictions in several Executive Orders expire.

factors as the tenant's income before and during the covered period, the tenant's liquid assets, and the tenant's eligibility for several forms of government assistance. (*Id.* §2[2][b].) Thus, the TSHA preserved the court's inherent judicial role of adjudicating the relative rights and obligations of the litigants before it, and allowed landlords to be heard on the issue.

C. **The COVID-19 Emergency Eviction and Foreclosure Protection Act of 2020 (CEEFPFA)**

30. Effective December 24, 2020, the State enacted the law that brings this case before the Court, the COVID-19 Emergency Eviction and Foreclosure Protection Act ("CEEFPFA"). This case concerns "Part A" of the Act only, relating to evictions. This action does not concern "Part B" of the Act, concerning foreclosures. All references to CEEFPFA in the remainder of this Complaint refer to "Part A."

31. CEEFPFA applies to every residential eviction dispute, whether brought as a summary eviction proceeding or otherwise.<sup>9</sup> (*See* Exhibit A §1[1].)

32. Its core mechanism is the *Hardship Declaration*, which is a form in which the tenant can check boxes to declare himself/herself "protected" from eviction by hardship. The text of the declaration is set forth in CEEFPFA itself (*See* Exhibit A §4) and the Office of Court Administration publishes a PDF version on its website. (*See* Exhibit B pg. 2.) CEEFPFA operates one way with respect to eviction disputes that were not yet in suit when CEEFPFA was enacted, and another way for cases that were already in suit when it was enacted.

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<sup>9</sup> CEEFPFA applies to "Eviction proceedings," which it defines as "a summary proceeding to recover possession of real property under article 7 of the real property actions and proceedings law relating to a residential dwelling unit or *any other judicial or administrative proceeding* to recover possession of real property relating to a residential dwelling unit." (Complaint Exh. A §1[1][emphasis added].)

(i) **Pre-Suit Eviction Disputes.**

33. Before suing for eviction, the landlord must provide the tenant with a Hardship Declaration together with a prescribed *Notice to Tenant* which purportedly explains the declaration. (Exhibit A, §3; see also §4 for prescribed text of the Notice to Tenant, and Complaint Exh. B pg. 1 for OCA’s website PDF version.) If the tenant fills out the Hardship Declaration and returns it to the landlord, claiming hardship, the landlord is barred from suing for eviction “until at least May 1, 2021,” except in cases where the tenant is “persistently and unreasonably engaging in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others.” (Exhibit A §§4, 5.) In other words, the landlord is barred from evicting for non-payment of rent or tenant holdover, and may only sue if the tenant is a nuisance to other tenants, or a health hazard.

34. There is no mechanism in CEEFPA for the landlord to dispute the tenant’s claim of hardship. The landlord is simply prohibited from initiating suit until “at least” May 1. (Id. §4.)

35. If the tenant does not return the Hardship Declaration to the landlord, the landlord apparently can commence an eviction proceeding after some unspecified period of time, but the court must “[a]t the earliest possible opportunity” seek confirmation on the record that the tenant received the Hardship Declaration and Notice to Tenant. (Id. §5.) If the court determines that the tenant did not receive them, the court must stay the proceeding give the tenant an opportunity to complete the declaration. (Id.) If the tenant claims hardship at that time, the court must stay the proceeding until at least May 1, 2021.

(ii) **In-Suit Eviction Disputes.**

36. At enactment, CEEFPA automatically stayed all eviction proceedings then pending for at least 60 days, or until “such later date that the chief administrative judge shall determine is

necessary” to conduct eviction proceedings in accordance with the following Hardship Declaration rules. (Exhibit A, §2.) That 60 day stay ended on February 25, 2021. Since then, courts throughout the state have begun to schedule and conduct eviction proceedings (although often virtually).

37. CEEFPA requires the courts in all such pending cases to mail the tenant a Hardship Declaration, together with the Notice to Tenant. (Id. §2.) If the tenant returns the completed Hardship Declaration to the court or the landlord, the case is automatically stayed until at least May 1, 2021, unless the grounds for eviction are the nuisance-to-other-tenants or health hazard grounds discussed above. (Id. §6.) If a warrant of eviction has already been issued, the tenant’s Hardship Declaration stays execution of the warrant until at least May 1, 2021. (Id. §8.) If the court granted a default judgment to the landlord before the enactment of CEEFPA, CEEFPA requires the court to vacate the judgment “upon the respondent’s written or oral request,” and the court cannot issue any further default judgments until at least May 1, 2021. (Id. §7.)

38. Here again, there is no opportunity for a landlord to dispute the tenant’s claim of hardship. CEEFPA calls for an absolute automatic stay and suspension of the other above-described procedures if the tenant claims hardship in the Hardship Declaration.

39. Therefore, the tenant’s Hardship Declaration significantly reshuffles the order in which eviction cases will be heard, at the whim of the tenant, leaving the court no discretion to determine the orderly sequence of cases based on the facts of each case.

**(iii) Disruption of the Burden of Proof in Later Proceedings**

40. The tenant’s Hardship Declaration has another effect that reaches well beyond the May 1, 2021 stay point currently specified in the law. CEEFPA provides that if a tenant does submit a Hardship Declaration, claiming a financial hardship, it creates a “rebuttable presumption that the tenant is experiencing financial hardship ... for the purposes of establishing a defense

under chapter 127 of the laws of 2020 [the TSHA, Exhibit F hereto].” The hardship defense available under the TSHA is open-ended—if the defense is established, it bars the court from issuing judgments of possession or warrants of eviction until a long list of Executive Orders expire, which is indiscernible because the Governor has frequently renewed or extended his orders.

41. In other words, the tenant itself decides in every case whether it or the landlord will bear the burden of proof on a critical issue, if and when the case finally reaches the judgment and warrant stage. The tenant decides this simply by checking a box in the Hardship Declaration.

**(iv) Content of the Hardship Declaration and Notice to Tenant**

42. Given all of the impacts the Hardship Declaration form has on the rights and remedies of the parties, it goes without saying that it is a crucial document. Unfortunately, it is also a most problematic one.

43. The Hardship Declaration form offers two categories of hardship which the tenant selects by checking a box: (A) “financial hardship”; and (B) moving would pose a “significant health risk.” (Exhibit B pg. 2.)

44. The financial hardship part lists five subparagraphs of different types of financial issues. CEEFPA does not require a tenant claiming financial hardship to specify *which* of those five it is claiming. The tenant simply checks the single box next to the letter “A.”

45. Moreover, within each of the five paragraphs, the form uses terms that, under normal circumstances, a judge would have to consider carefully, in interpreting and applying them to the facts of the cases—terms like “significant loss” of income, “negatively affect,” “meaningful employment,” and “other circumstances related to the COVID-19 pandemic.” The law offers no guidance for tenants in how to apply these open-ended criteria.

46. Part B of the Hardship Declaration form, relating to the inability to move because of a “significant health risk,” is similar. It indicates only one specific condition that qualifies for protection: being over the age of 65 (or having someone in the household who is). But the language also offers protection for anyone who “[has] a disability or [has] an underlying medical condition...” The law leaves it to the tenant alone to decide whether his/her disability or underlying condition—whatever it may be—is the type of thing that poses an increased risk of illness from COVID. Here again, while offering virtually no guidance, CEEFPA entrusts this determination to the tenant, an interested party to the eviction dispute.

**D. Impact of CEEFPA on the Plaintiffs**

**(i) Parbattie Lakeragh**

47. Parbattie Lakeragh and her husband own a building located at 2502 Broadway, Schenectady, N.Y. The building contains one commercial rental unit, and three apartments. Lakeragh leases each of these units out to tenants

48. Lakeragh’s tenants in one of the apartments are a couple consisting of a male and female. Their tenancy in the building began in June 2020. The agreed upon rental amount in the lease was \$800 per month.

49. At the time the tenants moved in, they represented to Lakeragh that the male was earning \$675 per week in unemployment benefits (which could cover the monthly rent by itself) and that the female was beginning work the following week as a waitress at a particular dining establishment in Schenectady.

50. The tenants paid their rent for June and July 2020, but after that, they ceased paying rent. They did not pay rent in August and have never paid rent for any month after that. As of this writing, the tenants are in arrears by \$7,200.

