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Commercial Landlord-Tenant Update March 25, 2021: COVID-19 Emergency Protect Our Small Business Act of 2021

Stephen Lasser · Thursday, March 25th, 2021

Governor Cuomo's moratorium on the commencement of commercial landlord-tenant cases and commercial evictions, which expired on January 31, 2021, was retroactively extended until March 28, 2021 by an executive order issued on February 26, 2021. And, as anticipated, a new law was passed on March 9, 2021 titled *COVID-19 Emergency Protect Our Small Business Act of 2021*, which further extends the commercial eviction moratorium on non-payment, holdover (with an exception for nuisances) and ejectment cases until May 2021 if the business has under 50 employees and demonstrates a financial hardship. In addition, the new law places a minimum 60 day hold on all existing commercial eviction cases, so it seems that there will not be any major forward progress on any commercial landlord-tenant cases until May 2021, although the courts have continued conducting virtual court conferences when commercial tenants are represented by legal counsel.

The new law also requires landlords to serve hardship declaration notices with all legal notices served on commercial tenants similarly to the protocol that was previously established for residential tenants. Consequently, commercial landlords can continue to serve predicate default notices and commence new cases, but if a tenant completes a hardship affidavit the case will be on hold until May 2021. Hopefully, this moving target will not be moved again in May.

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