

New York Extends Moratorium on Late Fees, Evictions, Foreclosures and NY On Pause Order; Allows Security Deposit Rent Payments

May 11, 2020

Through two recently-issued Executive Orders, New York temporarily prohibited fees for late rent payments, suspended evictions and foreclosures, allowed security deposits to be used for rent payments, and extended restrictions on public and private accommodations (NY On Pause).

Executive Order 202.28, dated May 7, 2020 includes the following temporary provisions regarding landlords and tenants:

1. *Security deposits may be used to pay rent for residential properties:* For a tenant eligible for unemployment benefits or otherwise facing financial hardship as a result of the COVID-19 pandemic, the landlord and tenant may agree in writing to use the security deposit and any interest accrued thereof to pay rent that is in arrears or becomes due. Any security deposit used as rent payment of rent must be replenished by the tenant, to be paid at the rate of 1/12 of the amount used as rent per month. Such payments to replenish the security deposit are due no less than 90 days after the date of the security deposit was used as rent. The tenant may retain and the landlord must accept insurance that provides for relief to the landlord in lieu of the monthly security deposit replenishment.
2. *Prohibition on fees for late payment of rent from March 20, 2020 – August 20, 2020:* A landlord of a residential property cannot charge or collect a fee for late payment of rent.
3. *Suspension of evictions and foreclosures from June 20, 2020 - August 20, 2020:* The landlord of a residential or commercial tenant cannot initiate or enforce an eviction action for nonpayment of rent if the tenant is eligible for unemployment insurance or benefits under state or federal law or is otherwise facing financial hardship due to the COVID-19 pandemic. Similarly, the holder of a residential or commercial mortgage cannot initiate or enforce a foreclosure action for nonpayment of a mortgage loan if the mortgagor is eligible for unemployment insurance or benefits under state or federal law or is otherwise facing financial hardship due to the COVID-19 pandemic.

Executive Order 202.29, dated May 10, 2020, extends NY On Pause: Existing executive orders closing or otherwise restricting public or private places of public accommodation and requiring postponement or cancellation of all non-essential gatherings of individuals of any size for any reason are extended until June 7, 2020.

