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NYC Housing & COVID-19: More Rent Burdened Than Before

Affordable housing is a major concern in New York City, now more than ever. Before the COVID-19 pandemic, half of all NYC renters were severely rent burdened, paying 30 percent or more of their income towards rent.[1] Despite NYC's progress in leveling its unemployment rate over the past year, the city and its residents continue to face economic fallout from the pandemic.[2] Thirty-eight percent of Black and thirty-five percent of Latinx reported loss of employment income in their household since the start of the pandemic, compared to 29 percent of white respondents.[3] While rents continued to rise for many tenants, particularly low-income tenants of color.[4]

The expiration of NY's eviction moratorium on January 14th, 2022, marked the end of the official policy with a stated goal to keep New Yorkers in their homes.[5] Currently, two laws have the power to temporarily halt evictions for tenants in NYC: The Tenant Safe Harbor Act (TSHA), and the COVID-19 Emergency Rental Assistance Program (ERAP).[6] While these programs kept people in their homes during the pandemic, they do not offer further protection to rent-burdened tenants who are struggling to pay off their rent arrears and the prospect of future rent arrears as rent continues to be unaffordable.

The TSHA protects tenants who failed to pay their rent during the covered period: March 7, 2020, through January 15, 2022.[7] The protection only applies if the tenant can show that they suffered a financial hardship due to COVID-19 and requires the court to make a determination based on a number of factors such as: (i) the tenant's income before the covered period; (ii) the tenant's income during the covered period; (iii) the tenant's liquid assets; and (iv) the tenant's eligibility for and receipt of public assistance.[8] While TSHA applies to holdover and nonpayment proceedings,[9] the court can still issue a money judgment against the tenant for the rent owed.[10]

ERAP, on the other hand, can pay up to 12 months of rental arrears for nonpayment for the same period covered by TSHA and up to 3 months of future rent for those who are rent burdened.[11] However, while the filing of an application does temporarily stay eviction proceedings for applicants, this program is currently unfunded.[12] Even if you apply for the program, funding and eligibility are not guaranteed.[13] Further, under this program, landlords could accept the rental assistance funds and still evict tenants for rent debt accrued outside the covered period of March 7, 2020, through January 15, 2022.[14]

While advocates and lawmakers are pushing hard to pass "Good Cause" eviction laws, which would give tenants the right to a lease renewal, cap large rent increases, and prevent landlords from evicting tenants without an order from a judge, this bill does not help rent-burdened tenants pay off their rent arrears and prevent further

accrual.[15] Without further tenant protections and rental assistance programs, rent-burdened tenants will continue to be pushed further to the edge.

[1] NYU Furman Center, *State of Renters and Their Homes* (Last visited: February 28, 2022), <https://furmancenter.org/stateofthecity/view/state-of-renters-and-their-homes>.

[2] Nelson D. Schwartz & Patrick McGeehan and Nicole Hong, *New York Faces Lasting Economic Toll Even as Pandemic Passes*, N.Y. Times (June 20, 2021), <https://www.nytimes.com/2021/06/20/business/economy/new-york-city-economy-coronavirus.html>.

[3] Oksana Mironova & Samuel Stein, *Low-Income New Yorkers are an Inch Away from Eviction: How to Address Rent Debt and Eviction Pressure to Keep Them Housed*, CSS NY (January 6, 2022), https://smhttp-ssl-58547.nexcesscdn.net/nycss/images/uploads/pubs/Eviction_Pressure_V2.pdf.

[4] *Id.*

[5] Kevin Duggan, *The rent comes due: Eviction moratorium 'concluding,' Hochul confirms*, AM NY (January 11, 2022), <https://www.amny.com/news/hochul-confirms-eviction-moratorium-concluding-this-weekend/>.

[6] Greg Baltz, *Data Update: Analysis Of Renters At Risk As Eviction Moratorium Expires*, NYU Furman Center Blog (Jan. 15, 2022), <https://furmancenter.org/thestoop/entry/data-update-analysis-of-renters-at-risk-as-eviction-moratorium-expires>

[7] L. 220, ch. 127 (Tenant Safe Harbor Act) (June 30, 2020).

[8] *Id.*; see also, *Sea Park E., LP v. Williams*, 71 Misc. 3d 955, 957 (N.Y. Civ. Ct. 2021).

[9] See Executive Order No. 202.66, Executive Order No. 202.71, Executive Order No. 202.78; see also *Cabrera v. Humphrey*, 192 A.D.3d 227, 232, 140 N.Y.S.3d 609, 613 (2021).

[10] L. 2020, ch. 127 (June 30, 2020).

[11] New York State Senate Democratic Conference, *Fact Sheet: COVID-19 Emergency Rental Assistance Program (CERAP)*, (Last visited January 28, 2022)

https://www.nysenate.gov/sites/default/files/article/attachment/covid-19_emergency_rental_assistance_program_cerap_fact_sheet.pdf.

[12] Greg Baltz, *Data Update: Analysis Of Renters At Risk As Eviction Moratorium Expires*, NYU Furman Center Blog (Jan. 15, 2022), <https://furmancenter.org/thestoop/entry/data-update-analysis-of-renters-at-risk-as-eviction-moratorium-expires>.

[13] NYS OTDA, *Emergency Rental Assistance Program (ERAP)* (Last visited: March 6, 2022), <https://otda.ny.gov/programs/emergency-rental-assistance/>.

[14] *Id.*

[15] David Brand and Daniel Parra, *As NY's Eviction Moratorium Nears its End, Will Albany Pass 'Good Cause' Bill?*, CityLimits (January 22, 2022), <https://citylimits.org/2022/01/07/as-nys-eviction-moratorium-nears-its-end-will-albany-pass-good-cause-bill/>