

**ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

Pursuant to the authority vested in me, and as required by L. 2021, c. 417, which relates in part to residential and commercial evictions [“Act”; Exh. 1]), I hereby direct that the following restrictions shall apply to the conduct of residential and commercial eviction matters before the New York State courts:

1. Pending Residential and Commercial Eviction Proceedings: Any residential or commercial eviction proceeding pending on September 2, 2021, including eviction proceedings filed on or before March 7, 2020, in which a respondent-tenant has filed a Hardship Declaration, including those previously filed pursuant to chapter 381 of the laws of 2020 or chapters 73, 104 or 154 of the laws of 2021 (“COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020” and “COVID-19 Protect our Small Businesses Act of 2021”), are stayed through January 15, 2022. (Act, Part C, Subpart A, §1; Act, Part B, Subpart A§1).

a. Hardship Declaration and Notice in Commercial Evictions: The definition of commercial tenant authorized to submit a Hardship Declaration under the Act is limited to a commercial tenant that is a resident of the State, independently owned and operated, not dominant in its field and employs 100 or fewer persons. (Act, Part B, Subpart A§1[3]).

b. Commercial Evictions Generally: The Act sets forth that no commercial tenant may be removed from possession of a property prior to January 15, 2022, except by an eviction proceeding. (Act, Part B, Subpart A, §2).

2. Requirement of Additional Affidavits in Newly-Commenced Proceedings: No court shall accept for filing any petition or other commencement papers in an eviction proceeding unless those papers include affidavits as required by Part C, Subpart A, §3 and Part B, Subpart A, §4 of the Act.

3. Invalid Hardship Declaration Hearing in Residential and Commercial Eviction Proceedings: The required affidavit set forth in the Act creates a mechanism for a petitioner to attest that the respondent-tenant has submitted a Hardship Declaration and the petitioner has a good-faith basis that the hardship certified by respondent-tenant does not exist. The petitioner is required to provide the respondent-tenant with notice of contesting the certified hardship by serving a copy of the affidavit with the notice of petition or summons of complaint. The court must also provide notice in a specific form to the respondent-tenant that the petitioner is challenging their certified hardship and schedule a hearing to determine the validity of the Hardship Declaration submitted by respondent-tenant. In a pending proceeding where a Hardship Declaration was previously submitted, a petitioner may make a motion on notice to respondent-tenant attesting a good faith belief that the respondent has not experienced the certified hardship. If the court finds a hardship claim valid, the court is required to grant the stay through January

15, 2020 and must direct the respondent-tenant to apply to a program that administers emergency rental assistance funding if they may be eligible. If the court finds a hardship claim invalid, the proceeding may continue in the normal course. (Act, Part C, Subpart A, §3, §10; Act, Part B, Subpart A, §4, §10).

4. Bar on Issuance or Enforcement of Default Judgments in Residential Eviction Proceedings: Prior to January 15, 2022, no court shall issue a default judgment authorizing an eviction in a residential eviction matter or authorize the enforcement of an eviction pursuant to a default judgment, without first holding a hearing upon motion of the petitioner. If a default judgment was awarded prior to December 28, 2020 or between August 13, 2021 and September 2, 2021, the default judgment shall be vacated, and the matter restored to the court calendar upon respondent-tenant's written or oral request. (Act, Part C, Subpart A, §5).

5. Stay of Execution of Warrants in Residential and Commercial Eviction Proceedings: In any residential or commercial eviction proceeding in which a warrant of eviction has been issued but has not yet been executed as of September 2, 2021, execution of the warrant shall be stayed until the court has held a status conference with the parties (Act, Part C, Subpart A, §6[a][i]; Act, Part C, Subpart A, §6[1][a]).

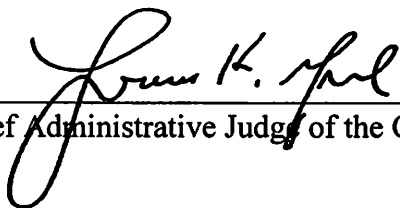
a. Warrant of Eviction Requirements in Residential and Commercial Eviction Proceedings: In any residential or commercial eviction proceeding in which a warrant of eviction has been issued prior to September 2, 2021, a warrant will not be effective unless the warrant specifies that the petitioner properly served the respondent-tenant with a Hardship Declaration and the dates on which the respondent-tenant was served, or the respondent-tenant is ineligible for a stay under the Act because the hardship claim is deemed invalid or the respondent-tenant has caused significant damage to the property, is persistently and unreasonably engaging in nuisance behavior or causes a safety hazard to others, with a specific description of such behavior. (Act, Part C, Subpart A, §6[b]; Act, Part B, Subpart A, §6[2]).

6. Prior Judgments Based on Objectionable or Nuisance Behavior: If the court has awarded judgment prior to September 2, 2021 against a respondent-tenant in a residential or commercial proceeding where the petitioner is alleging the tenant caused significant damage to the property, the court shall hold a hearing to determine whether the tenant is continuing to intentionally cause such damage. If the court has awarded judgment against a respondent-tenant prior to December 28, 2020 or between August 13, 2021 and September 2, 2021 in a residential proceeding or March 9, 2021 in a commercial proceeding where the petitioner is alleging the respondent-tenant is persistently engaging in unreasonable behavior that substantially infringes on the use and enjoyment of other tenants or causes a substantial safety hazard to others, the court shall hold a hearing to determine whether the tenant is continuing to persist with such behavior. (Act, Part C, Subpart A, §7[2]; Act, Part B, Subpart A, §7[2]).

a. Nuisance Behavior in Residential Evictions and Eviction Protections

Under the COVID-19 Emergency Rental Assistance Program Protections: Eviction protections provided by the COVID-19 Emergency Rental Assistance Program (ERAP) under Part BB, Subpart A, §8 of Chapter 56 of the Laws of 2021 shall not apply if a respondent-tenant intentionally causes damage to the property or persistently and unreasonably engages in objectionable or nuisance behavior. If the court has awarded a judgment against a respondent-tenant prior to September 2, 2021 on the basis of such objectionable or nuisance behavior, the court shall hold a hearing to determine whether the tenant intentionally caused significant damage to the property or persistently and unreasonably engaged in such behavior. The hearing is to determine whether the tenant is continuing the nuisance behavior (Act, Part A, §6).

All residential and commercial eviction proceedings shall be conducted as required by further provisions of the Act, and all residential eviction proceedings shall also be conducted as required by AO/244/21 and AO/245/21. This order shall take effect immediately and shall remain in effect through January 15, 2022.



Chief Administrative Judge of the Courts

Dated: September 8, 2021

AO/261/21