51. That is a major financial impairment to Lakeragh. She has a mortgage on the property, for which she is required to pay \$1,500 per month. The annual property taxes on the building are \$15,000, which she pays in four quarterly installments of \$3,750 each. Lakeragh relies on the rental income from her tenants to meet these expenses, and other expenses related to the property.

52. Before the passage of CEEFPA, Lakeragh commenced a summary eviction proceeding against the defaulting tenants. That case was automatically stayed for 60 days pursuant to CEEFPA §2 (Exhibit A). Lakeragh was finally given a virtual court date in Schenectady City Court for the morning of March 9, 2021. However, on the morning of March 9, the court informed Lakeragh that the tenants had filed a Hardship Declaration, and that the case was automatically stayed. But for the tenants' Hardship Declaration, Lakeragh would have been able to proceed on March 9.

53. Lakeragh has reason to dispute, or at least question, her tenants' hardship claim. The male tenant, who began the lease on unemployment benefits \$675/week, has an interest in cars, and a habit of cycling through cars quickly by renting them. That tenant has continued to rent new cars, moving from one to next on an ongoing basis, during the entire period they have not paid rent. The dining establishment where the female tenant said she was a waitress has confirmed for Lakeragh that she works there as a waitress. These two tenants have parties in their apartment most weekends, in which they host numerous guests (other tenants in the building complain about that). There is, therefore, reason to question whether these tenants really face a hardship, or whether they are simply choosing to spend their money on things other than rent.

54. But, because of CEEFPA, Lakeragh is unable to be heard in the eviction court until at least May 1, 2021. Under CEEFPA, the City Court judge cannot even entertain an objection to the hardship claim, however meritorious.

55. Moreover, simply because the tenants elected to claim hardship in the unconscionably vague Hardship Declaration, CEEFPA will require the eviction court to shift the burden of proof to Lakeragh on the issue of hardship under the TSHA, if and when the court finally does proceed with the case. (Exhibit A §11.)

56. Lakeragh has a protected property interest in the building in general, and in her defaulting tenants' rental unit in particular. She is a fee simple owner of said property, and CEEFPA disrupts her ability to recover possession of her property, while the tenants continue to live there without paying rent.

57. By virtue of the CEEFPA Hardship Declaration's direct interference with Lakeragh's rights as the landlord and property owner, she has suffered and continues to suffer a harm from CEEFPA that is different than that of the public at large.

**(ii) GGJ Corporation (Gus Lazides)**

58. Gus Lazides owns Plaintiff GGJ Corporation, a small business that owns two buildings on Clinton Avenue in Albany, New York: 431 Clinton and 442 Clinton.

59. There are four apartment units in 431 Clinton Avenue. On March 3, 2020, GGJ entered into a written lease to rent one of the apartments to a couple (a man and a woman). The term of the lease was March 3, 2020 to February 28, 2021. The amount of the monthly rent agreed upon in the lease was \$875. Rent was due the first day of each month.



60. These tenants defaulted in the payment of their rent immediately. They did not pay the rent due in April 2020, and have never paid any rent after that. As of the date of this affidavit they owe \$10,500 in back rent.

61. There are two apartments in GGJ's other building at 442 Clinton. On March 1, 2020, GGJ entered into a written lease with a tenant to rent her one of the units in that building. The term of the lease was March 1, 2020 to February 28, 2021. The amount of monthly rent agreed on in the lease was \$1,200, due on the first day of each month.

62. This tenant also started to default almost immediately, and has mostly not paid rent during her tenancy. She failed to pay any rent from April through September 2020 (which left her \$8,400 in arrears at that time). She made a payment of \$2,400 in October 2020 and one payment of \$1,200 in January 2021, but these payments were much less than she owed. As of this writing, the tenant in 442 Clinton owes \$10,800 in back rent.

63. GGJ was prevented from initiating eviction proceedings against the defaulting tenants for most of 2020 because of the moratoriums in the Governor's Executive Orders and court closures.

64. On October 23, 2020, when Albany City Court was beginning to take eviction cases again, GGJ filed a summary eviction proceeding against the tenants in both buildings. The cases were initially returnable December 14, 2020, but adjourned to early 2021.

65. However, the passage of CEEFPA in late December 2020 automatically stayed both cases until February 26, 2021. (Exhibit A, §2.) Moreover, just as that stay was drawing to a close, the tenant in 442 Clinton submitted a Hardship Declaration on February 23, 2021, and the tenants in 431 Clinton submitted one on February 25, 2021. Under CEEFPA, these Declarations automatically stay the cases again until "at least May 1, 2021."

66. Moreover, these tenants are not only not paying rent, their leases (in both buildings) expired February 28, 2021. They are now hold overs. Thus, by submitting Hardship Declarations, these tenants have effectively granted themselves lease extensions.

67. In both Declarations, the tenants check-marked box “A,” claiming a financial hardship, with no indication of what kind of financial hardship they claim. The tenants have not told the plaintiff what their alleged hardship is. Lazides/GGJ has no way of knowing whether the tenants have really lost income, incurred increased expenses, or have any other circumstances that amount to a COVID-related hardship. The plaintiff desires to contest the tenants’ claims in the eviction court, but CEEFPA bars him from doing so absolutely until some time after May 1.

68. In the meantime, the tenants are not paying rent, and GGJ continues to shoulder expenses to maintain the buildings. For 431 Clinton, GGJ pays annual property taxes of \$1,923.29, annual school taxes of \$3,529.21, annual homeowner’s insurance of \$2,795.95, almost \$2,000 to a plumbing systems maintenance contractor, and almost \$2,000 a year in water bills. For 442 Clinton, GGJ pays annual property taxes of \$1,870.78, annual school taxes of \$2,429.17, annual homeowner’s insurance premiums of \$2,800.12 and annual water bills of almost \$900. In addition, GGJ has an outstanding line of credit on both buildings which it uses to fund repair and maintenance, which it pays back at a rate of \$788 per month. Between the above-mentioned tenants’ defaults and non-payment of rent by other tenants in the buildings (other tenants who have not yet submitted Hardship Declarations), GGJ is collecting only a fraction of the rent that it would if the tenants’ performed, and is finding it increasingly difficult to keep up with its expenses.

69. GGJ desires to challenge the tenants’ Hardship Declaration claims. Because of CEEFPA, GGJ is unable to be heard in the eviction court until some unknown time after May 1,

2021. Under CEEFPA, the City Court judge cannot even entertain an objection to the hardship claim, however meritorious.

70. Moreover, simply because the tenants elected to claim hardship in the unconscionably vague Hardship Declarations, CEEFPA will require the eviction court to shift the burden of proof to GGJ on the issue of hardship under the TSHA, when GGJ is finally able to bring an eviction proceeding. (Exhibit A §11.)

71. GGJ has a protected property interest in the building in general, and in the defaulting tenant's rental unit in particular. GGJ is the fee simple owner of said property, and CEEFPA disrupts its ability to recover possession of her property.

72. By virtue of the CEEFPA Hardship Declaration's direct interference with GGJ's rights as the landlord and property owner, it has suffered and continues to suffer a harm from CEEFPA that is different than that of the public at large.

**(iii) WBR (Richard Tyson)**

73. WBR owns a building at 1020 Portland Avenue in Rochester, New York. The building includes several rental rooms, which WBR rents out to tenants for \$435 per month each.

74. Each of those units are occupied by tenants (four tenants in total), but all of the tenants ceased making rent payments in the summer and fall of 2020. The last time that any of the tenants made a rent payment was September 2020.

75. WBR has a mortgage on the property. Its monthly mortgage expense for this property is \$681 and annual insurance cost is \$1,072. WBR relies on its rental income from its tenants to pay its expenses associated with maintaining the property. But for months on end, WBR has not been able to realize any rent from these tenants.

76. WBR commenced a summary eviction proceeding against all four tenants in Rochester City Court, before the state enacted CEEFPA. However, those cases were automatically stayed for 60 days pursuant to CEEFPA §2 (Exhibit A). WBR finally received a court date of March 15, 2021. However, very recently, the court informed WBR that three of the tenants filed CEEFPA Hardship Declarations, which automatically strikes the March 15 court date for those tenants until some time after May 1, 2021. WBR expects the other tenant in the building will follow.

