

Legal Alert: No. 202.28: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency | Governor Andrew M. Cuomo

May 11, 2020

On Friday, May 8, 2020, Governor Cuomo issued [Executive Order, No. 202.28](#), which clarifies the landlord/tenant policies he spoke about last week at his daily press conference. The following policies are effective as of Friday, May 8, 2020:

I. Commencement of Non-Payment Cases & Evictions

- There shall not be any commencement of residential or commercial proceedings for non-payment of rent (or foreclosures of mortgages) against any tenant eligible for unemployment benefits under state or federal law or any tenant facing financial hardships due to the COVID-19 pandemic through August 20, 2020.
- No evictions may occur and no warrants may be ordered or processed in both residential and commercial proceedings through August 20, 2020.

II. Security Deposits for Residential Tenants Only (This Section Does Not Apply to Commercial Tenancies)

- Landlords and tenants may enter into a written agreement allowing the security deposit, and any interest accruing therefrom, to be used to pay rent arrears or rent that will become due. If the amount of the security deposit is less than a full month's rent payment, the landlord's acceptance of the security deposit does not constitute a waiver of the remaining balance due for the month it is applied to. Landlords and tenants can sign this agreement via email to avoid in-person contact.
- Repayment of the security deposit shall be made in monthly installments of 1/12th the amount commencing no sooner than 90 days after the security deposit is applied to the rent.
- The tenant 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 as replenishment.
- Landlords must provide this relief to tenants who (1) request said relief and, (2) are eligible for unemployment under state or federal law or are facing financial hardship due to the COVID-19 pandemic.
- It is the tenant's option to enter into such an agreement and landlords shall not harass a tenant to enter into the agreement if tenant does not want to.

III. Late Fees

- No Landlord shall demand or be entitled to any late fees from a residential tenant only from March 20, 2020 through August 20, 2020.

We hope these restrictions won't continue beyond August 20, 2020, but will provide you with more information as it becomes available to us. Please continue to stay safe and contact us if you have any questions or concerns about any of the above information or regarding one of your cases or tenants.