

Aleksandra Rachwał

Jagiellonian University, Kraków, Poland
a.rachwal@student.uj.edu.pl

Eviction Moratorium in the New York State During the COVID-19 Pandemic Development and Analysis of Legal Solutions

The work aims to analyze and compare the development of the legal solutions for the eviction crisis that were introduced during the COVID-19 pandemic in the New York State by each branch of the authorities. The issue will be studied by analyzing documents introduced by the legislature, executive branch and judiciary, dealing with the prohibition of evicting tenants from residential and commercial premises during the COVID-19 pandemic. The paper will analyze short-term solutions in the form of ordinances, as well as long-term solutions in the form of laws. Furthermore, it will try to demonstrate the minor contradictions, problems, and complexities involved with the bifurcation of the introduced legal solutions, and to show that eviction moratoria in the New York State did not provide total protection and assistance to tenants, as well as that their solutions were rather short-term. The paper will also present solutions from the federal level and compare them to state solutions in order to show the difference in approach. The article will also demonstrate that acting at the state and local level, on a smaller scale, is more effective because it is easier to reach a specific group of stakeholders. Moreover, a change in the nature of legal solutions introduced at the state level will be observed, which was caused by the change of a governor general of the New York State and the Supreme Court's ruling that one of the laws was illegal – the paper will show how this ban was circumvented by the new state authorities.

Keywords: eviction, moratorium, COVID-19, New York, United States of America

Introduction

During the COVID-19 pandemic, the eviction crisis became an important and widely discussed topic, as it influenced the entire U.S. population, and its effects spread to all states. The last similar crisis took place in 1918 in the form of influenza, which was more deadly than COVID-19 (probably due to medical developments), but the coronavirus pandemic had a much greater impact on the U.S. economy. The main problem was the loss of jobs due to massive business closures, leaving many people with lost income and no way to pay their rent or mortgage. At the end of December 2020, more than 10 million tenants were in arrears for payment of their rent and faced eviction (Wilson 2). Urban Institute data showed that at the end of January 2021, Americans' rent arrears amounted to \$57 billion (Parrott and Zandi 2), while in December 2021 the debt was already around \$70 billion (Wilson 4). In the first months of COVID-19, evictions may have led to more than 400,000 excess illnesses and 11,000 deaths (Wilson 6).

To combat the eviction crisis caused by the pandemic, measures have been taken at the federal and state levels, and authorities have introduced various types of documents and moratoria to counter its effects. The article will analyze and compare the eviction-prevention legal solutions accepted during the COVID-19 pandemic on all levels of authorities in the New York State.

This particular state was chosen for analysis because of several important reasons. First, the New York State is an American forerunner when it comes to housing regulations. This may be due to the influx of large numbers of immigrants and the need to provide them with a place to live. Housing regulations had already been introduced there since the colony was in Dutch hands. The state was far ahead of the federal government in the field of housing regulations, accepting many more laws and restrictions related to new constructions.¹ The second reason is the specificity of the regulations enacted by the New York State during the COVID-19 pandemic, where – unlike the federal moratorium – the state also protected commercial tenants and landlords. Moreover, New York is the largest city in the United States in terms of population, so the housing system must be well developed to meet all the challenges created by nearly 9 million people.

The fight against the spread of the Sars-Cov-2 virus in the United States by temporarily halting evictions has been carried out mainly at the state and local level, as this way the federal government could manage the crisis more effectively. The New York State is an example of very dynamic government actions and the introduction of various types of tenant protections against evictions. In this state, every branch of the authorities, not only the executive branch, but also the legislature and judiciary, have been actively involved in introducing various types of legislation

¹ Regulations introduced in New Amsterdam were mainly based on fire prevention. An example is the ban of wooden and plaster chimneys from 1648. Subsequently, around 1790, fire walls were ordered to be built in dwellings, and then, in 1800, the city of New York was authorized by the state legislature to buy out dwellings that violate building codes. It is also worth mentioning that in 1916 the first zoning law in the country was established there, so that the construction of new skyscrapers allowed light and air to cross streets. See: The House I Live In, "Milestones: A history of housing in the United States," <https://www1.cuny.edu/sites/thehouse/milestones-for-the-house-i-live-in-a-history-of-housing-in-the-united-states/>.

to temporarily stop evictions of both residential units and commercial tenants. The New York State, compared to the other U.S. states, has been a pioneer in accepting housing regulations for the benefit of residents and landlords, which was also the case during the pandemic.