77. Tyson has reason to doubt, or at least question, the tenants' claim of hardship. One of the tenants who returned the Hardship Declaration has been living in the unit for approximately a year. When he applied for the unit, his income consisted of assistance benefits that he received from Monroe County as part of a particular rehabilitation program. He was not employed and did not rely on employment to pay his rent. Therefore, upon information and belief, that tenant has not "lost a job" during COVID, and Tyson has not received notice from the tenant or the County that his benefits have been interrupted. Furthermore, the other two tenants were employed the last that Tyson knew, and neither of them has indicated to him that they have lost work. Their Hardship Declarations of course do not specify the nature of their alleged hardship.

78. Because of CEEFPA, WBR is unable to be heard in the eviction court until some unknown time after May 1, 2021. Under CEEFPA, the City Court judge cannot even entertain an objection to the hardship claim, however meritorious.

79. Moreover, simply because the tenants elected to claim hardship in the unconscionably vague Hardship Declaration, CEEFPA will require the eviction court to shift the burden of proof to WBR on the issue of hardship under the TSHA, if and when the court finally does proceed with the cases. (Exhibit A §11.)

80. WBR has a protected property interest in the building in general, and in the defaulting tenants' rental unit in particular. WBR is the fee simple owner of said property, and CEEFPA disrupts its ability to recover possession of her property.

81. By virtue of the CEEFPA Hardship Declaration's direct interference with WBR's rights as the landlord and property owner, it has suffered and continues to suffer a harm from CEEFPA that is different than that of the public at large.

**(iv) DPS (Vernon Bostick)**

82. DPS owns a building a 965 Livingston Avenue, Schenectady, New York which contains four apartments that DPS rents to tenants. One of the apartments is two bedrooms, the rest are one bedroom. The rental rate for the two bedroom unit is \$1,000 per month, and the rate for the one bedroom units is \$600 per month each.

83. The tenant in the two bedroom apartment is in default of her rent. She has not paid rent in two months and, therefore, is \$2,000 in arrears as of this writing.

84. DPS has a mortgage on the property, with a monthly mortgage payment of \$965. DPS also pays property taxes of \$5,304. DPS relies on the rental income from tenants to meet these expenses, and other expenses associated with the property. The defaulted tenant's rent is the largest component of that income, inasmuch as she is in the two bedroom unit (with the highest rent).

85. The tenant submitted a Hardship Declaration to Bostick on February 11, 2021. Although Bostick has no evidence that the tenant is actually prevented or impaired in her ability to pay rent or relocate, the Hardship Declaration, by itself, bars DPS from initiating eviction proceedings against the tenant until some time after May 1, 2021. Meanwhile, the tenant continues to live at the property without paying rent.

86. Moreover, simply because the tenant elected to claim hardship in the unconscionably vague Hardship Declaration, CEEFPA will require the eviction court to shift the burden of proof to DPS on the issue of hardship under the TSHA, when DPS is finally able to bring an eviction proceeding. (Exhibit A §11.)

87. DPS has a protected property interest in the building in general, and in the defaulting tenant's rental unit in particular. DPS is the fee simple owner of said property, and CEEFPA disrupts its ability to recover possession of her property.

88. By virtue of the CEEFPA Hardship Declaration's direct interference with DPS's rights as the landlord and property owner, it has suffered and continues to suffer a harm from CEEFPA that is different than that of the public at large.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**(Declaratory Judgment – Separation of Powers)**

89. The Plaintiffs repeat, reallege and incorporate by reference the allegations in all preceding paragraphs of this Complaint, as though set forth in full in this paragraph.

90. CEEFPA is void ab initio because it violates the separation of powers inherent in Articles III, IV and VI of the New York State Constitution. Specifically, it breaches the separation of powers between the legislative and judicial branches of government.

91. The NYS Constitution grants general legislative powers to the Senate and the Assembly, which includes the power to pass laws of general application, without reference to particular individuals or their controversies with other individuals. In contrast, the NYS Constitution grants to the judiciary the inherently judicial power of adjudicating particular controversies between litigants, based on the facts of the cases. The non-judicial branches cannot assume an adjudicatory posture in controversies between litigants, nor can they strip the judicial branch of its adjudicatory role in them.

92. The courts hold certain exclusive powers that are part and parcel of their judicial function of adjudicating controversies. These inherently judicial powers include the court's "right to control the court's order of business, *and to so conduct the same that the rights of all suitors before them may be safeguarded.*"<sup>10</sup>

93. It is the judge's non-delegable province to hear the litigants, know the surrounding facts and circumstances of the case and, as such, the court is in the best position to say when it can, for the convenience of the court and the parties, hear the cases before it.

94. Through CEEFPA, the Legislature has invaded the exclusive sphere of the judicial branch, and purports to delegate inherently judicial functions to parties to the eviction proceedings, namely, the tenants.

95. CEEFPA §§2, 6, 7 and 8 purport to divest the Court of its inherently judicial functions, by making the tenant in any given case the sole arbiter of whether its pending case will proceed in accordance with the court's calendar and discretion of how cases should proceed in the interests of justice. CEEFPA does so by allowing the tenant to summarily stay his/her pending eviction proceeding until at least May 1, 2021, simply by checking a box on a Hardship Declaration—an election by the tenant that is purportedly non-reviewable by the court. These sections also require the court to stay the execution of a warrant of eviction, or suspend the issuance of a warrant eviction, based solely on the tenant's election in the Hardship Declaration. These provisions tie the hands of the court, and prevent it from its inherent, non-delegable judicial function of hearing the facts of all cases pending before it, to determine the merits of hardship claims and to decide based on judicial economy and the interests of justice which cases shall

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<sup>10</sup> *Riglander v. Star Co.*, 98 A.D. 101, 105 (1st Dep't 1904), *aff'd* 181 N.Y. 531 (N.Y. 1905).

proceed and when. It is simply intolerable for a court to be powerless to hear arguments or make inquiries of any Hardship Declaration, no matter what.

96. CEEFPA §§3, 4 and 5 also breach the separation of powers, because they summarily preclude landlords from initiating new eviction proceedings until at least May 1, 2021, if the tenant has claimed hardship in a Hardship Declaration. Even if the landlord has reason to believe that the tenant's hardship claim is false or erroneous, these sections purport to deny the landlord any access to judicial relief until at least May 1, while the tenant continues to live at the property without paying rent. The tenant's claim in the Hardship Declaration is purportedly non-reviewable by the court. That breaches the court's inherent, non-delegable power to hear disputes between individual litigants and to determine the merits of their claims, and the sole election of one of the would-be litigants (the tenant).

97. CEEFPA §11 violates the separation of powers, by allowing the tenant to decide which party bears the burden of proof in TSHA "hardship" defenses, when the cases eventually do go forward. The tenant's mere checking of a box on the Hardship Declaration form binds the court and the landlord to a framework in which the landlord must "rebut" the "presumption" that the tenant is afflicted by a COVID-related hardship. In other words, *in those cases where the tenant elects it*, the landlord must prove the negative of whether the tenant has actually suffered a significant loss of income, or an increase in household expenses, or other circumstances that "negatively affect" the tenant's search for "meaningful employment," in summary proceedings in which there is no pre-hearing discovery—the tenant can possibly win the hardship defense by saying nothing. The Legislature has from time to time passed laws that create causes of action in which presumptions are rebuttable, but it has never before told the courts that an *individual litigant* gets to decide whether there is a rebuttable presumption in his particular case. This impermissibly



interferes with the court's authority to adjudge, *prima facie*, the sufficiency of the tenant's claim of hardship.

98. There is a real and concrete controversy between the parties concerning the constitutionality of CEEFPA.

99. Accordingly, the Plaintiffs are entitled to a declaratory judgment pursuant to CPLR §3001 decreeing CEEFPA null and void, and a permanent and preliminary injunction (with temporary restraining order) enjoining its enforcement.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**(Declaratory Judgment Due Process / Vagueness)**

100. The Plaintiffs repeat, reallege and incorporate by reference the allegations in all preceding paragraphs of this Complaint, as though set forth in full in this paragraph.

