

SUMMARY OF EXECUTIVE ORDERS, ADMINISTRATIVE ORDERS AND COURT DIRECTIVES

Last Updated September 25, 2020

I. Commercial Eviction Proceedings

The moratorium on the initiation of a proceeding or enforcement of an eviction of any commercial tenant for nonpayment of rent against tenant that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic is through October 20, 2020, as most recently extended by [Executive Order No. 202.64](#).

You can commence nonpayment proceeding against commercial tenant who is not eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic. However, upon the filing of a petition, whether or not an answer is filed, the case shall be suspended until further order. If all parties are represented by counsel, the case shall be eligible for calendaring for virtual settlement conferences. [Administrative Order 160A/20](#).

You can commence holdover proceeding against commercial tenant, unless predicated on nonpayment of rent against tenant that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic (then would need to wait until October 21, 2020).

Commercial eviction cases commenced after March 16 remain suspended upon filing of petition. [Administrative Order 160A/20](#).

All other commercial evictions matters commenced prior to March 17, 2020 may proceed in the normal course (without conference), per AO 160A/20, subject to further limitations and stays. [Administrative Order 160A/20](#).

Further proceedings in commercial eviction matters may be governed by the suspension of "any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as described by the procedural laws of the state," set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55. [Administrative Order 160A/20](#).

Any petitioner applying for a default judgment in a commercial landlord tenant proceeding based upon the respondent's failure to answer in a summary proceeding for nonpayment of rent shall submit, as part of such application, an affidavit by a person with personal knowledge of the facts, stating that the petitioner has made a good faith effort to ascertain whether the respondent is a person or business eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic, and that the respondent is not such a person or business. The affidavit shall state the facts upon which the individual bases this conclusion. [DRP- 210B](#).

Any petitioner in a commercial landlord tenant proceeding seeking to enforce a warrant of eviction that was awarded before March 20, 2020 based upon the nonpayment of rent, must first seek leave of court to enforce the warrant by filing a motion, on notice. The motion seeking leave to enforce shall include an affidavit by a person with personal knowledge of the facts stating that petitioner has made a good faith effort to ascertain whether the respondent is a person or business eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic, and that the respondent is not such a person or business. The affidavit shall state the facts upon which the individual bases this conclusion. [DRP- 211B](#).

II. Residential Eviction Proceedings

A. Cases Commenced Prior To March 17

For residential eviction matters commenced prior to March 17, 2020, the moratorium on residential evictions is until October 1, 2020. [Administrative Order 160A/20](#).

Residential eviction matters commenced prior to March 17, 2020 may proceed as follows: Prior to conducting any further proceedings in any pending residential eviction matter filed prior to March 17, 2020, the court must initiate a status or settlement conference. This requirement shall apply in all matters at any stage of the eviction process, including any matter where a warrant of eviction has issued and been delivered to an enforcement agent but has not been executed. At the conference, the court shall review the procedural history of the matter; confirm compliance with notice requirements; inquire into the effects, if any, that the COVID-19 pandemic has had upon the parties; review any special relief under state or federal law to which the parties may be entitled in light of the pandemic, including the New York Tenant Safe Harbor Act (L. 2020, c. 127); refer unrepresented parties to local civil legal service providers and housing counseling agencies; assess any pending and anticipated motions; approve briefing schedules proposed by stipulation of the parties; and use best efforts (including referral to alternative dispute resolution) to resolve any outstanding issues. Following the conference, the court may take such further steps as it deems appropriate, including allowing the matter to proceed. If the court directs an eviction to proceed following the conference, the eviction shall be scheduled or rescheduled to take place no sooner than October 1, 2020. [Administrative Order 160A/20](#).

Effective August 20, 2020, the Court began accepting requisitions for warrants of eviction based on judgments of possession that were issued before March 17, 2020. All such requisitions must be presented by motion on notice to the respondent. Such a motion shall suffice to comply with the conference requirement contained in AO 160/20 (160A/20 replaced 160/20). All such motions shall require the inclusion of a Notice to Respondent Tenant, in the form attached as Exh. A to this directive (DRP 213), to be served by mail as well as email wherever possible. Consistent with AO 160/20, any eviction ordered under this section shall not take place prior to October 1, 2020. It is anticipated that these motions will be heard remotely. [DRP- 213](#)

No adverse action (i.e., no defaults) shall be taken based upon the failure to file an answer in an eviction proceeding, or based upon the failure of a party to submit responsive papers to a motion submitted through EDDS (if NYSCEF unavailable), absent specific order of the Court. [Administrative Order 160A/20](#).

Until further notice, the clerk shall not enter a default judgment in a proceeding for possession of a residential premises until such time as the current public health crisis has abated and this directive is rescinded. The foregoing is without prejudice to the right of petitioner to seek an exception by submitting a motion on notice establishing that no party is negatively affected by the COVID-19 epidemic. [DRP 205](#).

Until further notice, no warrant of eviction shall issue until such time as the current public health crisis has abated and this directive is rescinded. The foregoing is without prejudice to the right of petitioner to seek an exception by submitting a motion on notice establishing that no party is negatively affected by the COVID-19 epidemic. [DRP 206](#).

B. Cases Commenced After March 16

For residential evictions matters commenced after March 16, 2020, the moratorium on residential evictions remains stayed (indefinitely) under [Administrative Order 68/20](#) and [Administrative Order 160A/20](#).

You can commence new residential nonpayment or holdover proceeding. Petitions in eviction proceedings pursuant to Article 7 of the Real Property Actions and Proceedings Law shall continue to include the Notice to Respondent Tenant bilingual form notice.

Residential evictions matters commenced after March 16, 2020 shall, upon the filing of a petition, whether or not an answer is filed, be suspended until further order. Notwithstanding the foregoing, eviction matters in which all parties are represented by counsel shall be eligible for calendaring for virtual settlement conferences. [Administrative Order 160A/20](#).

Further proceedings in residential eviction matters may be governed by the suspension of "any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as described by the procedural laws of the state," set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55. [Administrative Order 160A/20](#).

Until further notice, the clerk shall not enter a default judgment in a proceeding for possession of a residential premises until such time as the current public health crisis has abated and this directive is rescinded. The foregoing is without prejudice to the right of petitioner to seek an exception by submitting a motion on notice establishing that no party is negatively affected by the COVID-19 epidemic. [DRP 205](#).

Until further notice, no warrant of eviction shall issue until such time as the current public health crisis has abated and this directive is rescinded. The foregoing is without prejudice to the right of petitioner to seek an exception by submitting a motion on notice establishing that no party is negatively affected by the COVID-19 epidemic. [DRP 206](#).

C. Centers for Disease Control and Prevention (CDC) Federal Moratorium

Per the [CDC Order](#): Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19, published in the Federal Register on September 4, 2020, and effective from September 4, 2020 through December 31, 2020, unless rescinded, modified or extended, there is a federal moratorium on pursuing eviction or a possessory action, to remove or cause the removal of a covered person from a residential property for nonpayment of rent against persons who submit a signed [Declaration Form](#) to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live, and certify under the penalty of perjury that they meet certain qualifying criteria set forth in the declaration.

III. Summary of Orders Affecting Eviction Proceedings and Moratorium on Evictions

Provision	Comment
<p>Per Administrative Order 68/20, dated March 16, 2020, by Chief Administrative Judge Lawrence Marks:</p> <p>All eviction proceedings and pending eviction orders shall be suspended statewide, and court-ordered auctions of property shall be postponed until further notice.</p> <p>All residential foreclosure proceedings shall be suspended statewide until further notice.</p> <p>Effective March 13, 2020, residential evictions in New York City have been stayed, and the New York City Housing Court has been directed not to issue new eviction warrants when a party has not appeared in court.</p>	<p>All eviction proceedings and pending eviction orders shall be suspended statewide, and court-ordered auctions of property shall be postponed, until further notice.</p> <p>Residential evictions in New York City have been stayed (indefinitely) (superseded in part by Administrative Order 160A/20 for residential eviction matters commenced prior to March 17, 2020).</p> <ul style="list-style-type: none"> • <u>Administrative Order 160A/20 provides that for residential eviction matters commenced prior to March 17, 2020, if the court directs an eviction to proceed following a mandatory status or settlement conference that the court must initiate, the eviction shall be scheduled or rescheduled to take place no sooner than October 1, 2020.</u> AO/160A/20 provided that this order “further supersedes the provisions of any other Administrative Order inconsistent with its terms.” • <u>Administrative Order 160A/20 continued the automatic stay of all eviction cases commenced after March 16, 2020, and residential evictions in matters commenced after March 16, 2020 remain stayed (indefinitely) under AO 68/20 and AO 160A/20.</u>

<p>Per Section 4024 of the CARES Act (see page 212), issued on March 27, 2020, 120-day moratorium (until July 25, 2020) no commencement of eviction proceedings and enforcement of evictions for residential tenants occupying “covered dwellings” which are rental units in properties: (1) that participate in federal assistance programs, (2) are subject to a “federally backed mortgage loan,” or (3) are subject to a “federally backed multifamily mortgage loan.” Covered federal assistance programs include <u>most rental assistance and housing grant programs, including public housing, Housing Choice Vouchers, Section 8 Project-Based Rental Assistance, rural housing programs, and the Low Income Housing Tax Credit (LIHTC) program.</u> A “federally backed mortgage loan” is a single-family (1-4 units) residential mortgage owned or securitized by Fannie Mae or Freddie Mac or insured, guaranteed, or otherwise assisted by the federal government.</p> <p>During the 120-day period, the lessor of a covered dwelling may not— (1) make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession of the covered dwelling from the tenant for nonpayment of rent or other fees or charges; or (2) charge fees, penalties, or other charges to the tenant related to such nonpayment of rent.</p>	<p>No commencement of eviction proceedings or enforcement of evictions against residential tenants in covered dwellings for nonpayment of rent or other fees or charges <u>until July 25, 2020.</u></p> <p>THIS DATE WAS NOT EXTENDED UNDER THE CARES ACT. THE CARES ACT EVICTION MORATORIUM LAPSED.</p> <p>Per the Hon. Jean T. Schneider, Citywide Supervising Judge, New York City Housing Court, there was an additional pleading requirement in eviction proceedings commenced during federal moratorium that the premises is not covered dwelling under the CARES Act.</p> <p>NOTE: Separately, and not under the CARES Act, the Federal Housing Finance Agency (FHFA) <u>announced</u> on June 17, 2020 that Fannie Mae and Freddie Mac (the Enterprises) will extend their single-family moratorium on foreclosures and evictions until at least August 31, 2020. The foreclosure moratorium applies to Enterprise-backed, single-family mortgages only. Thereafter, on August 27, 2020, the FHFA <u>extended</u> the moratoriums on single-family foreclosures and real estate owned (REO) evictions until at least December 31, 2020. The REO eviction moratorium applies to properties that have been acquired by an Enterprise through foreclosure or deed-in-lieu of foreclosure transactions.</p>
<p>Per Executive Order No. 202.8 issued on March 20, 2020, there shall be no enforcement of either an eviction of any tenant residential or commercial, or a foreclosure of any residential or commercial property for a period of ninety days (through June 18, 2020).</p>	<p>Moratorium on all evictions in NYS through June 18, 2020.</p>
<p>Per Executive Order No. 202.28 issued on May 7, 2020, continues suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14 (including EO 202.8 above), for thirty days until June 6, 2020, <u>except as modified below.</u></p> <p>IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of Executive Order through June 6, 2020:</p> <ul style="list-style-type: none"> • There shall be no initiation of a proceeding or enforcement of either an eviction of any residential or commercial tenant, for nonpayment of rent or a 	<p>Cannot commence nonpayment proceeding or enforce eviction against any residential or commercial tenant for nonpayment of rent that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic through August 19, 2020.</p> <p>IMPORTANT NOTE: The residential tenant or mortgagor moratorium under EO 202.28 was superseded by passage of the Tenant Safe Harbor Act (discussed below) and EO 202.48. However, there is/was concern/belief (because of how poorly these orders were drafted and how it may be interpreted by Judges) that the EO 202.8 moratorium on all evictions in NYS was not</p>

