

New York Legislative Update (Bill Pending)



April 13, 2020

The New York state senator who earlier introduced the still-pending bill (S8125A) providing for a 90-day rent holiday for small business tenants affected by COVID-19 has introduced another bill (S8139) which differs from the earlier bill in significant respects.

- The new bill also covers not-for-profit corporations affected by COVID-19.
- Rather than a rent holiday, the new bill provides that for the 90-day period following the bill's enactment covered tenants affected by COVID-19 will not be required to pay more than 30% of their "actual income" in rent. For this purpose "actual income" is defined, on a monthly basis, as "all revenue, including emergency federal, state or local assistance, or any other form of income that may be used to pay rent, received minus the amount of any wages or salary paid to employees".
- The earlier bill provided for an automatic renewal of unspecified length on unspecified terms for any lease to a small business tenant expiring during the 90-day period after the bill's enactment. The new bill provides that "any tenant" whose lease expires during the COVID-19 state of emergency (which was initially scheduled to end September 7, 2020 but is subject to change) will have the right to extend on the existing lease terms for up to 90 days after the state of emergency. This appears to apply to all tenants, regardless of their size, although this may not have been the intent of the legislator who introduced the bill.
- Unlike the earlier bill, the new bill does not include any mortgage forgiveness. Instead, a New York State rental assistance fund is established to which a landlord can apply for the lost income, but the bill does not provide any money for the fund; instead the bill merely provides that such "may be appropriated" from federal aid and other funds appropriated for that purpose.

Some significant details are omitted from the above and, of course, any actual bill enacted by the New York legislature may differ greatly from the bill proposed.