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REAL ESTATE FINANCE news and views

COVID-19 Update: Controversial Rent and Mortgage Payment Relief Bill Introduced

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A new bill canceling rent for residential tenants, and mortgage payments for some qualified homeowners, was announced recently in New York. This new bill calls for the cancellation of residential rental payments, and mortgage payments for primary residences with less than six units, for a period lasting until 90 days after the termination of New York's state of emergency. Similar to the moratorium on evictions and foreclosures mandated by Governor Andrew Cuomo in response to the COVID-19 pandemic, the proposed bill would prohibit landlords and lenders from imposing late fees and/or fines, commencing evictions proceedings, and obtaining money judgments, against non-paying tenants and residential homeowners due to non-payment during the rent and mortgage payment cancellation period. However, the new bill would not require tenants and qualified residential homeowners to demonstrate a COVID-19-related hardship in order to qualify for such relief, or pay back any past-due rent at the end of such period.

The new bill, proposed by Manhattan Assemblywoman Yuh-Line Niou and Senator Julia Salazar, differs in other significant ways from earlier legislation and executive orders providing New Yorkers with COVID-19-related protections from evictions and foreclosures. In contrast with legislation introduced this spring, the new bill would also provide some relief to affected landlords. Specifically, the new bill calls for the establishment of certain relief funds to be administered by the Division of Housing and Community Renewal. These funds will be used to reimburse qualifying landlords and public housing authorities for all cancelled rents. In order to qualify for such reimbursements, however, landlords and public housing authorities must agree to not increase residential rents for a period of five years, and to not evict (unless such eviction is for "good cause"), or retaliate against, non-paying tenants. Some landlords may, however, be able to qualify for an exemption to the above-mentioned conditions, if they can demonstrate excessive financial hardship due to the rent cancellation.

The legislators and other commentators do not expect that Governor Cuomo will support this proposed legislation, as he has not supported similar proposed legislation calling for the cancellation of rent payments in New York. This proposed legislation is emblematic of other proposed legislation in other jurisdictions, and it is likely that we will continue to see similar proposals during the pendency of the pandemic. Hopefully, our elected officials will carefully analyze the effect that these proposals will have on all parties including landlords, lenders and other parties other than tenants. As many commentators have opined, it may be more prudent to extend grants directly to tenants in the form of tax benefits, unemployment benefits or direct payments, rather than asking the real estate industry to disproportionally bear this burden.

We will continue to monitor these and other proposed legislation of interest and provide updates as needed.