<p>foreclosure of any residential or commercial mortgage, for nonpayment of such mortgage, owned or rented by someone that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic for a period of sixty days beginning on June 20, 2020.</p> <p>EO 202.48 further modified this above provision to extend only to commercial for a period of sixty days beginning on June 20, 2020 (through August 19, 2020).</p>	<p>superseded by EO 202.28, but also extended for residential evictions under EO 202.28 “for thirty days until June 6, 2020,” even though on May 7, when EO 202.28 was issued, the moratorium under EO 202.8 was still in effect through June 18. “Extending” the EO 202.8 residential eviction moratorium for thirty days (from June 18) until June 6, while creating an additional, narrower moratorium for <u>commencement or enforcement of eviction</u> under EO 202.28 for nonpayment of rent against tenant that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic from June 18 to August 20, is questionable. If the EO 202.8 residential eviction moratorium was not superseded under EO 202.28, but instead extended under 202.28 (while creating an additional narrower moratorium for commencement or enforcement of eviction for hardship tenants), then the EO 202.8 residential eviction moratorium would also be extended under 202.38, 202.48, 202.55.1 and 202.60 through October 4, 2020. Based upon the above, we believe that the residential moratorium under EO 202.28 was superseded by the Tenant Safe Harbor Act and EO 202.48.</p>
<p>Per DRP 205, dated March 13, 2020, until further notice, the clerk shall not enter a default judgment in a proceeding for possession of a residential premises until such time as the current public health crisis has abated and this directive is rescinded. The foregoing is without prejudice to the right of petitioner to seek an exception by submitting a motion on notice establishing that no party is negatively affected by the COVID-19 epidemic.</p>	<p>No default judgments for possession of a residential premises shall be entered until public health crisis is abated or DRP 205 is rescinded. Petitioner can make motion to seek exception if can establish that tenant not negatively affected by COVID-19 epidemic.</p>
<p>Per DRP 206, dated March 13, 2020, until further notice, no warrant of eviction shall issue until such time as the current public health crisis has abated and this directive is rescinded. The foregoing is without prejudice to the right of petitioner to seek an exception by submitting a motion on notice establishing that no party is negatively affected by the COVID-19 epidemic.</p>	<p>No warrants of eviction shall issue until public health crisis is abated or DRP 206 is rescinded. Petitioner can make motion to seek exception if can establish that tenant not negatively affected by COVID-19 epidemic.</p> <p>Under AO/160A/20, however, the court may direct an eviction to be scheduled or rescheduled for residential eviction matters commenced prior to March 17, 2020, following a mandatory status or settlement conference that the court must initiate, and which the eviction shall be scheduled or rescheduled to take place no sooner than October 1, 2020.</p>
<p>Per Administrative Order 78/20, dated March 22, 2020, Chief Administrative Judge Lawrence Marks ordered that: “Pursuant to the authority vested in me, in light of the emergency</p>	<p>In <i>Philippe MP LLC v. Sahara Dreams, LLC</i> (Index No. 153043/2020), the New York County Supreme Court (Hon. Lynn R. Kotler) determined, on May 18,</p>

<p>circumstances caused by the continuing COVID-19 outbreak in New York State and the nation, and consistent with the Governor of New York 's recent executive order suspending statutes of limitation in legal matters, I direct that, effective immediately and until further order, no papers shall be accepted for filing by a county clerk or a court in any matter of a type not included on the list of essential matters attached as Exh. A. This directive applies to both paper and electronic filings.”</p>	<p>2020, that a Yellowstone Injunction is an “essential” matter pursuant to Administrative Order 78/20. The Hon. Kotler signed Plaintiff’s order to show cause for a Yellowstone Injunction and also ordered that the matter is “essential.”</p>
<p>Per DRP 207, dated March 23, 2020, the Clerk of the Civil Court is directed to accept for filing only such essential matters as provided in Exhibit A of Administrative Order 78/20, including applications related to landlord lockouts, applications for emergency apartment repairs, applications for post-eviction relief and applications to stay enforcement of judgments previously issued in consumer debt actions. Filing of new actions and proceedings, including proceedings seeking residential or commercial evictions, is presumptively non-essential and shall not be accepted for filing by the Clerk. Any party or their counsel who wishes to file such papers with the Clerk may make an application to the Administrative Judge or his judicial designee for leave to file on an emergency basis. This directive shall remain in effect until such time as the current public health crisis is abated, or until this directive is rescinded, whichever comes first.</p>	<p></p>
<p>Per DRP 209 Amended, dated June 12, 2020, beginning on June 20, 2020, any petitioner seeking to commence a summary proceeding for nonpayment of rent shall file, along with the petition, an affidavit by a person with knowledge of the facts, stating that petitioner has made a good faith effort to ascertain whether the respondent is a person eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID 19 pandemic, and that the respondent is not such a person. The affidavit shall state the facts upon which the individual bases this conclusion. This directive shall apply to residential and commercial nonpayment proceedings. This directive shall remain in effect until further notice.</p> <p>On June 19, 2020, DRP 209 Amended was rescinded as moot per AO 127/20.</p>	<p>Beginning on June 20, 2020, required to file with nonpayment petition an affidavit from client setting forth personal knowledge of the facts stating that petitioner has made a good faith effort to ascertain whether the respondent is a person eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID 19 pandemic, and that the respondent is not such a person. Applies to commercial and residential tenants.</p>
<p>Per DRP 210 Amended, dated June 12, 2020, any petitioner applying for a default judgment based upon respondent’s failure to answer in a summary proceeding for nonpayment of rent shall submit, as part of such application, an affidavit by a person with knowledge of the facts, stating that the petitioner has made a good faith effort to ascertain whether the respondent is a person eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID 19 pandemic, and that the respondent is not such a person. The affidavit shall state the facts upon which the</p>	<p>Application for default judgment requires affidavit from client setting forth personal knowledge of the facts stating that petitioner has made a good faith effort to ascertain whether the respondent is a person eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID 19 pandemic, and that the respondent is not such a person. Applies to commercial and residential tenants.</p>

individual bases this conclusion. This directive shall remain in effect until further notice.

DRP-210B dated July 8, 2020 (discussed below) amends and supersedes DRP 210A.

Per ~~DRP 211 Amended~~, dated June 12, 2020, any petitioner seeking to enforce a warrant of eviction based upon the nonpayment of rent that was awarded before March 20, 2020, must first seek leave of court to enforce the warrant by filing a motion on notice. The motion seeking leave to enforce shall include an affidavit by a person with knowledge of the facts, stating that the petitioner has made a good faith effort to ascertain whether the respondent is a person eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic, and that the respondent is not such a person. The affidavit shall state the facts upon which the individual bases this conclusion. This directive shall remain in effect until further notice.

DRP-211B dated July 8, 2020 (discussed below) amends and supersedes DRP 211A

Per [Administrative Order 121/20](#), dated June 9, 2020, Chief Administrative Judge Lawrence Marks ordered that effective June 10, 2020:

1. In courts and case types approved for electronic filing through NYSCEF, represented parties must commence new matters or proceed in pending matters exclusively by electronic filing through NYSCEF, and must file and serve papers in such matters (other than service of commencement documents) by electronic means through NYSCEF or, where permitted under NYSCEF court rules, by mail. Unrepresented parties must file, serve and be served in such matters by non-electronic means unless they expressly opt in to participate in NYSCEF.

2. To the extent that NYSCEF electronic filing is unavailable in courts in or case types in the trial courts, represented parties must commence new matters exclusively by mail, except where otherwise authorized by the Chief Administrative Judge. Following commencement of a new matter, and in pending matters, represented parties must file papers through EDDS or by mail, and must serve papers (other than commencement documents), by electronic means or by mail. Unrepresented parties must file, serve and be served in such matters by non-electronic means unless they provide written notification to the court and all parties that they wish to file, serve and be served electronically.

Leave of court required to enforce warrant of eviction based upon nonpayment of rent awarded before March 20, 2020. Must submit an affidavit from client setting forth personal knowledge that tenant not eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic. Applies to commercial and residential tenants.