101. The Due Process clauses of the United States and NYS Constitutions preclude legislation that is vague in such a manner that individuals of ordinary intelligence are forced to guess at its meaning. All legislation must at least: (i) give a person of ordinary intelligence a reasonable opportunity to know what the law requires or prohibits; and (ii) provide explicit standards for those who apply it, to guard against the risk of discriminatory or inconsistent application.

102. In other words, in order to survive a vagueness challenge, a law must both provide adequate notice to those who are governed by it and adequately cabin the discretion of those who apply it.

103. CEEFPA §1(4)—which specifies the precise language of the Hardship Declaration—is unconstitutionally vague. It neither gives adequate notice to the persons governed by it (landlords and tenants), nor adequately restrains the discretion of those who apply it (the tenants).

104. The tenants are, indeed, the actors who *apply* the CEEFPA hardship provisions, by deciding for themselves—without review by the courts—whether they are protected from eviction proceedings until at least May 1, 2021. The tenants do this by reading the Hardship Declarations themselves, interpreting its language themselves, and deciding for themselves whether the protections in the form apply to them.

105. The tenants also apply CEEFPA’s hardship provisions, unilaterally, by deciding for themselves who will bear the burden of proof in eventual TSHA hardship defense hearings. Once again, they do this simply by reviewing the Hardship Declaration form, interpreting its language themselves, and deciding for themselves whether the protections in the form apply to them.

106. The language of the Hardship Declaration form (as dictated by CEEFPA) is too vague and subjective to provide tenants with standards or safeguards to prevent arbitrary or selective application.

107. Part “A” of the Hardship Declaration—financial hardship—simply requires the tenant to check the box, and does not even require him/her to specify *which* of the five subparagraphs are the putative basis for the hardship.

108. Moreover, those subparagraphs are so loosely drawn that they grant the tenant virtually unbounded discretion.

109. The most obviously problematic piece is the catch-all in #5: “*Other circumstances related to*” the pandemic that have “*negatively affected*” the tenant’s ability to obtain “*meaningful employment.*” It is difficult to imagine how a tenant is objectively supposed to interpret a term as broadly drawn as “other circumstances related to.” Moreover, “negatively affected” does not necessarily mean that the condition *prevented* the tenant from finding employment or even *substantially interfered* with it. A perfectly healthy tenant who has not sought work simply

because he/she does not want to leave the house in the age of COVID (even though most industries are now back to work) might claim hardship based on this category.

110. Even worse is the phrase “meaningful employment.” That could allow a tenant who *is* employed to claim hardship because he/she subjectively believes that the job is not “meaningful,” whatever that is supposed to mean.

111. This amorphous language (“negatively affected” and “meaningful employment”) is repeated in #3, and renders that sub-paragraph equally susceptible to misapplication.

112. The other sub-paragraphs are also unworkably vague. In #1, one person’s idea of “significant loss” of income could be very different from the next’s. The tenant, being the party resisting eviction, is incentivized to interpret it as liberally as possible, perhaps beyond the bounds of what would ever be *judicially* defensible. Moreover, the language might urge the tenant to claim the hardship if the loss of income occurred “*during*” the pandemic—not necessarily *because* of it. A tenant who has voluntarily retired, or voluntarily left the workforce to care for a newborn infant notwithstanding COVID, but *during* the pandemic, is left to interpret and apply this language alone.

113. Furthermore, #2 leaves the tenant to ponder and decide whether *any* “increase” in household costs is protected hardship, because paragraph only says “increase”—not “significant increase” or “substantial increase,” just “increase.”

114. Similarly, #4, which invites the tenant to decide unilaterally whether any moving cost at all are a “hardship,” or whether an affordable but smaller apartment, or an apartment a little farther from work, is a protected “hardship.”

115. Part B, relating to the inability to move because of a “significant health risk,” is similar. It indicates only one specific condition that qualifies for protection: being over the age of

65 (or having someone in the household who is). But the language also offers protection for anyone who “[has] a disability or [has] an underlying medical condition...” The law leaves it to the tenant alone to decide whether his/her disability or underlying condition—whatever it may be—is the type of thing that poses an increased risk of illness from COVID. Here again, while offering virtually no guidance, CEEFPA entrusts this determination to the tenant, an interested party to the eviction dispute.

116. There is a real and concrete controversy between the parties concerning the constitutionality of CEEFPA.

117. Accordingly, the Plaintiffs are entitled to a declaratory judgment pursuant to CPLR §3001 decreeing CEEFPA null and void, and a permanent and preliminary injunction (with temporary restraining order) enjoining its enforcement.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**(Declaratory Judgment – Procedural Due Process)**

118. The Plaintiffs repeat, reallege and incorporate by reference the allegations in all preceding paragraphs of this Complaint, as though set forth in full in this paragraph.

119. Both the federal and NYS Constitutions guarantee that no person shall be deprived of life, liberty or property without due process of law. *See* U.S. Const. Art. 14; N.Y.S. Const. Art. I §6.

120. At a minimum, due process requires notice and an opportunity to be heard. The purpose of the hearing requirement is to ensure that decision-makers have before them the parties’ legal arguments and do not act on a one-sided or otherwise incomplete factual presentation.

121. Under CEEFPA, the tenant’s unilateral ability to declare itself protected in the Hardship Declaration deprives the landlord of a lawful opportunity to contest the tenant’s claim, or to have it adjudicated by a court. The tenant effectively acts as its own judge in an application

to stay the eviction proceeding (or preclude its filing) until “at least May 1, 2021,” during which period a non-paying tenant without a *bona fide* hardship claim could continue to hold dominion and control over the landlord’s property. The removal of the court from that decision-making process is, on its face, offensive to due process.

122. In so doing, CEEFPA substantially interferes with the Plaintiffs’ property interests, namely their interests in the rental properties of which they are fee owners, the right to possession of those properties which they could otherwise achieve if they were allowed to exercise their eviction remedies.

123. There is a real and concrete controversy between the parties concerning the constitutionality of CEEFPA.

124. Accordingly, the Plaintiffs are entitled to a declaratory judgment pursuant to CPLR §3001 decreeing CEEFPA null and void, and a permanent and preliminary injunction (with temporary restraining order) enjoining its enforcement.

**AS AND FOR A FOURTH CAUSE OF ACTION**  
**(Declaratory Judgment – Right to Petition)**

125. The Plaintiffs repeat, reallege and incorporate by reference the allegations in all preceding paragraphs of this Complaint, as though set forth in full in this paragraph.

126. The federal and state Constitutions prohibit the government from making laws that abridge the right of the people to petition the government for redress of grievances. U.S. Const. Amend. 1; N.Y.S. Const. Art. I §9.

127. The impacts of CEEFPA described above also offend the petition clauses.

128. When a tenant returns a Hardship Declaration before the landlord has sued, the landlord is barred from seeking eviction until “at least May 1, 2021.” A landlord who believes

itself aggrieved by a false hardship claim is denied an avenue to petition the court to challenge the claim, and at least temporarily denied any recourse to seek repossession of its property.

129. Even for cases that are already in suit when the tenant claims hardship, CEEFPA prevents the landlord from petitioning the judge contest the claim. This is antithetical to an orderly system of justice.

130. There is a real and concrete controversy between the parties concerning the constitutionality of CEEFPA.

131. Accordingly, the Plaintiffs are entitled to a declaratory judgment pursuant to CPLR §3001 decreeing CEEFPA null and void, and a permanent and preliminary injunction (with temporary restraining order) enjoining its enforcement.

WHEREFORE, the Plaintiffs demand judgment:

- (i) Pursuant to CPLR §3001, declaring Part A of the COVID-19 Emergency Eviction and Foreclosure Protection Act of 2020 to be unconstitutional, null and void on its face and/or as applied;
- (ii) Permanently and preliminarily enjoining the enforcement of CEEFPA Part A; and
- (iii) Granting such other relief to the Plaintiffs as the Court deems just and proper.

Dated: Troy, New York  
March 12, 2021

Respectfully submitted,

E. STEWART JONES HACKER MURPHY LLP

A handwritten signature in black ink, appearing to read "Benjamin F. Neidl", written over a horizontal line.

