

Legal Alert: Governor Cuomo Signs Tenant Safe Harbor Act Limiting Landlords' Rights in Housing Court

July 1, 2020

On June 30, 2020, Governor Cuomo signed into law the "Hoylman Bill" a/k/a the "Tenant Safe Harbor Act" ("TSHA"), which provides that courts shall not issue a warrant of eviction or judgment of possession, but are authorized to issue a money judgment, against a residential tenant or other lawful occupant that has suffered a financial hardship for the non-payment of rent that accrues or becomes due during the COVID-19 covered period. The TSHA takes effect immediately.

The TSHA defines the "COVID-19 Covered Period" as the time period between March 7, 2020 until the date where none of the provisions that closed or restricted public or private businesses or places of accommodation, or required postponement or cancellation of non-essential gatherings of people for any reason, in the Governor's Executive Orders continue to apply in that tenant or occupant's county of residence.

The TSHA further allows a tenant or lawful occupant to raise financial hardship during the COVID-19 covered period as a defense in a summary proceeding. However, a tenant who cannot establish financial hardship is subject to a possessory judgment and warrant of eviction, as well as a money judgment. To determine the merit of a tenant's financial hardship defense, the court shall consider, among other relevant factors:

1. the tenant's or lawful occupant's income prior to the COVID-19 covered period;
2. the tenant's or lawful occupant's income during the COVID-19 covered period;
3. the tenant's or lawful occupant's liquid assets; and
4. the tenant's or lawful occupant's eligibility for, and receipt of, cash assistance, supplemental nutrition assistance program, supplemental security income, the New York State disability program, the home energy assistance program, or unemployment insurance or benefits under state or federal law.

Under the TSHA, the courts are only allowed to award a monetary judgment for rent to a petitioner and against a tenant who successfully pleads a financial hardship defense for rent arrears during the COVID-19 covered period in a nonpayment action.

It is important to note that this Act does **not** pertain to pending nonpayment cases that were commenced prior to the COVID-19 covered period, nor will it pertain to cases commenced once the COVID-19 covered period ends (although an end date is yet to be determined by the State).

Further, the TSHA does not affect your ability to commence non-payment proceedings against non-COVID-impacted tenants as of July 6, 2020 and against those tenants who have been impacted by COVID-19, until at least August 20, 2020. The current restrictions of the CARES Act are also not affected by the TSHA. Any restriction on commencing eviction proceedings against tenants who receive federal benefits, or against tenants who reside in buildings which receive federal benefits, (i.e., federally-backed multi-family mortgages) currently expires on July 27, 2020.



We will continue to update you with information on this new law once we receive it. As always, feel free to contact any of our attorneys with any questions or concerns you may have about this alert.