<p>3. This order shall not affect procedures for the filing and service of papers in essential matters.</p> <p>4. The court shall not request working copies of documents in paper format.</p>	
<p>Per Administrative Order 127/20, dated June 18, 2020, Chief Administrative Judge Lawrence Marks ordered that effective June 20, 2020:</p> <p>Petitions in eviction proceedings involving residential or commercial property pursuant to Article 7 of the Real Property Actions and Proceedings Law (RPAPL), whether brought on the ground that the respondent has defaulted in the payment of rent or on some other ground, shall require the inclusion of (1)(a) an attorney affirmation, in cases where the petitioner is represented by counsel, or (1)(b) a petitioner's affidavit, in cases where the petitioner is self-represented; and (2) a Notice to Respondent Tenant.</p> <p>Consistent with prior and current gubernatorial Executive Orders (EO/202.8, EO/202.14, EO/202.28, EO/202.38) and Administrative Order AO/68/20, RPAPL eviction matters commenced on or before March 16, 2020 shall continue to be suspended until further order; eviction proceedings filed after March 16, 2020 shall, upon the filing of a petition (if no answer is filed thereafter) or the filing of an answer, be suspended until further order. Notwithstanding the foregoing, eviction matters in which all parties are represented by counsel shall be eligible for calendaring for virtual settlement conferences.</p> <p>This order shall take effect on June 20, 2020, and shall remain in effect for such time as state and federal emergency measures addressing the COVID-19 pandemic amend or suspend statutory provisions governing eviction proceedings, or until further order.</p> <p>SUPERSEDED BY AO/160A/20</p>	<p>RPAPL eviction matters commenced on or before March 16, 2020 shall continue to be suspended until further order.</p> <p>Eviction proceedings filed after March 16, 2020 shall, upon the filing of a petition (if no answer is filed thereafter) or the filing of an answer, be suspended until further order.</p> <p>Until further order, petitions in commercial and residential eviction proceedings (for nonpayment of rent or on other grounds) are required to include two additional documents: (1) a form petitioner's attorney affirmation indicating that counsel has reviewed the various state and federal restrictions and qualifications on eviction proceedings and believes in good faith that the proceeding is consistent with those restrictions and qualifications; and (2) a form notice to respondent tenants (in English and Spanish), informing them that they may be eligible for an extension of time to respond to the petition in light of legal directives related to the COVID-19 pandemic, and directing them to a telephone number and/or website link for further information. Separate form notices are provided for proceedings inside and outside New York City.</p> <p>Whether or not an answer is filed in an eviction matter, further hearing of the case shall be stayed until such time as gubernatorial executive orders suspending statutory timetables for the prosecution of legal matters expire.</p> <p>Can request a virtual settlement conference where all parties are represented by counsel.</p> <p>Under AO/160A/20, petitions in eviction proceedings pursuant to Article 7 of the Real Property Actions and Proceedings Law shall continue to include a Notice to Respondent Tenant in the form attached as Exh. 1a (if filing within the City of New York) or Exh. 1 b (if filing outside the City of New York).</p>
<p>Per Tenant Safe Harbor Act (NY State Senate Bill S8192B sponsored by Brad Hoylman), signed into law by Governor Cuomo on June 30, 2020, no court shall issue a warrant of eviction or judgment of possession against a residential tenant</p>	<p>Only applies to residential tenants, not commercial tenants.</p>

that has suffered a financial hardship for the non-payment of rent that accrues or becomes due during the COVID-19 covered period.

A tenant or lawful occupant may raise financial hardship during the COVID covered period (from the period of March 7, 2020 until yet-to-be-determined date on which all COVID-related restrictions on non-essential gatherings and businesses are lifted).

In determining whether a tenant or lawful occupant has suffered a financial hardship during the COVID-19 covered period, the Court shall consider the following four factors, 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.

Per [Executive Order No. 202.48](#), issued on July 6, 2020, “the directive contained in Executive Order 202.28, as extended, that prohibited initiation of a proceeding or enforcement of either an eviction of any residential or commercial tenant, for nonpayment of rent or a foreclosure of any residential or commercial mortgage, for nonpayment of such mortgage, is **continued only insofar as it applies to a commercial tenant or commercial mortgagor**, as it has been superseded by legislation for a residential tenant, and residential mortgagor, in Chapters 112, 126, and 127 of the Laws of 2020.

COVID financial hardship is now a defense to be raised by the residential tenant.

If Court determines that COVID financial hardship has been demonstrated, the Court shall not issue warrant of eviction or judgment of possession against residential tenant, but can issue monetary judgment, for the rent that accrues or becomes due during the COVID-19 covered period.

NOTE: Court can still issue warrant of eviction or judgment of possession for rent that accrued prior to COVID 19 covered period. However, under [DRP 206](#), dated March 13, 2020, until further notice, no warrants of eviction shall issue until public health crisis is abated or [DRP 206](#) is rescinded. Under [AO/160A/20](#), however, the court may direct an eviction to be scheduled or rescheduled for residential eviction matters commenced prior to March 17, 2020, following a mandatory status or settlement conference that the court must initiate, and which eviction shall be scheduled or rescheduled to take place no sooner than October 1, 2020.

COVID-19 covered period begins March 7 and continues until yet-to-be-determined date on which all COVID-related restrictions on non-essential gatherings and businesses are lifted.

Cannot commence nonpayment proceeding or enforce eviction against commercial tenant for nonpayment of rent against tenant who is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic through August 20, 2020 (as most recently extended under [Executive Order No. 202.64](#) through October 20, 2020).

IMPORTANT NOTE: The residential tenant or mortgagor moratorium under EO 202.28 was superseded by passage of the [Tenant Safe Harbor Act](#) (discussed below) and EO 202.48. However, there is/was concern/belief (because of how poorly these orders were drafted and how it may be interpreted by Judges) that the [EO 202.8 moratorium on all evictions in NYS](#) was not superseded by EO 202.28, but also extended for residential evictions under EO 202.28 “for thirty days until June 6, 2020,” even though on May 7, when EO 202.28 was issued, the moratorium under EO 202.8 was still in effect through June 18. “Extending” the EO 202.8 residential eviction

	<p>moratorium for thirty days (from June 18) until June 6, while creating an additional, narrower moratorium for <u>commencement or enforcement of eviction</u> under EO 202.28 for nonpayment of rent against tenant that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic from June 18 to August 20, is questionable. If the EO 202.8 residential eviction moratorium was not superseded under EO 202.28, but instead extended under 202.28 (while creating an additional narrower moratorium for commencement or enforcement of eviction for hardship tenants), then the EO 202.8 residential eviction moratorium would also be extended under 202.38, 202.48, 202.55.1 and 202.60 through October 4, 2020. Based upon the above, we believe that the residential moratorium under EO 202.28 was superseded by the Tenant Safe Harbor Act and EO 202.48.</p>
<p>Per Administrative Order 143/20, dated July 7, 2020, Chief Administrative Judge Lawrence Marks ordered that:</p> <p>Pursuant to the authority vested in me, I hereby order and direct that petitions in eviction proceedings involving property pursuant to Article 7 of the Real Property Actions and Proceedings Law (RPAPL) and in foreclosure proceedings shall no longer require an accompanying attorney affirmation or petitioner's affidavit, as previously required pursuant to Administrative Orders AO/127/20 and AO/131/20. AO/127/20 and AO/131/20 are modified to this extent only, and shall otherwise continue in full force and effect, including but not limited to the continued requirement of service of a Notice to Respondent Tenant or Notice to Respondent as described in those orders. This order shall take effect immediately, and shall remain in effect until further order.</p>	<p><u>In commercial and residential eviction proceedings (for nonpayment of rent or on other grounds), no longer required to file attorney affirmation or petitioner's affidavit with petitions.</u></p> <p>Still required to include form notice to respondent-tenants (in English and Spanish), informing tenant that they may be eligible for an extension of time to respond to the petition in light of legal directives related to the COVID-19 pandemic, and directing them to a telephone number and/or website link for further information.</p> <p>AO/131/20 referenced in AO/143/20 is strictly related to foreclosure proceedings and provided for similar attorney affirmation and notices relating to those proceedings.</p>
<p>Per DRP- 210B, dated July 8, 2020, it is ordered that:</p> <p>Any petitioner applying for a default judgment in a commercial landlord tenant proceeding based upon the respondent's failure to answer in a summary proceeding for nonpayment of rent shall submit, as part of such application, an affidavit by a person with personal knowledge of the facts, stating that the petitioner has made a good faith effort to ascertain whether the respondent is a person or business eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic, and that the respondent is not such a person or</p>	<p>Application for default judgment in commercial nonpayment proceeding requires affidavit by person with personal knowledge of facts, stating that a good faith effort was made to determine whether respondent is a person or business eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic, and that the respondent is not such a person or business.</p> <p>NOTE: In residential premises, DRP 205, dated March 13, 2020 is still in effect which states that until further notice, the clerk shall not enter a default</p>

<p>business. The affidavit shall state the facts upon which the individual bases this conclusion.</p> <p>This directive amends and supersedes DRP 210A, dated June 12, 2020, and shall remain in effect until further notice.</p>	<p>judgment in a proceeding for possession of a residential premises until such time as the current public health crisis has abated and this directive is rescinded. The foregoing is without prejudice to the right of petitioner to seek an exception by submitting a motion on notice establishing that no party is negatively affected by the COVID-19 epidemic.</p>
<p>Per DRP- 211B, dated July 8, 2020, it is ordered that:</p> <p>Any petitioner in a commercial landlord tenant proceeding seeking to enforce a warrant of eviction that was awarded before March 20, 2020 based upon the nonpayment of rent, must first seek leave of court to enforce the warrant by filing a motion, on notice. The motion seeking leave to enforce shall include an affidavit by a person with personal knowledge of the facts stating that petitioner has made a good faith effort to ascertain whether the respondent is a person or business eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic, and that the respondent is not such a person or business. The affidavit shall state the facts upon which the individual bases this conclusion.</p> <p>This directive amends and supersedes DRP 211A, dated June 12, 2020, and shall remain in effect until further notice.</p>	<p>For warrants issued before March 20, 2020 in commercial L&T proceeding, must seek leave of court by filing motion, on notice, to enforce the warrant of eviction. Motion requires affidavit by person with personal knowledge of facts setting forth facts stating that a good faith effort was made to determine whether respondent is a person or business eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic, and that the respondent is not such a person or business.</p>
<p>Per Administrative Order 160A/20, dated August 13, 2020, Chief Administrative Judge Lawrence Marks ordered that effective August 13, 2020:</p> <p>Notwithstanding the terms of any prior administrative order, the following procedures and protocols shall apply to the conduct of residential and commercial eviction matters before the New York State courts:</p> <p>1. Commercial Eviction Matters Commenced Prior to March 17, 2020: Commercial eviction matters commenced prior to March 17, 2020 may proceed in the normal course, subject to the following:</p> <ol style="list-style-type: none"> a. Consistent with Executive Order 202.28, as modified by Executive Order 202.48, "[t]here shall be no initiation of a proceeding or enforcement of ... an eviction of any ... commercial tenant, for nonpayment of rent ... rented by someone that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic" for a period of sixty days beginning on June 20, 2020. b. Further proceedings in commercial eviction matters may be governed by the suspension of "any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or 	<p>Mainly covered in summary on first two pages.</p>

proceeding, as described by the procedural laws of the state," set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55.