By: Benjamin F. Neidl  
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# **Exhibit A**

**To the Complaint**



## STATE OF NEW YORK

9114

## IN SENATE

December 24, 2020

Introduced by Sens. KAVANAGH, MYRIE -- 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 2020"; in relation to eviction proceedings; and to provide for the expiration of certain provisions upon the expiration thereof (Part A); 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 residential 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.

11 § 2. Short title. This act shall be known and may be cited as the  
12 "COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020".

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

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

LBD17721-01-0

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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 residential dwelling unit or any other judicial or administrative proceeding to recover possession of real property relating to a residential dwelling unit.

2. "Landlord" includes a landlord, owner of a residential 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 residential tenant, lawful occupant of a dwelling unit, or any other person responsible for paying rent, use and occupancy, or any other financial obligation under a residential lease or tenancy agreement, but does not include a residential 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 severe illness or death from COVID-19 due to an underlying medical condition, and you sign and deliver this hardship declaration form to your landlord, you cannot be evicted until at least May 1, 2021 for nonpayment of rent or for holding over after the expiration of your lease. You may still be evicted for violating your lease by persistently

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1 and unreasonably engaging in behavior that substantially infringes on  
2 the use and enjoyment of other tenants or occupants or causes a substan-  
3 tial safety hazard to others.

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

12 For more information about legal resources that may be available to  
13 you, go to [www.nycourts.gov/evictions/nyc/](http://www.nycourts.gov/evictions/nyc/) or call 718-557-1379 if you  
14 live in New York City or go to [www.nycourts.gov/evictions/outside-nyc/](http://www.nycourts.gov/evictions/outside-nyc/)  
15 or call a local bar association or legal services provider if you live  
16 outside of New York City. Rent relief may be available to you, and you  
17 should contact your local housing assistance office.

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

19 I am a tenant, lawful occupant, or other person responsible for paying  
20 rent, use and occupancy, or any other financial obligation under a lease  
21 or tenancy agreement at (address of dwelling unit).

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

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

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

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

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

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

40 5. Other circumstances related to the COVID-19 pandemic have negative-  
41 ly affected my ability to obtain meaningful employment or earn income or  
42 have significantly reduced my household income or significantly  
43 increased my expenses.

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

50 B. ( ) Vacating the premises and moving into new permanent housing would  
51 pose a significant health risk because I or one or more members of my  
52 household have an increased risk for severe illness or death from

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1 COVID-19 due to being over the age of sixty-five, having a disability or  
2 having an underlying medical condition, which may include but is not  
3 limited to being immunocompromised.

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

13 Signed:

14 Printed name:

15 Date signed:

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

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

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

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

46 2. a list of all not-for-profit legal service providers actively  
47 handling housing matters in the county where the subject premises are  
48 located. Such lists shall be prepared and regularly updated, to the  
49 extent practicable, for such purpose and published on the website of the  
50 office of court administration.

51 § 4. Prohibition on initiation of eviction proceeding. If there is no  
52 pending eviction proceeding and a tenant provides a hardship declaration  
53 to the landlord or an agent of the landlord, there shall be no initi-

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1 ation of an eviction proceeding against the tenant until at least May 1,  
2 2021, and in such event any specific time limit for the commencement of  
3 an eviction proceeding shall be tolled until May 1, 2021.

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

14 a. attesting that at the time of filing, neither the petitioner nor  
15 any agent of the petitioner has received a hardship declaration from the  
16 respondent or any other tenant or occupant of the dwelling unit that is  
17 the subject of the proceeding, or

18 b. attesting that the respondent or another tenant or occupant of the  
19 dwelling unit that is the subject of the proceeding has returned a hard-  
20 ship declaration, but the respondent is persistently and unreasonably  
21 engaging in behavior that substantially infringes on the use and enjoy-  
22 ment of other tenants or occupants or causes a substantial safety hazard  
23 to others, with a specific description of the behavior alleged.

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

46 § 6. Pending proceedings. In any eviction proceeding in which an  
47 eviction warrant has not been issued, including eviction proceedings  
48 filed on or before March 7, 2020, if the tenant provides a hardship  
49 declaration to the petitioner, the court, or an agent of the petitioner  
50 or the court, the eviction proceeding shall be stayed until at least May  
51 1, 2021. If such hardship declaration is provided to the petitioner or  
52 agent, such petitioner or agent shall promptly file it with the court,  
53 advising the court in writing the index number of all relevant cases.

54 § 7. Default judgments. No court shall issue a judgment in any  
55 proceeding authorizing a warrant of eviction against a respondent who  
56 has defaulted, or authorize the enforcement of an eviction pursuant to a

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1 default judgment, prior to May 1, 2021, without first holding a hearing  
2 after the effective date of this act upon motion of the petitioner. The  
3 petitioner or an agent of the petitioner shall file an affidavit attest-  
4 ing that the petitioner or the petitioner's agent has served notice of  
5 the date, time, and place of such hearing on the respondent, including a  
6 copy of such notice. If a default judgment has been awarded prior to the  
7 effective date of this act, the default judgment shall be removed and  
8 the matter restored to the court calendar upon the respondent's written  
9 or oral request to the court either before or during such hearing and an  
10 order to show cause to vacate the default judgment shall not be  
11 required.

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

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

30 (i) The tenant has not submitted the hardship declaration and the  
31 tenant was properly served with a copy of the hardship declaration  
32 pursuant to this section, listing dates the tenant was served with the  
33 hardship declaration by the petitioner and the court; or

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

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

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

47 e. Unless the warrant contains the information contained in paragraph  
48 (ii) of subdivision b of this section, if any tenant delivers the  
49 hardship declaration to the officer to whom the warrant is directed, the  
50 officer shall not execute the warrant and shall return the hardship form  
51 to the court indicating the appropriate index/case number the form is  
52 associated with.

53 § 9. Sections two, four, six and paragraph (ii) of subdivision a of  
54 section eight of this act shall not apply if the tenant is persistently  
55 and unreasonably engaging in behavior that substantially infringes on

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1 the use and enjoyment of other tenants or occupants or causes a substan-  
2 tial safety hazard to others, provided:

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

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

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

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

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

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

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

50 § 12. If any clause, sentence, paragraph, section or part of this act  
51 shall be adjudged by any court of competent jurisdiction to be invalid  
52 and after exhaustion of all further judicial review, the judgment shall  
53 not affect, impair or invalidate the remainder thereof, but shall be  
54 confined in its operation to the clause, sentence, paragraph, section or  
55 part of this act directly involved in the controversy in which the judg-  
56 ment shall have been rendered.

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

4 PART B

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

17 SUBPART A

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

27 (a) For purposes of this act, real property shall include shares  
28 assigned to a unit in a residential cooperative.

29 (b) For purposes of this act, real property shall not include property  
30 that is vacant and abandoned, as defined in subdivision 2 of section  
31 1309 of the real property actions and proceedings law, which was listed  
32 on the statewide vacant and abandoned property electronic registry, as  
33 defined in section 1310 of the real property actions and proceedings  
34 law, prior to March 7, 2020 and that remains on such registry.

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

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

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

50 If your mortgage lender or other foreclosing party provided you with  
51 this form, the mortgage lender or other foreclosing party must also  
52 provide you with a mailing address and e-mail address to which you can



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1 return this form. If you are already in foreclosure proceedings, you may  
2 return this form to the court. You should keep a copy or picture of the  
3 signed form for your records. You will still owe any unpaid mortgage  
4 payments and lawful fees to your lender. You should also keep careful  
5 track of what you have paid and any amount you still owe.

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

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

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

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

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

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

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

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

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

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

43 Signed:

44 Printed Name:

45 Date Signed:

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

49 § 3. Any action to foreclose a mortgage pending on the effective date  
50 of this act, including actions filed on or before March 7, 2020, or  
51 commenced within thirty days of the effective date of this act shall be  
52 stayed for at least sixty days, or to such later date that the chief  
53 administrative judge shall determine is necessary to ensure that courts  
54 are prepared to conduct proceedings in compliance with this act and to  
55 give mortgagors an opportunity to submit the hardship declaration pursu-  
56 ant to this act. The court in each case shall promptly issue an order

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1 directing such stay and promptly mail the mortgagor a copy of the hard-  
2 ship declaration in English, and, to the extent practicable, the  
3 mortgagor's primary language, if other than English.

