

2021 Sess. Law News of N.Y. Ch. 417 (S. 50001) (McKINNEY'S)

McKINNEY'S 2021 SESSION LAW NEWS OF NEW YORK

244th LEGISLATURE

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CHAPTER 417
S. 50001

Approved and effective September 2, 2021

AN ACT to amend subpart A of part BB of chapter 56 of the laws of 2021, establishing a COVID–19 emergency rental assistance program, in relation to eligibility for the COVID–19 emergency rental assistance program (Part A); in relation to eviction proceedings; and providing for the repeal of certain provisions upon the expiration thereof (Subpart A); and in relation to foreclosure proceedings; and providing for the repeal of certain provisions upon the expiration thereof (Subpart B); in relation to tax sales; and providing for the repeal of certain provisions upon the expiration thereof (Subpart C); to establish hardship declarations for owners of commercial real property; and providing for the repeal of such provisions upon the expiration thereof (Subpart D) (Part B); in relation to eviction proceedings; and to provide for the expiration of certain provisions upon the expiration thereof (Subpart A); in relation to foreclosure proceedings; and providing for the expiration of certain provisions upon the expiration thereof (Subpart B); in relation to tax sales; and providing for the expiration of certain provisions upon the expiration thereof (Subpart C); and to establish hardship declarations for owners of residential real property; and providing for the expiration of such provisions upon the expiration thereof (Subpart D) (Part C); in relation to extending the prohibition on the eviction of residential tenants who have suffered financial hardship during the COVID–19 covered period (Part D); and in relation to authorizing political subdivisions to permit any public body to hold meetings remotely and without in-person access during the COVID–19 state disaster emergency; and provides for the repeal of such provisions upon the expiration thereof (Part E)

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

Section 1. This act enacts into law components of legislation relating to commercial eviction and foreclosure protections, residential eviction and foreclosure protections and open meetings. Each component is wholly contained within a Part identified as Parts A through E. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section “of this act”, when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

§ 2. Legislative intent. The legislature finds and declares all of the following:

More than two million New Yorkers have been infected by the COVID–19 coronavirus, and the disease has killed more than 55,000 New Yorkers since March 2020. Measures necessary to contain the pandemic have brought about widespread economic and societal disruption. Millions of residents have experienced financial hardship

due to such measures, which closed businesses and schools, and resulted in income losses across the state.

The state has enacted a series of statutes that the legislature has found necessary to protect the public health, safety, and general welfare of the people of New York. These measures include the Tenant Safe Harbor Act (“TSHA”), the COVID–19 Emergency Eviction and Foreclosure Prevention Act (“CEEFPFA”), and COVID–19 Emergency Protect Our Small Businesses Act (“CEPOSBA”).

Even as New York enters a phase of economic recovery, the need for continued statutory protections and other emergency public health measures is demonstrated by rates of transmission in the state. Since early July, cases have risen ten-fold, and 95 percent of the sequenced recent positives in New York State were the Delta variant.

The evidence that residential eviction protections are effective public health measures is especially strong. The CDC has repeatedly found this to be so and has urged states to enact and keep residential eviction moratoriums in place. A recent peer-reviewed study of state eviction moratoriums found that “COVID–19 incidence and mortality increased steadily in states after eviction moratoriums expired, and were associated with doubling of COVID–19 incidence ... and a five-fold increase in COVID–19 mortality ... 16 weeks after moratoriums lapsed.”

In April 2021, the legislature passed the COVID–19 Emergency Rental Assistance Program (“CERAP”), funded with \$2.6 billion for residential rent and utility assistance. To date, technical and administrative challenges, low public awareness of the program, and the slow pace of implementation have hampered the program’s effectiveness in covering the cost of rent arrears and providing widespread eviction protections.

On August 12, 2021, in the case *Chrysfafis v. Marks*, the U.S. Supreme Court enjoined the enforcement of CEEFPFA’s residential eviction moratorium, finding that provisions that provided for a tenant to self-certify financial hardship and delayed a landlord from contesting the certification violated constitutional rights to due process.

Stabilizing housing and small businesses continues to be to the mutual benefit of all New Yorkers in that these steps will help the state address the COVID–19 pandemic, protect public health, and foster a full and equitable recovery. The legislature is especially cognizant of the ongoing risks posed by residential evictions stemming from non-payment of rent during the height of the public health emergency, and its recovery period, such as the potential to exacerbate the resurgence of COVID–19, the damage significant numbers of evictions would cause to the state’s economic recovery, and the deleterious social and public health effects of homelessness and housing instability.

For all of the foregoing reasons it is necessary to modify the residential eviction moratorium to address the Supreme Court’s due process concern, and to extend and strengthen the protections in the law. In addition, it is necessary to temporarily alter certain provisions of the open meetings law to ensure that certain public bodies can hold meetings and conduct business in a manner that balances public health and safety precautions with the public’s right to observe the proceedings.

PART E

Section 1. Notwithstanding the provisions of article 7 of the public officers law to the contrary, any state agency, department, corporation, office, authority, board, or commission, as well as any local public body, or public corporation as defined in section 66 of the general construction law, or political subdivisions as defined in section 100 of the general municipal law, or a committee or subcommittee or other similar body of such entity, shall be authorized to meet and take such action authorized by law without permitting in public in-person access to meetings and authorize such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed. “Local public body” shall mean any entity for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for an entity limited in the execution

of its official functions to a portion only of the state, or a political subdivision of the state, or for an agency or department thereof.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed January 15, 2022.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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

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