2. Residential Eviction Matters Commenced Prior to March 17, 2020: Effective August 13, 2020, residential eviction matters commenced prior to March 17, 2020 may proceed as follows:

- a. Prior to conducting any further proceedings in any pending residential eviction matter filed prior to March 17, 2020, the court must initiate a status or settlement conference. This requirement shall apply in all matters at any stage of the eviction process, including any matter where a warrant of eviction has issued and been delivered to an enforcement agent but has not been executed.
- b. At the conference, the court shall review the procedural history of the matter; confirm compliance with notice requirements; inquire into the effects, if any, that the COVID-19 pandemic has had upon the parties; review any special relief under state or federal law to which the parties may be entitled in light of the pandemic, including the New York Tenant Safe Harbor Act (L. 2020, c. 127); refer unrepresented parties to local civil legal service providers and housing counseling agencies; assess any pending and anticipated motions; approve briefing schedules proposed by stipulation of the parties; and use best efforts (including referral to alternative dispute resolution) to resolve any outstanding issues.
- c. Following the conference, the court may take such further steps as it deems appropriate, including allowing the matter to proceed. If the court directs an eviction to proceed following the conference, the eviction shall be scheduled or rescheduled to take place no sooner than October 1, 2020.
- d. Further proceedings in residential eviction matters may be governed by the suspension of "any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as described by the procedural laws of the state," set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55.
- e. In ordering relief in any residential eviction matter, the court should remain particularly mindful of additional prohibitions on evictions that may be commanded by executive order, state statute, or federal law.

3. Continued Suspension of Eviction Matters Commenced After March 16, 2020: Eviction proceedings commenced after March 16, 2020 shall, upon the filing of a petition (if no answer is filed thereafter) or the filing of an answer, be suspended until further order. Notwithstanding the foregoing, eviction matters in which all parties are represented by counsel shall be eligible for calendaring for virtual settlement conferences.

4. Filing and Service: Filing and service of process in eviction proceedings shall continue as set forth in Administrative Order AO/121/20.

5. Notice to Respondent Tenant: Petitions in eviction proceedings pursuant to Article 7 of the Real Property Actions and Proceedings Law shall continue to include a Notice to Respondent Tenant in the form attached as Exh. 1a (if filing within the City of New York) or Exh. 1 b (if filing outside the City of New York).

6. Remote Proceedings: Eviction proceedings should be conducted remotely whenever appropriate.

7. Essential Matters: This order shall not affect procedures for the filing and service of essential matters.

8. New York City: In addition to the applicable provisions of this Administrative Order, eviction matters before the New York City Housing Court shall also be governed by DRP 213 of the Civil Court of the City of New York.

9. This order supersedes Administrative Order AO/127/20, and further supersedes the provisions of any other Administrative Order inconsistent with its terms.

Per [DRP- 213](#), dated August 12, 2020, provides:

Eviction proceedings filed after March 16, 2020 are currently subject to the requirements of Administrative Orders 160/20, 127/20 (note: 127/20 was superseded by 160A/20) and 143/20 of the Chief Administrative Judge and shall remain so until further notice. However, **with respect to matters pending prior to March 17, 2020 the following rules shall apply:**

DIRECTIVE:

1. Warrant Requisitions and Execution of Warrants

A. Warrant Requisitions. **On August 20, 2020, the Court will begin accepting requisitions for warrants of eviction based on judgments of possession that were issued before March 17, 2020. All such requisitions must be presented by motion on notice to the respondent.** Such a motion shall suffice to comply with the conference requirement contained in AO 160/20 (160A/20 replaced 160/20). **All such motions shall require the inclusion of a Notice to Respondent Tenant, in the form attached as Exh. A to this directive, to be served by mail as well as email wherever possible. Consistent with AO 160/20, any eviction ordered under this section shall not take place prior to October 1, 2020. It is anticipated that these motions will be heard remotely.**

B. Execution of Warrants. Beginning August 20, 2020, **a petitioner seeking to enforce a warrant of eviction that was issued before March 17, 2020 must seek leave of court by motion on notice to respondent. Such a motion shall suffice to comply with the conference requirement contained in AO 160/20. All such motions shall require the inclusion of a Notice to Respondent Tenant in the form attached as Exh. A to this directive, to be served by mail, as well as email wherever possible. Consistent with AO 160/20, any eviction ordered under this section shall not take place prior to October 1, 2020. It is anticipated that these motions will be heard remotely.**

2. Defaults

A. Appearance Defaults. **In all matters where issue has been joined and the Court has jurisdiction over the parties, counsel and/or parties are expected to be present for court noticed appearances. Noticed appearances may include virtual or in-person conferences or trials. If an attorney and/or party fails to appear for a court-noticed conference or trial without excuse, the judge presiding over such appearance may exercise his or her discretion to address the unexcused absence. The judge may, among other available remedies, reschedule the appearance with a “final” marking, resolve issues or claims against the non-appearing party, impose sanctions, or issue a judgment of contempt.**

All applications to be excused from a court ordered appearance must be made on the record before the court or by affidavit/affirmation.

B. Document Defaults. **Filing of answers in residential eviction proceedings is presently controlled by Administrative Orders 160/20 and 121/20. Moreover, submission of motion documents in pending proceedings is governed by Administrative Order 115/20, which authorized the Electronic Document Delivery System (EDDS). EDDS remains available until further order. Consistent with Administrative Orders 160/20 and 115/20, no adverse action (i.e., no defaults) shall be taken based upon the failure to file an answer in an eviction proceeding, or based upon the failure of a party to submit responsive papers to a motion submitted through EDDS, absent specific order of the Court.**

Per [Executive Order No. 202.57](#), dated August 20, 2020, continued the suspensions and modifications of law and any directives not superseded by a subsequent order contained in Executive Order 202.53, which includes continuation of certain suspensions, modifications and directives contained in Executive Order 202.22 through 202.26, 202.32, 202.33,

Bar on initiation of a proceeding or enforcing of an eviction of any commercial tenant for nonpayment who is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic continued through September 20, 2020.

<p>202.34, 202.35, 202.44, and 202.45, through September 19, 2020, except the following:</p> <p>The directive contained in Executive Order 202.48, which modified the directive in Executive Order in 202.28 that prohibited the initiation of a proceeding or enforcement of an eviction of any commercial tenant for nonpayment of rent or a foreclosure of any commercial mortgage for nonpayment of such mortgage is continued through September 20, 2020.</p>	<p>NOTE: DRP 214, dated August 19, 2020, provided how commercial eviction cases would proceed if the moratorium was not extended, but following the issuance of Executive Order 202.57, was rescinded on August 21, 2020.</p>
<p>Per the Centers for Disease Control and Prevention (CDC) Order: Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19, published in the Federal Register on September 4, 2020, and effective from September 4, 2020 through December 31, 2020, unless rescinded, modified or extended, there is a federal moratorium on pursuing eviction or a possessory action, to remove or cause the removal of a covered person from a residential property for nonpayment of rent against persons who submit a signed Declaration Form to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live, and certify under the penalty of perjury that they meet certain qualifying criteria set forth in the declaration.</p> <p>The CDC Order defines “Covered Person” as any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a sworn Declaration Form.</p> <p>The CDC Order defines “Evict” and “Eviction” as any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property.</p>	<p>This applies only to residential, not commercial.</p> <p>Importantly, the Order reinforces that “Covered Person(s)” are still required to pay rent and follow all the other terms of their lease and rules of the place where they live. Furthermore, the Order explicitly provides an important caveat to the moratorium in that persons may still be evicted for reasons other than not paying rent or making a housing payment. Additionally, the Order makes clear that “nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.”</p> <p><u>If client receives sworn declaration from Covered Person, I believe that we cannot even pursue the nonpayment proceeding through December 31, 2020 under the Order.</u></p> <p>The criminal penalties for violating this Order are serious: Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 if the violation does not result in a death or one year in jail, or both, or a fine of no more than \$250,000 if the violation results in a death or one year in jail, or both, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate court proceedings as appropriate seeking imposition of these criminal penalties.</p>
<p>Per Executive Order No. 202.64, issued on September 18, 2020, the directive contained in Executive Order 202.48, which modified the directive in Executive Order in 202.28 that prohibited the initiation of a proceeding or enforcement of an</p>	<p>The moratorium on the initiation of a proceeding or enforcement of an eviction of any commercial tenant for nonpayment of rent against tenant that is eligible for unemployment insurance or benefits</p>

eviction of any commercial tenant for nonpayment of rent or a foreclosure of any commercial mortgage for nonpayment of such mortgage is continued through October 20, 2020.

under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic is extended through October 20, 2020.

NOTE: EO 202.64 provides that the prohibition on the initiation of a proceeding or enforcement of an eviction of any commercial tenant for nonpayment of rent is continued through October 20, 2020.

Notably, the extension orders since the initial EO 202.28 have not explicitly included the limitation as only applying to commercial tenant that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic, even though that is the limitation as set forth in 202.28.

- EO 202.28 prohibited the “initiation of a proceeding or enforcement of an eviction of **any residential or commercial tenant**, for nonpayment of rent or a foreclosure of any residential or commercial mortgage, for nonpayment of such mortgage, owned or rented by someone **that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic** for a period of sixty days beginning on June 20, 2020.”
- EO 202.48 extended EO 202.28 only for commercial, through August 20, 2020.
- EO 202.57 then modified “the directive contained in Executive Order 202.48, which modified the directive in Executive Order in 202.28 that prohibited the initiation of a proceeding or enforcement of an eviction of any commercial tenant for nonpayment of rent or a foreclosure of any commercial mortgage for nonpayment of such mortgage is continued through September 20, 2020.”

We do not believe that the commercial nonpayment initiation or enforcement of eviction moratorium is for **any** commercial tenant. Rather, we believe that you cannot commence a proceeding or enforce eviction against a commercial tenant for nonpayment of rent through October 20, 2020 if the tenant is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic, as set forth in Executive Order in 202.28.