4 § 4. The foreclosing party shall include a "Hardship Declaration" in  
5 14-point type, with every notice provided to a mortgagor pursuant to  
6 sections 1303 and 1304 of the real property actions and proceedings law.  
7 If the translation of the hardship declaration in the mortgagor's prima-  
8 ry language is not available on the office of court administration's  
9 public website, as provided by section nine of this act, it shall be the  
10 foreclosing party's responsibility to obtain a suitable translation of  
11 the hardship declaration in the mortgagor's primary language. Such  
12 notice shall also include a mailing address, telephone number and active  
13 email address the mortgagor can use to contact the foreclosing party and  
14 return the hardship declaration.

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

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

24 (i) of service demonstrating the manner in which the foreclosing  
25 party's agent served a copy of the hardship declaration in English and  
26 the mortgagor's primary language, if other than English, with the  
27 notice, if any, provided to the mortgagor pursuant to sections 1303 and  
28 1304 of the real property actions and proceedings law, and

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

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

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

50 § 8. In any action to foreclose a mortgage in which a judgment of sale  
51 has been issued prior to the effective date of this act but has not yet  
52 been executed as of the effective date of this act, including actions  
53 filed on or before March 7, 2020, the court shall stay the execution of  
54 the judgment at least until the court has held a status conference with  
55 the parties. In any action to foreclose a mortgage, if the mortgagor  
56 provides a hardship declaration to the foreclosing party, the court, or

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

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

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

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

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

## SUBPART B

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

42 (a) For purposes of this act, real property shall include shares in a  
43 residential cooperative.

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

50 § 2. Definitions. For purposes of this act: 1. "Tax lien" means an  
51 unpaid tax, special ad valorem levy, special assessment or other charge  
52 imposed upon real property by or on behalf of a municipal corporation or  
53 special district or other public or private entity which is an encum-

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1 brance on real property, whether or not evidenced by a written instru-  
2 ment.

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

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

10 "OWNER DECLARATION OF COVID-19-RELATED HARDSHIP

11 I am the owner of the property at (address). Including my primary  
12 residence, I own, whether directly or indirectly, ten or fewer residen-  
13 tial dwelling units. I am experiencing financial hardship, and I am  
14 unable to pay my full tax bill because of one or more of the 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 alternative housing  
25 make it a hardship for me to relocate to another residence during the  
26 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 that I have lost household income or had increased  
34 expenses, any public assistance, including unemployment insurance,  
35 pandemic unemployment assistance, disability insurance, or paid family  
36 leave, that I have received since the start of the COVID-19 pandemic  
37 does not fully make up for my loss of household income or increased  
38 expenses.

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

43 Signed:

44 Printed Name:

45 Date Signed:

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

49 § 3. 1. A real property owner may submit a "Hardship Declaration" to  
50 any village, town, city, school district, county, or other entity or  
51 person which conducts tax foreclosures or tax lien sales.

52 2. At least thirty days prior to the date on which a sale of a tax  
53 lien is scheduled to occur, or upon the filing of a petition of foreclo-  
54 sure of a tax lien, the enforcing officer or other person or entity  
55 conducting such tax lien sale or tax foreclosure shall notify the owner  
56 of the affected property of such owner's rights under this act and shall

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

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

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

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

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

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

## SUBPART C

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

41 (a) For purposes of this act, real property shall include shares in a  
42 residential cooperative.

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

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"NOTICE TO OWNER/MORTGAGOR: If you have lost income or had increased costs due to the COVID-19 pandemic, and you sign and deliver this hardship declaration form to your lending institution, you cannot be discriminated against in the determination of whether credit should be extended or reported negatively to a credit reporting agency until at least May 1, 2021.

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

OWNER/MORTGAGOR DECLARATION OF COVID-19-RELATED HARDSHIP

I am the OWNER/MORTGAGOR of the property at (address of dwelling unit). Including my primary residence, I own, whether directly or indirectly, ten or fewer residential dwelling units. I am experiencing financial hardship, and I am unable to pay my mortgage in full 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 alternative housing make it a hardship for me to relocate to another residence 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.

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. Discrimination in credit decisions. Notwithstanding any law to the contrary, lending institutions shall not discriminate in the determination of whether credit should be extended to any owner of residential real property as defined in subdivision one of this section because, as provided for in this act, such owner has been granted a stay of mortgage foreclosure proceedings, tax foreclosure proceedings or of tax lien sales, or that an owner of residential real property as defined in subdivision one of this section is currently in arrears and has filed a hardship declaration with such lender.

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1 4. Prohibition on negative credit reporting. Notwithstanding any law  
2 to the contrary, as provided for in this act, the granting of a stay of  
3 mortgage foreclosure proceedings, tax foreclosure proceedings or tax  
4 lien sales, or that an owner of residential real property as defined in  
5 subdivision one of this section is currently in arrears and has filed a  
6 hardship declaration with their lender shall not be negatively reported  
7 to any credit reporting agency.

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

9

## SUBPART D

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

36 § 2. This act shall take effect immediately and shall expire May 1,  
37 2021. This act shall be deemed to have been in full force and effect on  
38 and after March 7, 2020.

39 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
40 sion, section, item, subpart or part of this act shall be adjudged by  
41 any court of competent jurisdiction to be invalid, such judgment shall  
42 not affect, impair, or invalidate the remainder thereof, but shall be  
43 confined in its operation to the clause, sentence, paragraph, subdivi-  
44 sion, section, item, subpart or part thereof directly involved in the  
45 controversy in which such judgment shall have been rendered. It is here-  
46 by declared to be the intent of the legislature that this act would have  
47 been enacted even if such invalid provisions had not been included here-  
48 in.

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

52 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-  
53 sion, section or part of this act shall be adjudged by any court of  
54 competent jurisdiction to be invalid, such judgment shall not affect,

S. 9114

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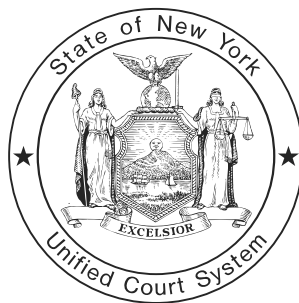
1 impair, or invalidate the remainder thereof, but shall be confined in  
2 its operation to the clause, sentence, paragraph, subdivision, section  
3 or part thereof directly involved in the controversy in which such judg-  
4 ment shall have been rendered. It is hereby declared to be the intent of  
5 the legislature that this act would have been enacted even if such  
6 invalid provisions had not been included herein.

7 § 5. This act shall take effect immediately provided, however, that  
8 the applicable effective date of Parts A through B of this act shall be  
9 as specifically set forth in the last section of such Parts.



# **Exhibit B**

**To the Complaint**

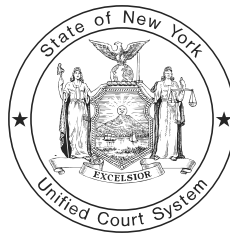


## NOTICE TO TENANT:

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

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

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



Index Number (if known/applicable): \_\_\_\_\_

County and Court (if known/applicable): \_\_\_\_\_

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

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

---

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

- ☐ A. I am experiencing financial hardship, and I am unable to pay my rent or other financial obligations under the lease in full or obtain alternative suitable permanent housing 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 alternative housing make it a hardship for me to relocate to another residence 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.

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.

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

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

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.

# Exhibit C

**To the Complaint**

## STATE OF NEW YORK

7919

## IN SENATE

March 2, 2020

Introduced by Sen. STEWART-COUSINS -- (at request of the Governor) --  
read twice and ordered printed, and when printed to be committed to  
the Committee on Rules

AN ACT to amend the executive law, in relation to issuing by the governor of any directive necessary to respond to a state disaster emergency; making an appropriation therefor; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Paragraph a of subdivision 2 of section 20 of the executive law, as amended by section 1 of part B of chapter 56 of the laws of 2010, is amended to read follows:

a. "disaster" means occurrence or imminent, impending or urgent threat of wide spread or severe damage, injury, or loss of life or property resulting from any natural or man-made causes, including, but not limited to, fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, disease outbreak, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological, or bacteriological release, water contamination, bridge failure or bridge collapse.