This work analyzes documents in which eviction records of the New York State during the COVID-19 pandemic appear. They are not discussed chronologically because for two years many of them were intertwined and lacked consistency. Those acts have been divided into groups in order to show more clearly certain relationships, stratification, and scope. The article includes quotes from the New York State documents as well as some local laws introduced within the state but relevant to the federal system. Three types of legal foundations established by the state will be analyzed, such as executive orders issued by the state governor,² administrative orders issued by the Chief Administrative Judge³ and four laws introduced by the New York State legislature as well as all their extensions and modifications. In the case of administrative orders, although the activities of the Chief Administrative Judge fall under the executive branch, this authority is treated here as a branch of the judiciary, to which the Judge belongs, and administrative orders relate only to judicial procedures. It should be remembered that the provisions of the federal CARES Act were also valid in the New York State, but as one can see, the legal basis established by the state is stronger than assumptions of that law.

The Importance of State Executive Orders in the Fight Against Evictions During the Pandemic

The New York State had already begun to put in place the legal groundwork to increase tenant protection before the outbreak of the coronavirus pandemic. On June 14, 2019, the then state Governor General Andrew Cuomo signed into law the Housing Security and Tenant Protection Act of 2019 (HSTPA). The Act guaranteed greater protection for the tenant in the event of eviction, mainly in financial terms. At the time of the pandemic, the important provision assumed that it is prohibited to conduct the wrongful and unlawful expulsion of the tenant from an apartment, which would involve cutting off utilities, replacing locks or removing the landlord's belongings from the premises. Thus, the idea was to prohibit informal evictions

² Executive orders, or executive decrees, are declarations issued in this case by the state's governor general, which have the force of law and are based on the applicable powers set forth in the law. They serve to trigger appropriate actions to stop states of disasters, calamities and crises. Such ordinances do not require approval from Congress or the state legislature, and the legislature cannot overturn them. Such powers for the governor are defined by state constitutions and statutes and in case law. See: Legal Information Institute, "Executive Order." See: National Governors Association, "Governors' Powers & Author."

³ Administrative order, or administrative regulation, is issued by the chief administrative judge, or superior administrative law judges. They hear cases exclusively in the field of administrative law. They operate under the *Administrative Procedure Act of 1946*. However, they are considered part of the executive branch, not the judiciary, and are appointed by the heads of administrative agencies. Each state has such judges, and in the case of New York State, they also serve in the regular court system. See: NYCourts.gov, "Court Structure."

without a court order and without a fair and due process of law. The tenant faced a fine for this type of eviction, and additionally it was treated as a criminal offence (Stewart-Cousins). Since then, therefore, the only legal way to carry out an eviction in the New York State led through obtaining a court order, which proved to be important during the pandemic, when the courts ceased to operate on a regular basis.

The first type of legislation at the state level included executive orders established by the Governor General of the New York State. These were issued under a special power of attorney, also called emergency power, given to the governor so that he could prepare to the state for an emergency and potential disaster (National Governors Association). In the federal system, such arrangements are necessary because, as in the case of the COVID-19 pandemic, most of the action takes place at the local level due to the great diversity and size of the United States. This procedure facilitates the work of the federal legislature, executive branch, and judiciary, which would find it difficult to adapt legislation to varying state laws and to cover such a large area. In addition, these ordinances could have been crucial in the context of the pandemic, since the speed and scale with which the Sars-Cov-2 virus developed were not known beforehand, and such ordinances would have made it possible to respond to the current situation. During the COVID-19 pandemic, the Governor General of the New York State issued a number of ordinances, but this subsection examines only those whose provisions directly or indirectly address the issue of the eviction ban.

The first executive order addressing the eviction issue is the one issued on March 7, 2020, by Governor Cuomo. The ordinance declares a state of public health emergency in the New York State, based on the World Health Organization's declaration of a pandemic state on January 30, 2020, and the United States' own declaration of public health emergency a day later. In addition, the first case of the Sars-Cov-2 disease had just occurred in the New York State on March 1, 2020, so the governor, taking into account the aforementioned factors and assuming the progressive development of the virus, introduced the Executive Order No. 202. This document was initially to be in effect until September 7, 2020, and it listed various powers granted to various units during the state of emergency and extended certain legal basis. Although this regulation does not directly address the issue of eviction, it is significant as the first ordinance which pays attention to pandemic and emergency conditions and initiates further regulations.