IV. Statute of Limitations

Provision	Comment
<p>Per Executive Order No. 202.8, issued on March 20, 2020, temporarily suspended or modified “any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state, including but not limited to the criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate’s court procedure act, and the uniform court acts, or by any other statute, local law, ordinance, order, rule, or regulation, or part thereof,” and tolled said specific time limit from March 20, 2020 until April 19, 2020.</p>	<p>Tolling of statute of limitations applies to the procedural laws of the state, or by any other statute, local law, ordinance, order, rule, or regulation, or part thereof. Tolling does not affect the cure period provided in a notice to cure or notice of default, or for the commencement, filing, or service of a Yellowstone Injunction.</p>
<p>Per Executive Order No. 202.14, issued on April 7, 2020, further extended the temporary suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until May 7, 2020, except as modified therein (no applicable exception to modification of statute of limitations therein).</p>	<p>Tolling of statute of limitations further extended from March 20, 2020 until May 7, 2020.</p>
<p>Per Executive Order No. 202.28, issued on May 7, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until June 6, 2020, except as modified therein.</p>	<p>Tolling of statute of limitations further extended from March 20, 2020 until June 6, 2020.</p>
<p>Per Executive Order No 202.38, issued on June 6, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued as contained in Executive Order 202.27 and 202.28 until July 6, 2020.</p>	<p>Tolling of statute of limitations further extended from March 20, 2020 until July 6, 2020.</p> <p>The statute of limitations was tolled per Executive Order No. 202.8 issued on March 20, 2020, as further extended by Executive Order No. 202.14 issued on April 7, 2020, and Executive Order No. 202.28 issued on May 7, 2020. Executive Order 202.38 directly references 202.14 and 202.28.</p>
<p>Per Executive Order No. 202.48, issued on July 6, 2020, further continued the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued and contained in Executive Order 202.27, 202.28, and 202.38, for another thirty days through August 5, 2020.</p>	<p>Tolling of statute of limitations further extended from March 20, 2020 through August 5, 2020.</p>
<p>Per Executive Order No. 202.55, issued on August 5, 2020, further continued the directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.21, and Executive Order 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, and 202.40, as continued and contained in Executive</p>	<p>Tolling of statute of limitations further extended from March 20, 2020 through September 4, 2020.</p>

<p>Order 202.48, 202.49, and 202.50 for another thirty days through September 4, 2020, and I hereby suspend or modify for thirty days through September 4, 2020.</p>	
<p>Per Executive Order No. 202.55.1, issued on August 6, 2020, which amended Executive Order No. 202.55, issued on August 5, 2020, further continued all suspensions and modifications, not superseded by a suspension or modification in a subsequent Executive Order for the Executive Orders listed in 202.55; and provided further, Executive Orders 202.48, 202.49, and 202.50 are continued in their entirety, through September 4, 2020.</p>	<p>Tolling of statute of limitations further extended from March 20, 2020 through September 4, 2020.</p>
<p>Per Executive Order No. 202.60, issued on September 4, 2020, further continued the suspensions, modifications, and directives, not superseded by a subsequent directive, made by Executive Orders 202 up to and including 202.21, and 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, 202.40, 202.48, 202.49, 202.50, as extended, and Executive Order 202.55 and 202.55.1 for another thirty days through October 4, 2020 and do hereby suspend or modify the following:</p> <ul style="list-style-type: none"> • The suspension contained in Executive Order 202.8, as continued and modified most recently in Executive Order 202.48 and 202.55 and 202.55.1, is hereby amended to provide that the tolling of civil statutes of limitation shall be lifted as it relates to any action to challenge the approval by any municipal government or public authority of a construction project that includes either affordable housing or space for use by not-for-profit organizations. 	<p>Tolling of statute of limitations further extended from March 20, 2020 through October 4, 2020.</p>

V. Late Fees

Provision	Comment
<p>Per Section 4024(b) of the CARES Act (see page 212), issued on March 27, 2020, 120-day moratorium (until July 25, 2020) on “charg[ing] fees, penalties, or other charges” against a residential tenant for nonpayment of rent in a “covered dwelling.” Covered dwellings are defined as rental units in properties: (1) that participate in federal assistance programs, (2) are subject to a “federally backed mortgage loan,” or (3) are subject to a “federally backed multifamily mortgage loan.” Covered federal assistance programs include <u>most rental assistance and housing grant programs, including public housing, Housing Choice Vouchers, Section 8 Project-Based Rental Assistance, rural housing programs, and the Low Income Housing Tax Credit (LIHTC) program.</u> A “federally backed mortgage loan” is a single-family (1-4 units) residential mortgage owned or securitized by Fannie Mae or Freddie Mac or insured, guaranteed, or otherwise assisted by the federal government.</p>	<p>Lapsed</p>
<p>Per Executive Order No. 202.28, issued on May 7, 2020: temporarily suspend or modify the following if compliance with such statute, local law, ordinance, order, rule, or regulation</p>	<p>Residential tenants shall not be charged late fees from March 20, 2020 through August 20, 2020.</p>

<p>would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, for the period from the date of this Executive Order through June 6, 2020, except as modified below:</p> <p style="text-align: center;">.....</p> <p>IN ADDITION, I hereby temporarily suspend or modify the following if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, for the period from the date of this Executive Order through June 6, 2020:</p> <p>Real Property Law 238-a (2) to provide that no landlord, lessor, sub-lessor or grantor shall demand or be entitled to any payment, fee or charge for late payment of rent occurring during the time period from March 20, 2020, through August 20, 2020.</p>	<p>Commercial tenants may still be charged late fees.</p>
<p>Per Executive Order No. 202.60, issued on September 4, 2020, further continued the suspensions, modifications, and directives, not superseded by a subsequent directive, made by Executive Orders 202 up to and including 202.21, and 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, 202.40, 202.48, 202.49, 202.50, as extended, and Executive Order 202.55 and 202.55.1 for another thirty days through October 4, 2020.</p>	<p>EO 202.60 seems to have extended ban on charging residential late fees under EO 202.28 that previously lapsed on August 21, 2020. Specifically, this order appears to further amend Real Property Law 238-a (2) to provide that no landlord, lessor, sub-lessor or grantor shall demand or be entitled to any payment, fee or charge for late payment of rent occurring during the time period from March 20, 2020 through October 4, 2020.</p> <p>Commercial tenants may still be charged late fees.</p>

VI. Application of Security Deposits

Provision	Comment
<p>Per Executive Order No. 202.28, issued on May 7, 2020, temporarily suspend or modify the following if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, for the period from the date of this Executive Order through June 6, 2020, except as modified below:</p> <p style="text-align: center;">.....</p> <p>IN ADDITION, I hereby temporarily suspend or modify the following if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary</p>	<p><u>Through June 6, 2020:</u></p> <p>In residential context, security deposit shall be applied to rental arrears upon tenant or licensee’s request if eligible for unemployment insurance or benefits under state or federal law or are otherwise facing financial hardship due to the COVID-19 pandemic. Email is sufficient.</p> <p>Any security applied to rent shall be replenished at rate of 1/12 of amount used as rent. Payments to replenish due no <i>less</i> than 90 days from date of usage of security.</p>

<p>to assist or aid in coping with such disaster, for the period from the date of this Executive Order through June 6, 2020:</p> <p>Sections 7-103, 7-107 and 7-108 of the General Obligations Law to the extent necessary to provide that:</p> <ul style="list-style-type: none"> • Landlords and tenants or licensees of residential properties may, upon the consent of the tenant or licensee, enter into a written agreement by which the security deposit and any interest accrued thereof, shall be used to pay rent that is in arrears or will become due. If the amount of the deposit represents less than a full month rent payment, this consent does not constitute a waiver of the remaining rent due and owing for that month. Execution in counterpart by email will constitute sufficient execution for consent; • Landlords shall provide such relief to tenants or licensees who so request it that are eligible for unemployment insurance or benefits under state or federal law or are otherwise facing financial hardship due to the COVID-19 pandemic; • It shall be at the tenant or licensee’s option to enter into such an agreement and landlords shall not harass, threaten or engage in any harmful act to compel such agreement; • Any security deposit used as a payment of rent shall be replenished by the tenant or licensee, to be paid at the rate of 1/12 the amount used as rent per month. The payments to replenish the security deposit shall become due and owing no less than 90 days from the date of the usage of the security deposit as rent. The tenant or licensee 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 such insurance as replenishment. 	<p>Tenant or licensee can obtain insurance instead.</p>
<p>Per Executive Order No. 202.60, issued on September 4, 2020, further continued the suspensions, modifications, and directives, not superseded by a subsequent directive, made by Executive Orders 202 up to and including 202.21, and 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, 202.40, 202.48, 202.49, 202.50, as extended, and Executive Order 202.55 and 202.55.1 for another thirty days through October 4, 2020.</p>	<p>EO 202.60 seems to have extended requirement under EO 202.28 through October 4, 2020, that in residential context, security deposit shall be applied to rental arrears upon tenant or licensee’s request if eligible for unemployment insurance or benefits under state or federal law or are otherwise facing financial hardship due to the COVID-19 pandemic.</p> <p>Specifically, this order continues the modification of Sections 7-103, 7-107 and 7-108 of the General Obligations Law to the extent necessary to provide that:</p> <ul style="list-style-type: none"> • Landlords and tenants or licensees of residential properties may, upon the consent of the tenant or licensee, enter into a written agreement by which the

	<p>security deposit and any interest accrued thereof, shall be used to pay rent that is in arrears or will become due. If the amount of the deposit represents less than a full month rent payment, this consent does not constitute a waiver of the remaining rent due and owing for that month. Execution in counterpart by email will constitute sufficient execution for consent;</p> <ul style="list-style-type: none"> • Landlords shall provide such relief to tenants or licensees who so request it that are eligible for unemployment insurance or benefits under state or federal law or are otherwise facing financial hardship due to the COVID-19 pandemic; • It shall be at the tenant or licensee's option to enter into such an agreement and landlords shall not harass, threaten or engage in any harmful act to compel such agreement. • Any security deposit used as a payment of rent shall be replenished by the tenant or licensee, to be paid at the rate of 1/12 the amount used as rent per month. The payments to replenish the security deposit shall become due and owing no less than 90 days from the date of the usage of the security deposit as rent. The tenant or licensee 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 such insurance as replenishment.
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VIII. Electronic Document Delivery System (EDDS) [iappscontent.courts.state.ny.us/NYSCEF/live/edds.htm](https://appscontent.courts.state.ny.us/NYSCEF/live/edds.htm)