§ 2. Section 29-a of the executive law, as added by chapter 640 of the laws of 1978, subdivision 1 as amended by section 7 of part G of chapter 55 of the laws of 2012, is amended to read as follows:

§ 29-a. Suspension of other laws. 1. Subject to the state constitution, the federal constitution and federal statutes and regulations, the governor may by executive order temporarily suspend [~~specific provisions of~~] any statute, local law, ordinance, or orders, rules or regulations, or parts thereof, of any agency during a state disaster emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the disaster or if necessary to assist or aid in coping with such disaster. The governor, by executive order, may issue any directive during a state disaster emergency declared in the following instances: fire, flood, earthquake, hurricane, tornado, high water,

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

LBD12048-08-0

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1 landslide, mudslide, wind, storm, wave action, volcanic activity,  
2 epidemic, disease outbreak, air contamination, terrorism, cyber event,  
3 blight, drought, infestation, explosion, radiological accident, nuclear,  
4 chemical, biological, or bacteriological release, water contamination,  
5 bridge failure or bridge collapse. Any such directive must be necessary  
6 to cope with the disaster and may provide for procedures reasonably  
7 necessary to enforce such directive.

8 2. Suspensions pursuant to subdivision one of this section shall be  
9 subject to the following standards and limits, which shall apply to any  
10 directive where specifically indicated:

11 a. no suspension or directive shall be made for a period in excess of  
12 thirty days, provided, however, that upon reconsideration of all of the  
13 relevant facts and circumstances, the governor may extend the suspension  
14 for additional periods not to exceed thirty days each;

15 b. no suspension or directive shall be made which [~~does not safeguard~~  
16 ~~the~~] is not in the interest of the health [~~and~~] or welfare of the public  
17 and which is not reasonably necessary to aid the disaster effort;

18 c. any such suspension order shall specify the statute, local law,  
19 ordinance, order, rule or regulation or part thereof to be suspended and  
20 the terms and conditions of the suspension;

21 d. the order may provide for such suspension only under particular  
22 circumstances, and may provide for the alteration or modification of the  
23 requirements of such statute, local law, ordinance, order, rule or regu-  
24 lation suspended, and may include other terms and conditions;

25 e. any such suspension order or directive shall provide for the mini-  
26 mum deviation from the requirements of the statute, local law, ordi-  
27 nance, order, rule or regulation suspended consistent with the goals of  
28 the disaster action deemed necessary; and

29 f. when practicable, specialists shall be assigned to assist with the  
30 related emergency actions to avoid needless adverse effects resulting  
31 from such suspension.

32 3. Such suspensions or directives shall be effective from the time and  
33 in the manner prescribed in such orders and shall be published as soon  
34 as practicable in the state bulletin.

35 4. The legislature may terminate by concurrent resolution executive  
36 orders issued under this section at any time.

37 § 3. The sum of forty million dollars (\$40,000,000) is hereby appro-  
38 priated for transfer by the governor to the general, special revenue,  
39 capital projects, proprietary or fiduciary funds of any agency, depart-  
40 ment, or authority for services and expenses related to the outbreak of  
41 coronavirus disease 2019 (COVID-19). Such funds shall be used for  
42 purposes including, but not limited to, additional personnel, equipment  
43 and supplies, travel costs, and trainings. A portion of these funds may  
44 be made available as state aid to municipalities for services and  
45 expenses related to the outbreak of coronavirus disease 2019 (COVID-19).  
46 Such funds shall be available for payment of financial assistance here-  
47 tofore accrued or hereafter to accrue. Any disbursements from this  
48 appropriation shall be distributed pursuant to a plan approved by the  
49 director of the budget.

50 § 4. This act shall take effect immediately and sections one and two  
51 of this act shall expire and be deemed repealed April 30, 2021.

# Exhibit D

**To the Complaint**





No. 202.8

### EXECUTIVE ORDER

#### **Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency**

**WHEREAS**, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York;

**WHEREAS**, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to be continue;

**WHEREAS**, in order to facilitate the most timely and effective response to the COVID-19 emergency disaster, it is critical for New York State to be able to act quickly to gather, coordinate, and deploy goods, services, professionals, and volunteers of all kinds; and

**NOW, THEREFORE**, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through April 19, 2020 the following:

- In accordance with the directive of the Chief Judge of the State to limit court operations to essential matters during the pendency of the COVID-19 health crisis, any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state, including but not limited to the criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate's court procedure act, and the uniform court acts, or by any other statute, local law, ordinance, order, rule, or regulation, or part thereof, is hereby tolled from the date of this executive order until April 19, 2020;
- Subdivision 1 of Section 503 of the Vehicle and Traffic Law, to the extent that it provides for a period of validity and expiration of a driver's license, in order to extend for the duration of this executive order the validity of driver's licenses that expire on or after March 1, 2020;
- Subdivision 1 of Section 491 of the Vehicle and Traffic Law, to the extent that it provides for a period of validity and expiration of a non-driver identification card, in order to extend for the duration of this executive order the validity of non-driver identification cards that expire on or after March 1, 2020;
- Sections 401, 410, 2222, 2251, 2261, and 2282(4) of the Vehicle and Traffic law, to the extent that it provides for a period of validity and expiration of a registration certificate or number plate for a motor vehicle or trailer, a motorcycle, a snowmobile, a vessel, a limited use vehicle, and an all-terrain vehicle, respectively, in order to extend for the duration of this executive order the validity of such registration certificate or number plate that expires on or after March 1, 2020;
- Section 420-a of the vehicle and traffic law to the extent that it provides an expiration for temporary registration documents issued by auto dealers to extend the validity of such during the duration of this executive order.
- Subsection (a) of Section 602 and subsections (a) and (b) of Section 605 of the Business Corporation Law, to the extent they require meetings of shareholders to be noticed and held at a physical location.

NOW, THEREFORE, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of Executive Order through April 19, 2020:

- The provisions of Executive Order 202.6 are hereby modified to read as follows: Effective on March 22 at 8 p.m.: All businesses and not-for-profit entities in the state shall utilize, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize. Each employer shall reduce the in-person workforce at any work locations by 100% no later than March 22 at 8 p.m. Any essential business or entity providing essential services or functions shall not be subject to the in-person restrictions. An entity providing essential services or functions whether to an essential business or a non-essential business shall not be subjected to the in-person work restriction, but may operate at the level necessary to provide such service or function. Any business violating the above order shall be subject to enforcement as if this were a violation of an order pursuant to section 12 of the Public Health Law.
- There shall be no enforcement of either an eviction of any tenant residential or commercial, or a foreclosure of any residential or commercial property for a period of ninety days.
- Effective at 8 p.m. March 20, any appointment that is in-person at any state or county department of motor vehicles is cancelled, and until further notice, only on-line transactions will be permitted.
- The authority of the Commissioner of Taxation and Finance to abate late filing and payment penalties pursuant to section 1145 of the Tax Law is hereby expanded to also authorize abatement of interest, for a period of 60 days for a taxpayers who are required to file returns and remit sales and use taxes by March 20, 2020, for the sales tax quarterly period that ended February 29, 2020.