Subsequently, two executive orders went into effect on March 20 and 22, 2020, where the second one was the update of the previous regulation. The first, numbered 202.6, dealt with the essential workers and labor model. This regulation defined such workers and recommended: when an employee is not in this group, he or she should move to remote work if it is possible. The regulation was to take effect on March 22, 2020. Another order, numbered 202.8, which is a reminder of the previous one and adds new provisions, was just issued on March 22, 2020, so on the day when the executive order 202.6 went into effect. Its purpose was to suspend or modify some legal basis in the New York State and make them subject to the pandemic crisis and state of emergency. It also authorizes various directives to deal with this crisis. The ordinance recommended increasing the number of employees transferred to remote work mode from 50% to 75% of the workforce. The second part of the regulation included a direct provision on evictions. It stated that as of March 22 no eviction procedure should be initiated against both residential and commercial tenants. Foreclosures of such

property was not allowed to be initiated for a period of 90 days, so until June 20, 2020. In the case of these two regulations, one can see some correlation between the provisions on remote work and the temporary eviction ban, as the second regulation is just an update. Moreover, the provision concerning the eviction ban came right after the remote work recommendation, so it represents a certain cause-and-effect process. In order to switch to remote work mode, it is necessary to have a residence with Internet access, so this update seemed to be a practical and rational move.

The Executive Order No. 202.28 was introduced on May 7, 2020, which was still during the 90-day period when the Executive Order No. 202.8 was in effect. The new regulation also updated – to a certain degree – the previous one, but it also included more specific provisions on issues related to the eviction ban. The order 202.28 declared that no eviction proceedings should be initiated against residential or commercial tenants for non-payment of rent and no seizure of residential or commercial mortgages for non-payment of such a loan was allowed. However, these rules applied only to those with unemployment insurance, subject to specific federal or state assistance programs, and facing financial difficulties due to the COVID-19 pandemic. The regulation was to be effective for a period of 60 days from the end of the executive order 202.8, that is from June 20 to August 19, 2020. The provision ordering within this moratorium to protect people with financial problems due to the pandemic is very important because, according to later documents, it was extended to prohibit eviction of those with general financial problems, not necessarily related to the pandemic. This situation shows the dynamics of events and the severity of the crisis caused by the COVID-19 pandemic.

The latest Executive Order No. 202.48, which contains eviction provisions, was issued on July 6, 2020. It is an extension of the eviction provisions for non-payment of rent from the Executive Order No. 202.28, but this time it covered only commercial tenants and those with commercial mortgages. Residential units were excluded from the provisions of the ordinance, as they were then covered by a newly introduced New York State law – the Tenant Safe Harbor Act.

The Role of the State Judiciary and Administrative Orders in the Context of Evictions During a Pandemic

Another type of ordinances introduced in the New York State were administrative orders, issued by a court represented by the Chief Administrative Judge, whose role was then held by Judge Lawrence K. Marks. Administrative orders issued in the New York State relate only to court procedures and the handling of a particular type of case during a pandemic. They are characterized by a drastic reduction of the activities of the state's courts during the pandemic and change in the rules of their operation. Various ordinances mainly focus on the issues of evictions and court conduits concerning such cases.

The first administrative order was issued by Judge Marks on March 13, 2020, but it applied only to the city of New York, although this was a decree issued by the state court. Such a situation may seem to be reasonable because – according to the U.S. Census Bureau – the population of New York City accounts for more than 43% of the population of the entire state. A more pronounced difference between the state