Provision	Comment
<p>Per Administrative Order 87/20, dated May 1, 2020, Chief Administrative Judge Lawrence Marks authorized the Electronic Document Delivery System (EDDS) effective May 4, 2020. AO 87/20 (pars. A-C) superseded by Administrative Order 115/20.</p> <p>Paragraph A: In pending matters, digital copies of (1) motions, cross-motions, responses, replies and applications (including post-judgment applications), (2) notices of appeal and cross-appeal, (3) stipulations of discontinuance, stipulations of adjournment, and other stipulations, (4) notes of issue, and (5) such other papers as the Chief Administrative Judge may direct, shall be directed for filing purposes by all courts and clerical officers of the Unified Court System (including County Clerks</p>	

<p>acting as clerks of court) when presented for filing through (1) NYSCEF, (2) EDDS, or (3) such other document delivery method as the Chief Administrative Judge shall approve.</p> <p>Paragraph B: “Documents filed through the EDDS system shall be served by electronic means, including electronic mail or facsimile” (an issue if the client did not have email address for a pro se tenant).</p>	
<p>Per DRP 208A, dated June 15, 2020, the Hon. Anthony Cannataro directed:</p> <p>For parties represented by counsel, all new motions and other documents submitted through EDDS must be served electronically, either by email or facsimile transmission. It is the responsibility of the party submitting papers through EDDS to ensure that copies of documents are served electronically on all other parties.</p> <p>Unrepresented parties must file, serve, and be served with motions by non-electronic means (i.e. personal service, mail, or other physical delivery service) unless they provide written notification to the court and all parties that they wish to file, serve, and be served electronically. A sample consent form is annexed as Exhibit A.</p> <p>All parties are encouraged to use EDDS to complete the submission of motions that were partially submitted when the Court halted acceptance of paper filings on March 22, 2020. Wherever possible, the Court will consolidate papers previously filed with documents newly submitted through EDDS to create a complete set of motion papers. However, judges may direct that Parties submit courtesy copies of previously filed documents through EDDS to ensure that a complete record is available. In the event that there are discrepancies between papers previously filed in person and submissions made through EDDS, the EDDS submission shall supersede the earlier paper submission.</p> <p>All existing procedural rules concerning the form of motion papers and times for opposing and replying will apply to motions made through EDDS.</p> <p>The availability of EDDS does not supersede, abrogate, or otherwise modify any administrative orders relating to the filing of new actions or proceedings during the COVID-19 outbreak, or any administrative orders relating to the entry of default judgments or orders.</p> <p>Notices of trial in the Civil Court may not be filed through EDDS. Notices of appeal may be filed through EDDS provided payment of appropriate fees is made.</p> <p>To the extent that any local rule regarding EDDS submissions or any requirement herein conflicts with Administrative Order 115/20, the Order of the Chief Administrative Judge controls.</p>	<p>EDDS is a program intended to mitigate the effects of the COVID-19 outbreak upon the courts and the public. It provides a means for attorneys and unrepresented litigants to make and respond to motions in pending cases before the Civil and Housing Parts of the Civil Court of the City of New York. EDDS is not a system for filing new actions and proceedings in the Court. No answers or notices of trial may be filed through EDDS in the Civil and Housing Parts of the Civil Court of the City of New York.</p>

[Administrative Order 115/20](#), dated May 28, 2020, **supersedes Administrative Order 87/20 (pars. A-C)** (and seemingly part of DRP 208 that requires service electronically per AO 87/20), and provides, in relevant part:

Paragraph 3: **In New York City, effective May 25, 2020, in case types approved for electronic filing through NYSCEF, represented parties must commence new matters or proceed in pending matters exclusively by electronic filing through NYSCEF, and must file and serve papers in such matters (other than service of commencement documents) by electronic means through NYSCEF. Unrepresented parties must file, serve and be served in such matters by non-electronic means unless they expressly opt in to participate in NYSCEF.**

Paragraph 4: **To the extent that NYSCEF electronic filing is unavailable in courts or case types in the counties and on the date set forth in Exh. B,** represented parties in pending matters may submit for filing digital copies of (1) motions, cross-motions, responses, replies and applications (including post-judgment applications), (2) notices of appeal and cross-appeal, (3) stipulations of discontinuance, stipulations of adjournment, and other stipulations, (4) notes of issue, and (5) such other papers as the Chief Administrative Judge may direct, shall be directed for filing purposes by all courts and clerical officers of the Unified Court System (including County Clerks acting as clerks of court) through EDDS or such other document delivery method as the Chief Administrative Judge shall approve. **Unrepresented parties must file, serve and be served in such matters by non-electronic means unless they provide written notification to the court and all parties that they wish to file, serve and be served electronically.**

Supersedes requirement under AO 87/20 that unrepresented parties shall be served electronically.

<p>Per DRP- 213, dated August 12, 2020, provided:</p> <p>Eviction proceedings filed after March 16, 2020 are currently subject to the requirements of Administrative Orders 160/20, 127/20 (127/20 was superseded by 160A/20) and 143/20 of the Chief Administrative Judge and shall remain so until further notice. However, with respect to matters pending prior to March 17, 2020 the following rules shall apply:</p> <p><u>DIRECTIVE:</u></p> <p>2. <u>Defaults</u></p> <p>B. <u>Document Defaults.</u> Filing of answers in residential eviction proceedings is presently controlled by Administrative Orders 160/20 and 121/20. Moreover, submission of motion documents in pending proceedings is governed by Administrative Order 115/20, which authorized the Electronic Document Delivery System (EDDS). EDDS remains available until further order. Consistent with Administrative Orders 160/20 and 115/20, no adverse action (i.e., no defaults) shall be taken based upon the failure to file an answer in an eviction proceeding, or based upon the failure of a party to submit responsive papers to a motion submitted through EDDS, absent specific order of the Court.</p>	<p>Submission of motion documents in pending proceedings is governed by Administrative Order 115/20 (if NYSCEF is not in effect), which authorized the Electronic Document Delivery System (EDDS). EDDS remains available until further order (to the extent that NYSCEF electronic filing is unavailable in courts or case types in the counties date set forth in Exh. B of Administrative Order 115/20).</p> <p><u>No adverse action (i.e., no defaults) shall be taken based upon the failure to file an answer in an eviction proceeding, or based upon the failure of a party to submit responsive papers to a motion submitted through EDDS, absent specific order of the Court.</u></p>
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IX. Service of Predicate Notices

Provision	Comment
<p>Per Section 4024 of the CARES Act (see page 212), issued on March 27, 2020, 120-day moratorium (until July 25, 2020) on service of a notice to vacate (notice of termination) on a residential tenant in a “covered dwelling” for any reason. Also requires landlords of covered dwellings to provide residential tenants at least 30 days’ notice before they must vacate the premises after moratorium expires.</p> <p><u>Covered dwellings</u> are defined as rental units in properties: (1) that participate in federal assistance programs, (2) are subject to a “federally backed mortgage loan,” or (3) are subject to a “federally backed multifamily mortgage loan.” Covered federal assistance programs include <u>most rental assistance and housing grant programs, including public housing, Housing Choice Vouchers, Section 8 Project-Based Rental Assistance, rural housing programs, and the Low Income Housing Tax Credit (LIHTC) program.</u> A “federally backed mortgage loan” is a single-family (1-4 units) residential mortgage owned or securitized by Fannie Mae or Freddie Mac or insured, guaranteed, or otherwise assisted by the federal government.</p>	<p>Cannot serve notice of termination on residential tenant in a “covered dwelling” for <i>any reason</i> during 120-day moratorium period (until July 25, 2020). At least 30 days’ notice to vacate required for Covered Dwellings after CARES Act moratorium expires on July 25, 2020.</p>

X. Notarization of Documents

Provision	Comment
<p>On March 19, 2020, per Executive Order No. 202.7 directed that through April 18, 2020, any notarial act that is required under New York State law is authorized to be performed utilizing audio-video technology provided that the following conditions are met:</p> <ul style="list-style-type: none"> • The person seeking the Notary's services, if not personally known to the Notary, must present valid photo ID to the Notary during the video conference, not merely transmit it prior to or after; • The video conference must allow for direct interaction between the person and the Notary (e.g. no pre-recorded videos of the person signing); • The person must affirmatively represent that he or she is physically situated in the State of New York; • The person must transmit by fax or electronic means a legible copy of the signed document directly to the Notary on the same date it was signed; • The Notary may notarize the transmitted copy of the document and transmit the same back to the person; and • The Notary may repeat the notarization of the original signed document as of the date of execution provided the Notary receives such original signed document together with the electronically notarized copy within thirty days after the date of execution. 	
<p>Per Executive Order No. 202.14, issued on April 7, 2020, further extended the temporary suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until May 7, 2020, except as modified therein (no applicable exception to modification of statute of limitations therein).</p>	Further extended until May 7, 2020.
<p>Per Executive Order No. 202.28, issued on May 7, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until June 6, 2020, except as modified therein.</p>	Further extended until June 6, 2020.
<p>Per Executive Order No 202.38, issued on June 6, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued as contained in Executive Order 202.27 and 202.28 until July 6, 2020.</p>	Further extended until July 6, 2020.
<p>Per Executive Order No. 202.48, issued on July 6, 2020, further continued the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to</p>	Further extended through August 5, 2020.

and including Executive Order 202.14, as continued and contained in Executive Order 202.27, 202.28, and 202.38, for another thirty days through August 5, 2020.	
Per Executive Order No. 202.55 , issued on August 5, 2020, further continued the directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.21, and Executive Order 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, and 202.40, as continued and contained in Executive Order 202.48, 202.49, and 202.50 for another thirty days through September 4, 2020, and I hereby suspend or modify for thirty days through September 4, 2020.	Further extended through September 4, 2020.
Per Executive Order No. 202.55.1 , issued on August 6, 2020, which amended Executive Order No. 202.55 , issued on August 5, 2020, further continued all suspensions and modifications, not superseded by a suspension or modification in a subsequent Executive Order for the Executive Orders listed in 202.55; and provided further, Executive Orders 202.48, 202.49, and 202.50 are continued in their entirety, through September 4, 2020.	Further extended through September 4, 2020.
Per Executive Order No. 202.60 , issued on September 4, 2020, further continued the suspensions, modifications, and directives, not superseded by a subsequent directive, made by Executive Orders 202 up to and including 202.21, and 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, 202.40, 202.48, 202.49, 202.50, as extended, and Executive Order 202.55 and 202.55.1 for another thirty days through October 4, 2020.	Further extended through October 4, 2020.

