

New York's "Tenant Safe Harbor Act" – Extended Restrictions Signed Into Law

July 6, 2020

On June 30, Governor Cuomo signed the Tenant Safe Harbor Act (Chapter 127 of the Laws of New York, 2020) (the "Act") into law, prohibiting evictions of residential tenants, but allowing money judgments for nonpayment of rent, for as long as any part of the county in which such tenant resides is shut down due to COVID-19.

The Act prohibits courts from issuing a warrant of eviction or judgment of possession against a residential tenant (or other lawful occupant) who has suffered a financial hardship during the period from March 7, 2020 until the date that none of the provisions from the COVID-19-responsive Executive Orders that closed or restricted business or places of public accommodation, or limited non-essential gatherings, continue to apply in the county of the tenant's residence (such period, the "COVID-19 Period").

The Act allows such a tenant to raise the financial hardship experienced during the COVID-19 Period as a defense to a summary proceeding under Article 7 of the Real Property Actions and Proceedings Law. While the Act does not define financial hardship, it does instruct courts to consider such tenant's income history before and during the COVID-19 period, as well as the tenant's eligibility for and receipt of cash assistance, SNAP benefits, supplemental security income, the NY State Disability Program, the Home Energy Assistance program, or unemployment insurance or benefits under state or federal law, when determining whether a tenant has suffered a financial hardship necessary to be eligible for the eviction protections.

While landlords are unable to evict eligible tenants during the COVID-19 Period, landlords may still seek and be awarded money judgments for rents due and owed in a summary proceeding under Article 7 of the Real Property Actions and Proceedings Law. Given the circumstances of the eligible tenants under the Act, however, landlords may find such money judgments to be ineffective in practice in providing actual recourse. And while residential tenants may find some relief in that they cannot be removed from their housing during the COVID-19 period, the Act does not actually waive rent during the COVID-19 period, leaving them on the hook to pay back what they may owe.

We will continue to monitor further developments pertaining to and arising out of the Act and other policies modifying or affecting landlord and tenant rights in response to the COVID-19 pandemic.