and city populations can be seen by comparing the number of people per square kilometer. According to *World Population Review*, the state of New York has 421 people per square kilometer, while in the city of New York the number is about 27,000. The ordinance included only the provisions concerning the conduct of lawsuits in various types of cases, and one of the provisions stipulated an immediate and one-week moratorium on evictions in New York City, which could be extended. Furthermore, in the document issued by the State of New York Unified System called *Memorandum: Coronavirus – Procedures to Reduce Courthouse Traffic* it is said that the New York City Housing Court refuses to accept new eviction applications if a party does not appear in court. Then, as with the executive order, a kind of update was introduced on March 15 in the form of a new administrative order, which extended the restriction on the courts. Again, it applied only to the city of New York, and provided for the postponement of all less important functions of the state courts during the pandemic – due to the surge in disease – until further notice. The ordinance specifies exactly which cases are necessary to be heard, and within the housing courts of the city of New York such actions included only certain important applications and lawsuits involving serious violations of housing regulations, repair orders or unlawful blockades of apartments by landlords as *Memorandum: Updated Protocols* by the State of New York Unified System outlined. Formally, therefore, through the aforementioned orders, the Chief Administrative Judge halted and prevented the start of new evictions, suspending court activities in less important cases until further notice. The general provisions of the order from March 15 had already halted criminal and civil lawsuits, mentioning also evictions, but they applied only to the city of New York.

The administrative order of the Chief Administrative Judge of the Courts which applied to the entire state was issued a few days later, on March 22, 2020. The Chief Administrative Judge stated here that due to the emergency caused by the COVID-19 pandemic in the New York State and throughout the country, and in accordance with the executive order issued by Governor Cuomo, county clerks or commissions may not accept any documents on any matter that is not given in the list of relevant matters included in the same order. Within the group of cases that could be heard, four issues were placed in the context of evictions, two of which had appeared previously. Moreover, in this group, there were cases involving serious violations of the housing code and those concerning serious repair orders. New items placed in this regulation included the possibility for the court to consider a request for legal aid after an eviction judgment and a request for a property lockout⁴ by the landlord, consisting of, among other things, the premises closure and the restriction of access to basic services and utilities for the tenant.

The next two administrative orders were issued less than a month after each other. Nevertheless, they created some confusion. The first went into effect on June 20, 2020, and focused on the judicial process like the previous ones, but had more

⁴ A real estate lockout involves, among other things, changing door locks or taking other actions to keep the tenant from entering an apartment. It is not legal without an official court order for eviction, especially in the New York State, where the only legal way to evict the tenant is through a lawsuit. However, in some states, like Texas, such a practice is considered a legal act, explained by the need to force the tenant to talk about, for example, overdue rent in this way.

specific conditions in terms of legality, stating that a petition must be completed by the legal representative of the party in question because this certifies that he or she is familiar with all applicable eviction moratoria, general and administrative ordinances, and that he or she will file all documents to the best of his or her knowledge. A model of such a petition, ready to be filled out and submitted in English and Spanish, was included along with the regulation. Using this ordinance as an example, it can be seen more clearly that this type of the legal act applies only indirectly to the tenant or landlord, and rather refers to the process and legal representatives of these two parties. The discussed document was not in effect for long, as on July 7 another administrative regulation abolished the need to fill out this petition until further notice, but – as the law is not retroactive – petitions filled out between the first regulation and the second one were to be accepted. Such situations create confusion, and it is difficult for potential parties, due to dynamic changes in the rules, to familiarize themselves with the current law, which is difficult to access because there is a lack of legal support for such people.

The last state administrative order, *Memorandum: Revised Procedure for Addressing Residential and Commercial Eviction Proceedings*, appeared on August 12, 2020, and the entire document was dedicated only to the issue of eviction processes in the New York State. The document set March 17, 2020 as the cutoff date. Eviction lawsuits filed before that date could proceed and were still suspended after that date. In addition, if an eviction order was issued before March 17, but eviction was not carried out, it had to be discussed again with a judge before it could be carried out. What is more, no new eviction order could be delivered before October 1, 2020, nor any issued one could be processed. The regulation also declared that commercial evictions issued by March 17 could be proceeded regardless of their status. These are the main points of the ordinance, but it contains as many as 6 pages outlining the legal basis and 4 pages of informational notes for tenants. Thus, this is one of the longest ordinances, and it only addresses the issue of eviction processes that were to be conducted remotely.

To demonstrate the stratification of the U.S. judicial system and necessity for local activity, one can cite the example of the Administrative Order No. 4JD-030-2020, issued in April and repeated in May 2020 by the judge for judicial district four, Felix Catena. The regulation did not cover the entire state and applied only to the Fourth Judicial District and three counties from District Three of the New York State: Warren, Saratoga, and Washington. However, it was based on general and administrative orders of the state level, and it declared that the eviction would be upheld until June 20, 2020. This situation shows that the main actions were not necessarily taken at the federal level, but at the state and local county levels, so that help reached the parties concerned more quickly.