XI. Suspension of Creation of L&T Relationship for Transient Occupancy During COVID For Specific Housing Purposes

Provision	Comment
Per Executive Order No. 202.16 , issued on April 12, 2020, temporarily suspended or modified, for the period from the date of this Executive Order through May 12, 2020 Section 711 of the Real Property and Proceedings Law, Section 232-a of the Real Property Law, and subdivisions 8 and 9 of section 4 of the Multiple Dwelling Law, and any other law or regulation are suspended and modified to the extent that such laws would otherwise create a landlord tenant relationship between any individual assisting with the response to COVID-19 or any individual that has been displaced due to COVID-19, and any individual or entity, including but not limited to any hotel owner, hospital, not-for-profit housing provider, hospital, or any other temporary housing provider who provides temporary housing for a period of thirty days or more solely for purposes of assisting in the response to COVID-19.	
Per Executive Order No. 202.14 , issued on April 7, 2020, further extended the temporary suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until May 7, 2020, except	Further extended until May 7, 2020.

<p>as modified therein (no applicable exception to modification of statute of limitations therein).</p>	
<p>Per Executive Order No. 202.28, issued on May 7, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until June 6, 2020, except as modified therein.</p>	<p>Further extended until June 6, 2020.</p>
<p>Per Executive Order No 202.38, issued on June 6, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued as contained in Executive Order 202.27 and 202.28 until July 6, 2020.</p>	<p>Further extended until July 6, 2020.</p>
<p>Per Executive Order No. 202.48, issued on July 6, 2020, further continued the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued and contained in Executive Order 202.27, 202.28, and 202.38, for another thirty days through August 5, 2020.</p>	<p>Further extended through August 5, 2020.</p>
<p>Per Executive Order 202.49, issued on July 7, 2020, the suspension or modification of the following statutes and regulations are not continued, and such statutes, codes, and regulations are in full force and effect as of July 8, 2020:</p> <p>Real Property and Proceedings Law § 711, Real Property Law § 232-a, and Multiple Dwelling Law § 4(8) and (9).</p>	<p>Discontinued suspension.</p>
<p>Per Executive Order No. 202.55, issued on August 5, 2020, further continued the directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.21, and Executive Order 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, and 202.40, as continued and contained in Executive Order 202.48, 202.49, and 202.50 for another thirty days through September 4, 2020, and I hereby suspend or modify for thirty days through September 4, 2020, and I hereby suspend or modify for thirty days through September 4, 2020:</p> <p>Section 711 of the Real Property and Proceedings Law, Section 232-a of the Real Property Law, and subdivisions 8 and 9 of section 4 of the Multiple Dwelling Law, and any other law or regulation are suspended and modified to the extent that such laws would otherwise create a landlord tenant relationship between any individual assisting with the response to COVID-19 or any individual that has been displaced due to COVID-19, and any individual or entity, including but not limited to any hotel owner, hospital, not-for-profit housing provider, hospital, or any other temporary housing provider who provides temporary</p>	<p>Further extended through September 4, 2020.</p>

housing for a period of thirty days or more solely for purposes of assisting in the response to COVID-19.	
Per Executive Order No. 202.60 , issued on September 4, 2020, further continued the suspensions, modifications, and directives, not superseded by a subsequent directive, made by Executive Orders 202 up to and including 202.21, and 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, 202.40, 202.48, 202.49, 202.50, as extended, and Executive Order 202.55 and 202.55.1 for another thirty days through October 4, 2020.	Further extended through October 4, 2020.

XII. Extension of Time to Renew Real Estate Licenses

Provision	Comment
Per Executive Order No. 202.11 , issued on March 27, 2020, extension issued to allow individuals and businesses licensed by the Department of State to extend the expiration date of their license, Articles 12-A (Real Estate Brokers and Real Estate Salesmen), 12-B, and 12-C of the Real Property Law are amended, as necessary, to extend the time to renew a license to the 30th day following the expiration of this Executive Order.	
Per Executive Order No. 202.14 , issued on April 7, 2020, further extended the temporary suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until May 7, 2020, except as modified therein (no applicable exception to modification of statute of limitations therein).	Further extended until May 7, 2020.
Per Executive Order No. 202.28 , issued on May 7, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until June 6, 2020, except as modified therein.	Further extended until June 6, 2020.
Per Executive Order No. 202.38 , issued on June 6, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued as contained in Executive Order 202.27 and 202.28 until July 6, 2020.	Further extended until July 6, 2020.
Per Executive Order No. 202.48 , issued on July 6, 2020, further continued the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued and contained in Executive Order 202.27, 202.28, and 202.38, for another thirty days through August 5, 2020.	Further extended through August 5, 2020.
Per Executive Order No. 202.55 , issued on August 5, 2020, further continued the directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.21, and Executive Order 202.27, 202.28, 202.29, 202.30, 202.38,	Further extended through September 4, 2020.

202.39, and 202.40, as continued and contained in Executive Order 202.48, 202.49, and 202.50 for another thirty days through September 4, 2020, and I hereby suspend or modify for thirty days through September 4, 2020.	
Per Executive Order No. 202.55.1 , issued on August 6, 2020, which amended Executive Order No. 202.55 , issued on August 5, 2020, further continued all suspensions and modifications, not superseded by a suspension or modification in a subsequent Executive Order for the Executive Orders listed in 202.55; and provided further, Executive Orders 202.48, 202.49, and 202.50 are continued in their entirety, through September 4, 2020.	Further extended through September 4, 2020.
Per Executive Order No. 202.60 , issued on September 4, 2020, further continued the suspensions, modifications, and directives, not superseded by a subsequent directive, made by Executive Orders 202 up to and including 202.21, and 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, 202.40, 202.48, 202.49, 202.50, as extended, and Executive Order 202.55 and 202.55.1 for another thirty days through October 4, 2020.	Further extended through October 4, 2020.

XIII. Extension of Time to Respond to Offering Plan

Provision	Comment
Per Executive Order No. 202.11 , issued on March 27, 2020, temporarily suspend or modify, for the period from the date of this Executive Order through April 26, 2020 Section 352-e (2) of the General Business Law to the extent that it requires response to co-op/condominium offering plans in 30 days, provided, however, the timeframe for such response may be extended up to 30 days.	
Per Executive Order No. 202.14 , issued on April 7, 2020, further extended the temporary suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until May 7, 2020, except as modified therein (no applicable exception to modification of statute of limitations therein).	Further extended until May 7, 2020.
Per Executive Order No. 202.28 , issued on May 7, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202 for thirty days until June 6, 2020, except as modified therein.	Further extended until June 6, 2020.
Per Executive Order No 202.38 , issued on June 6, 2020, further extended the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued as contained in Executive Order 202.27 and 202.28 until July 6, 2020.	Further extended until July 6, 2020.
Per Executive Order No. 202.48 , issued on July 6, 2020, further continued the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to	Further extended through August 5, 2020.

<p>and including Executive Order 202.14, as continued and contained in Executive Order 202.27, 202.28, and 202.38, for another thirty days through August 5, 2020.</p>	
<p>Per Executive Order No. 202.55, issued on August 5, 2020, further continued the directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.21, and Executive Order 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, and 202.40, as continued and contained in Executive Order 202.48, 202.49, and 202.50 for another thirty days through September 4, 2020, and I hereby suspend or modify for thirty days through September 4, 2020.</p> <ul style="list-style-type: none"> Sections 352-eeee(2)-(2)(a) of the General Business Law, and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires that an offering statement or prospectus filed with the Department of Law must be declared effective within fifteen months from filing or from the date of issuance of the letter of the attorney general stating that the offering statement or prospectus has been accepted for filing (the "Fifteen Month Period"), and any such Fifteen Month Period, shall be tolled and extended for a period equal to, in the aggregate, the duration of this Executive Order plus an additional period of 120 days (the "Tolling Period"). In addition, any deadlines contained within paragraphs 352-eeee(1)(f), 352-eeee(1)(g), 352-eeee(2)(c)(vi), 352-eeee(2)(c)(vii), and 352-eeee(2)(d)(ix) shall be tolled and extended for a period equal to, in the aggregate, the duration of this Executive Order plus an additional period of 120 days. Sponsor must treat all tenants in occupancy as non-purchasing tenants as defined by GBL 352-eeee(1)(e) for the duration of the Tolling Period, and must provide all such tenants in occupancy with all protections accorded to non-purchasing tenants under GBL 352-eeee for the duration of the Tolling Period. Sponsor must submit an amendment to the offering plan to the Department of Law updating the date by which sponsor must declare the offering plan effective, as necessary, within 45 days from the expiration of this Executive Order or within such other longer timeframe as may be specified by the Department of Law; Sections 352-eee(2)-(2)(a) of the General Business Law, and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires that an offering statement or prospectus filed with the Department of Law must be declared effective within twelve months from filing or from the date of issuance of the letter of the attorney general stating that the offering statement or prospectus has been accepted for filing (the "Twelve Month Period"), and any such Twelve Month Period, shall be tolled and extended for a period equal to, in the aggregate, the duration of this Executive Order plus an additional period of 120 days ("the Tolling Period"). In addition, any deadlines contained within paragraphs 352-eee(1)(f), 352-eee(1)(g), 352-eee(2)(d)(vi), and 352-eee(2)(d)(ix) shall be tolled and extended for a period equal to, in the aggregate, the duration of this Executive Order plus an additional period of 120 days. Sponsor must treat all tenants in occupancy as non-purchasing tenants as defined by GBL 352-eee(1)(e) for the duration of the Tolling Period, and must provide all such tenants 	

in occupancy with all protections accorded to non-purchasing tenants under GBL 352-eee for the duration of the Tolling Period. Sponsor must submit an amendment to the offering plan to the Department of Law updating the date by which sponsor must declare the offering plan effective, as necessary, within 45 days from the expiration of this Executive Order or within such other longer timeframe as may be specified by the Department of Law;