GIVEN under my hand and the Privy Seal of the  
State in the City of Albany this  
twentieth day of March in the year  
two thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

# **Exhibit E**

**To the Complaint**



# State of New York

## Executive Chamber

No. 202.28

### EXECUTIVE ORDER

#### **Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency**

**WHEREAS**, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

**WHEREAS**, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to be continue;

**NOW, THEREFORE**, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law, do hereby continue the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, for thirty days until June 6, 2020, except as modified below:

- The suspension or modification of the following statutes and regulations are not continued, and such statutes, codes and regulations are in full force and effect as of May 8, 2020:
  - 10 NYCRR 405.9, except to the limited extent that it would allow a practitioner to practice in a facility where they are not credentialed or have privileges, which shall continue to be suspended; 10 NYCRR 400.9; 10 NYCRR 400.11, 10 NYCRR 405; 10 NYCRR 403.3; 10 NYCRR 403.5; 10 NYCRR 800.3, except to the extent that subparagraphs (d) and (u) could otherwise limit the scope of care by paramedics to prohibit the provision of medical service or extended service to COVID-19 or suspected COVID-19 patients; 10 NYCRR 400.12; 10 NYCRR 415.11; 10 NYCRR 415.15; 10 NYCRR 415.26; 14 NYCRR 620; 14 NYCRR 633.12; 14 NYCRR 636-1; 14 NYCRR 686.3; and 14 NYCRR 517;
  - Mental Hygiene Law Sections 41.34; 29.11; and 29.15;
  - Public Health Law Sections 3002, 3002-a, 3003, and 3004-a to the extent it would have allowed the Commissioner to make determination without approval by a regional or state EMS board;
  - Subdivision (2) of section 6527, Section 6545, and Subdivision (1) of Section 6909 of the Education Law; as well as subdivision 32 of Section 6530 of the Education Law, paragraph (3) of Subdivision (a) of Section 29.2 of Title 8 of the NYCRR, and sections 58-1.11, 405.10, and 415.22 of Title 10 of the NYCRR;
  - All codes related to construction, energy conservation, or other building code, and all state and local laws, ordinances, and regulations which would have otherwise been superseded, upon approval by the Commissioner of OPWDD, as applicable only for temporary changes to physical plant, bed capacities, and services provided; for facilities under the Commissioners jurisdiction.

**IN ADDITION**, I hereby temporarily suspend or modify the following if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, for the period from the date of this Executive Order through June 6, 2020:

- Sections 7-103, 7-107 and 7-108 of the General Obligations Law to the extent necessary to provide that:
  - Landlords and tenants or licensees of residential properties may, upon the consent of the tenant or licensee, enter into a written agreement by which the security deposit and any interest accrued thereof, shall be used to pay rent that is in arrears or will become due. If the amount of the deposit represents less than a full month rent payment, this consent does not constitute a waiver of the remaining rent due and owing for that month. Execution in counterpart by email will constitute sufficient execution for consent;
  - Landlords shall provide such relief to tenants or licensees who so request it that are eligible for unemployment insurance or benefits under state or federal law or are otherwise facing financial hardship due to the COVID-19 pandemic;
  - It shall be at the tenant or licensee's option to enter into such an agreement and landlords shall not harass, threaten or engage in any harmful act to compel such agreement;
  - Any security deposit used as a payment of rent shall be replenished by the tenant or licensee, to be paid at the rate of 1/12 the amount used as rent per month. The payments to replenish the security deposit shall become due and owing no less than 90 days from the date of the usage of the security deposit as rent. The tenant or licensee may, at their sole option, retain insurance that provides relief for the landlord in lieu of the monthly security deposit replenishment, which the landlord, must accept such insurance as replenishment.
- Subdivision 2 of section 238-a of the Real Property Law to provide that no landlord, lessor, sub-lessor or grantor shall demand or be entitled to any payment, fee or charge for late payment of rent occurring during the time period from March 20, 2020, through August 20, 2020; and
- Section 8-400 of the Election Law is modified to the extent necessary to require that to the any absentee application mailed by a board of elections due to a temporary illness based on the COVID-19 public health emergency may be drafted and printed in such a way to limit the selection of elections to which the absentee ballot application is only applicable to any primary or special election occurring on June 23, 2020, provided further that for all absentee ballot applications already mailed or completed that purported to select a ballot for the general election or to request a permanent absentee ballot shall in all cases only be valid to provide an absentee ballot for any primary or special election occurring on June 23, 2020. All Boards of Elections must provide instructions to voters and post prominently on the website, instructions for completing the application in conformity with this directive.
- The suspension of the provisions of any time limitations contained in the Criminal Procedure Law contained in Executive Order 202.8 is modified as follows:
  - Section 182.30 of the Criminal Procedure Law, to the extent that it would prohibit the use of electronic appearances for certain pleas;
  - Section 180.60 of the Criminal Procedure Law to provide that (i) all parties' appearances at the hearing, including that of the defendant, may be by means of an electronic appearance; (ii) the Court may, for good cause shown, withhold the identity, obscure or withhold the image of, and/or disguise the voice of any witness testifying at the hearing pursuant to a motion under Section 245.70 of the Criminal Procedure law—provided that the Court is afforded a means to judge the demeanor of a witness;
  - Section 180.80 of the Criminal Procedure Law, to the extent that a court must satisfy itself that good cause has been shown within one hundred and forty-four hours from May 8, 2020 that a defendant should continue to be held on a felony complaint due to the inability to empanel a grand jury due to COVID-19, which may constitute such good cause pursuant to subdivision three of such section; and
  - Section 190.80 of the Criminal Procedure Law, to the extent that to the extent that a court must satisfy itself that good cause has been shown that a defendant should continue to be held on a felony complaint beyond forty-five days due to the inability to empanel a grand jury due to COVID-19, which may constitute such good cause pursuant to subdivision b of such section provided that such defendant has been provided a preliminary hearing as provided in section 180.80.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of Executive Order through June 6, 2020:

- ~~There shall be no initiation of a proceeding or enforcement of either an eviction of any residential or commercial tenant, for nonpayment of rent or a foreclosure of any residential commercial mortgage, for nonpayment of such mortgage, owned or rented by someone that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic for a period of sixty days beginning 3/20/2020.~~

- Executive Order 202.18, which extended the directive contained in Executive Orders 202.14 and 202.4 as amended by Executive Order 202.11 related to the closure of schools statewide, is hereby continued to provide that all schools shall remain closed through the remainder of the school year. School districts must continue plans for alternative instructional options, distribution and availability of meals, and child care, with an emphasis on serving children of essential workers.



GIVEN under my hand and the Privy Seal of the

State in the City of Albany this

seventh of May in the year two

thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

# **Exhibit F**

**To the Complaint**

## STATE OF NEW YORK

8192--B

## IN SENATE

April 13, 2020

Introduced by Sens. HOYLMAN, KRUEGER, MAYER, JACKSON, LIU, METZGER, MYRIE, SAVINO, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to prohibiting the eviction of residential tenants who have suffered financial hardship during the COVID-19 covered period

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, "COVID-19 covered period"  
2 means March 7, 2020 until the date on which none of the provisions that  
3 closed or otherwise restricted public or private businesses or places of  
4 public accommodation, or required postponement or cancellation of all  
5 non-essential gatherings of individuals of any size for any reason in  
6 Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10,  
7 202.11, 202.13 or 202.14, as extended by Executive Orders 202.28 and  
8 202.31 and as further extended by any future Executive Order, issued in  
9 response to the COVID-19 pandemic continue to apply in the county of the  
10 tenant's or lawful occupant's residence.

11 § 2. Notwithstanding any provision of law to the contrary:

12 1. No court shall issue a warrant of eviction or judgment of  
13 possession against a residential tenant or other lawful occupant that  
14 has suffered a financial hardship during the COVID-19 covered period for  
15 the non-payment of rent that accrues or becomes due during the COVID-19  
16 covered period.

17 2. (a) A tenant or lawful occupant may raise financial hardship during  
18 the COVID-19 covered period as a defense in a summary proceeding under  
19 article 7 of the real property actions and proceedings law.

20 (b) In determining whether a tenant or lawful occupant suffered a  
21 financial hardship during the COVID-19 covered period, the court shall  
22 consider, among other relevant factors:

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

LBD16113-11-0



S. 8192--B

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1 (i) the tenant's or lawful occupant's income prior to the COVID-19  
2 covered period;  
3 (ii) the tenant's or lawful occupant's income during the COVID-19  
4 covered period;  
5 (iii) the tenant's or lawful occupant's liquid assets; and  
6 (iv) the tenant's or lawful occupant's eligibility for and receipt of  
7 cash assistance, supplemental nutrition assistance program, supplemental  
8 security income, the New York State disability program, the home energy  
9 assistance program, or unemployment insurance or benefits under state or  
10 federal law.  
11 3. This act shall not prohibit any court from awarding a judgment for  
12 the rent due and owing to a successful petitioner in a summary proceed-  
13 ing under article 7 of the real property actions and proceedings law.  
14 § 3. This act shall take effect immediately.