- 13 NYCRR § 20.3(o)(12), and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires sponsor to offer rescission if the first closing of a unit does not occur within a period of twelve months after the projected date for such closing (corresponding to the projected first year of operation) as set forth in the offering plan, and any such twelve month period, shall be tolled and extended for a period equal to, in the aggregate, the duration of this Executive Order plus an additional period of 120 days. Sponsor must submit an amendment to the offering plan to the Department of Law updating the first year of operation and projected date of first closing, as necessary, within 45 days from the expiration of this Executive Order or within such other longer timeframe as may be specified by the Department of Law. The Department of Law shall not deem the tolling provided under this Executive Order and Executive Order 202.18 of any such twelve month period to be a material and/or adverse event or change under terms of the offering plan or any order, rule, or regulation applicable thereto, or otherwise;
- 13 NYCRR § 22.3(k)(10), and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires sponsor to offer rescission if the first closing of a home or lot does not occur within a period of twelve months after the projected date for such closing (corresponding to the projected first year of operation) as set forth in the offering plan, and any such twelve month period, shall be tolled and extended for a period equal to, in the aggregate, the duration of this Executive Order plus an additional period of 120 days. Sponsor must submit an amendment to the offering plan to the Department of Law updating the first year of operation and projected date of first closing, as necessary, within 45 days from the expiration of this Executive Order or within such other longer timeframe as may be specified by the Department of Law. The Department of Law shall not deem the tolling provided under this Executive Order and Executive Order 202.18 of any such twelve month period to be a material and/or adverse event or change under terms of the offering plan or any order, rule, or regulation applicable thereto, or otherwise;
- 13 NYCRR § 25.3(l)(12), and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires sponsor to offer rescission if the units are not ready for occupancy within a period of twelve months after the projected date for such closing (corresponding to the projected first year of operation) as set forth in the offering plan, and any such twelve month period, shall be tolled and extended for a period equal to, in the aggregate, the duration of this Executive Order plus an additional period of 120 days. Sponsor must submit an amendment to the offering plan to the Department of Law updating the first year of operation and projected date of first closing, as necessary, within 45 days from the expiration of this Executive Order or within

<p>such other longer timeframe as may be specified by the Department of Law. The Department of Law shall not deem the tolling provided under this Executive Order and Executive Order 202.18 of any such twelve month period to be a material and/or adverse event or change under terms of the offering plan or any order, rule, or regulation applicable thereto, or otherwise;</p> <ul style="list-style-type: none"> • 13 NYCRR §§ 18.3(g)(1), 20.3(h)(1), 21.3(g), 22.3(g)(1), 23.3(h)(1), 24.3(j)(1), and 25.3(h)(1) and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires sponsor to set forth a budget for the first year of operation, the requirements with respect to any such budget for the projected first year of operation shall be tolled and extended for a period equal to, in the aggregate, the duration of this Executive Order plus an additional period of 120 days. Sponsor must submit an amendment to the offering plan to the Department of Law updating the first year of operation, as necessary, within 45 days from the expiration of this Executive Order or within such other longer timeframe as may be specified by the Department of Law, and shall not be required to offer rescission unless such budget for the first year of operation increases by 25 percent or more during the pendency of this Executive Order (or rescission otherwise is required under terms of the offering plan or any order, rule, or regulation applicable thereto, or otherwise). The Department of Law shall not deem the tolling provided under this Executive Order and Executive Order 202.18 of sponsor's requirements with respect to the budget for the first year of operation to be a material and/or adverse event or change under terms of the offering plan or any order, rule, or regulation applicable thereto, or otherwise; 	
<p>Per Executive Order No. 202.55.1, issued on August 6, 2020, which amended Executive Order No. 202.55, issued on August 5, 2020, further continued all suspensions and modifications, not superseded by a suspension or modification in a subsequent Executive Order for the Executive Orders listed in 202.55; and provided further, Executive Orders 202.48, 202.49, and 202.50 are continued in their entirety, through September 4, 2020.</p>	<p>Further extended until September 4, 2020, subject to any specific language in EO 202.55 above that would apply.</p>
<p>Per Executive Order No. 202.60, issued on September 4, 2020, further continued the suspensions, modifications, and directives, not superseded by a subsequent directive, made by Executive Orders 202 up to and including 202.21, and 202.27, 202.28, 202.29, 202.30, 202.38, 202.39, 202.40, 202.48, 202.49, 202.50, as extended, and Executive Order 202.55 and 202.55.1 for another thirty days through October 4, 2020.</p>	<p>Further extended through October 4, 2020, subject to any specific language in EO 202.55 above that would apply.</p>

XIV. Local Law 55 of 2020 (Guarantor Liability and Commercial Tenant Harassment)

Administrative Code § 22-1005 Personal liability provisions in commercial leases.

A provision in a commercial lease or other rental agreement involving real property located within the city, or relating to such a lease or other rental agreement, that provides for one or more natural persons who are not the tenant under such agreement to become, upon the occurrence of a default or other event, wholly or partially personally liable for payment of rent, utility expenses or taxes owed by the tenant under such agreement, or fees

and charges relating to routine building maintenance owed by the tenant under such agreement, shall not be enforceable against such natural persons if the conditions of paragraph 1 and 2 are satisfied:

1. The tenant satisfies the conditions of subparagraph (a), (b) or (c):

(a) The tenant was required to cease serving patrons food or beverage for on-premises consumption or to cease operation under executive order number 202.3 issued by the governor on March 16, 2020;

(b) The tenant was a non-essential retail establishment subject to in-person limitations under guidance issued by the New York state department of economic development pursuant to executive order number 202.6 issued by the governor on March 18, 2020; or

(c) The tenant was required to close to members of the public under executive order number 202.7 issued by the governor on March 19, 2020.

2. The default or other event causing such natural persons to become wholly or partially personally liable for such obligation occurred between March 7, 2020 and **March 31, 2021**, inclusive.¹

Administrative Code § 22-902 Commercial tenant harassment.

a. A landlord shall not engage in commercial tenant harassment. Except as provided in subdivision b of this section, commercial tenant harassment is any act or omission by or on behalf of a landlord that (i) would reasonably cause a commercial tenant to vacate covered property, or to surrender or waive any rights under a lease or other rental agreement or under applicable law in relation to such covered property, and (ii) includes one or more of the following:

1. using force against or making express or implied threats that force will be used against a commercial tenant or such tenant's invitee;

2. causing repeated interruptions or discontinuances of one or more essential services;

3. causing an interruption or discontinuance of an essential service for an extended period of time;

4. causing an interruption or discontinuance of an essential service where such interruption or discontinuance substantially interferes with a commercial tenant's business;

5. repeatedly commencing frivolous court proceedings against a commercial tenant;

6. removing from a covered property any personal property belonging to a commercial tenant or such tenant's invitee;

7. removing the door at the entrance to a covered property occupied by a commercial tenant; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying a key to the new lock to the commercial tenant occupying the covered property;

¹ As extended from September 30, 2020 to March 31, 2021 by [Int. No. 2083-A](#) (extending the duration of the personal liability protections contained within local law number 55 for the year 2020 by six months).

8. preventing a commercial tenant or such tenant's invitee from entering a covered property occupied by such tenant;

9. substantially interfering with a commercial tenant's business by commencing unnecessary construction or repairs on or near covered property;

10. engaging in any other repeated or enduring acts or omissions that substantially interfere with the operation of a commercial tenant's business;

11. threatening a commercial tenant based on (i) such person's actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, uniformed service, sexual orientation, alienage or citizenship status, status as a victim of domestic violence or status as a victim of sex offenses or stalking, or (ii) the commercial tenant's status as a person or business impacted by COVID-19, or the commercial tenant's receipt of a rent concession or forbearance for any rent owed during the COVID-19 period; provided that for the purposes of this paragraph:

(a) the term "COVID-19 period" means March 7, 2020 through the later of (i) the end of the first month that commences after the expiration of the moratorium on enforcement of evictions of any tenant, residential or commercial, set forth in executive order number 202.8, as issued by the governor on March 20, 2020 and extended thereafter, (ii) the end of the first month that commences after the expiration of the moratorium on certain residential evictions set forth in section 4024 of the coronavirus aid, relief, and economic security, or CARES, act and any subsequent amendments to such section or (iii) September 30, 2020, inclusive;

(b) the term "impacted by COVID-19" means a person who has experienced one or more of the following situations:

(1) such person was diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis; provided that for the purposes of this subparagraph, the term "COVID-19" means the 2019 novel coronavirus or 2019-nCoV;

(2) a member of such person's household was diagnosed with COVID-19;

(3) such person was providing care for a family member or a member of such person's household who was diagnosed with COVID-19;

(4) a member of such person's household for whom such person had primary caregiving responsibility was unable to attend school or another facility that was closed as a direct result of the COVID-19 state disaster emergency and such school or facility care was required for the person to work; provided that for the purposes of this subparagraph, the term "COVID-19 state disaster emergency" means the state disaster emergency declared by the governor in executive order number 202 issued on March 7, 2020;

(5) such person was unable to reach their place of business because of a quarantine imposed as a direct result of the COVID-19 state disaster emergency or because such person was advised by a health care provider to self-quarantine due to concerns related to COVID-19;

(6) such person became primarily responsible for providing financial support for the household of such person because the previous head of the household died as a direct result of COVID-19;

(7) such person's business is closed as a direct result of the COVID-19 state disaster emergency; and

(c) a business is "impacted by COVID-19" if (i) it was subject to seating, occupancy or on-premises service limitations pursuant to an executive order issue by the governor or mayor during the COVID-19 period or (ii) its

revenues during any three-month period within the COVID-19 period were less than 50 percent of its revenues for the same three-month period in 2019 or less than 50 percent of its aggregate revenues for the months of December 2019, January 2020, and February 2020 and such revenue loss was the direct result of the COVID-19 state disaster emergency. A revenue loss shall be deemed to be the direct result of the COVID-19 state disaster emergency when such disaster emergency was the proximate cause of such revenue loss;

12. requesting identifying documentation that would disclose the citizenship status of a commercial tenant, an invitee of a commercial tenant or any person seeking entry to the covered property in order to patronize such commercial tenant;

13. unreasonably refusing to cooperate with a tenant's permitted repairs or construction activities; or

14. attempting to enforce a personal liability provision that the landlord knows or reasonably should know is not enforceable pursuant to section 22-1005 of the code.

b. A landlord's lawful termination of a tenancy, lawful refusal to renew or extend a lease or other rental agreement, or lawful reentry and repossession of the covered property shall not constitute commercial tenant harassment for purposes of this chapter.

Covered property is defined in **Administrative Code § [22-901](#)** as:

Covered property. The term "covered property" means any building or portion of a building (i) that is lawfully used for buying, selling or otherwise providing goods or services, or for other lawful business, commercial, professional services or manufacturing activities, and (ii) for which a certificate of occupancy authorizing residential use of such building or such portion of a building has not been issued.