Attempts to Take Long-Term Solutions – Laws Introduced by the State Authorities

General and administrative orders have the advantage of being able to update regulations on an ongoing basis and respond to current developments, but the rapid transmission of the COVID-19 virus and the dynamics of events forced the New York State to enact several laws to protect tenants against evictions during the

pandemic. These laws, however, worked together with the abovementioned orders, and the rules complemented each other to provide complex protection for tenants. The first statewide law introduced after the appearance of the first case of COVID-19 was the Tenant Safe Harbor Act (TSHA), also called the Senate Bill S8192B, which went into effect on June 30, 2020. The document stipulated that courts would not be able to issue eviction orders or judgments of occupancy for non-payment of rent during a protected period, beginning on March 7, 2020. The uniqueness of the law, however, enabled this document to be somewhat indefinite. The provisions contained therein were to remain in effect until the day when none of the provisions, for example in the form of general ordinances, would apply in the tenant's county of residence. The end of the protected period was unknown at the time, so the end date of this law was unknown as well. Such a solution has both advantages and disadvantages, and depends on one's point of view, but for both sides the issue of the law's indefiniteness could have caused uncertainty, as the situation was changing very quickly and more general orders were coming out. For tenants who often could not access complex and intricate ordinances, and because of the inability to seek a legal opinion, this period could have been a time of anxiety caused by the lack of real knowledge of whether they were protected.

The premise of the act was simple and clearly defined, but the more one delves into it, the more complicated concepts begin to emerge, as well as the fact that the regulation, like the federal one, does not exempt the tenant from paying rent. It should also be mentioned that the TSHA law applied only to residential tenants, not those of commercial character, which were then protected by the Executive Order No. 202.48. The purpose of the discussed law was to provide housing for residential tenants in the wake of the COVID-19 pandemic, which could be achieved by allowing cases to proceed only with a judgment requiring the tenant to pay the amount of money owed and understood as a debt to the landlord — so called money judgments, and not with orders to evict. The New York State Senate website offers a brief explanation of why the bill was introduced. In the Senate Bill S8192B, the legislature explains the need for it by the fact that previous general orders focused on stopping eviction processes but included various conditions that the tenant had to meet, such as being a beneficiary of some assistance program. Circumstances contributed to the introduction of the law when, due to the rapid spread of the virus across the country, and especially in New York, many businesses and companies closed down, and a lot of people lost their jobs due to which the state government anticipated delays in rent payments. Thus, the law was supposed to provide comprehensive protection against evictions for non-payment of rent, but looking at these provisions and analyzing the law, one can conclude that it was not different from the orders and did not protect tenants on a larger scale at all.

The act is divided into only 3 sections and is short. The first section defines what the protected period is and tells when the period ends, which does not have a strictly defined date. The second section, the most extensive one, defines what is not allowed during the protected period. The provision says that no court in the state, regardless of different laws in the area, may issue an eviction order or judgment against a tenant who experiences financial hardship during the protected period with non-payment of rent. In addition, the tenant or legal occupant of the premises can use the hardship caused by the pandemic as his defense in summary proceedings, which

were planned to be conducted in eviction cases. Next, the law specifies what the court understands when determining whether a tenant actually struggles with problems, and the factors considered are income earned before and during the protection period, the tenant's liquid assets and the ability to qualify for any of the financial assistance programs listed in the law.⁵ The act also mentions that the courts can proceed with money judgements. The third section says that the law comes into force with immediate effect.

As one can see, the provisions of the law are clear, but it is worth taking a closer look at the third point of Section 2 defining the condition when a fine judgment can be issued. In this case, it is necessary to recall the concept of a possessory and non-possessory judgement and how it is linked to the issue of the fine. Both of these judgements involve payment, but they differ in terms of enforcing other actions against the debtor. In the case of eviction, a possessory judgement will mean a judgment for debt (e.g. failure to pay rent), which is related to the tenant's right to remain in the apartment, but the inability to pay debt results in the execution of eviction. A non-possessory judgement means the opposite – it admits that the tenant owes the landlord, but the payment of debt is not related to the right to remain in the apartment, and a positive judgment does not necessarily involve eviction (United Tenants of Albany).

According to one provision of the TSHA law, judges can still issue judgments of debt for non-payment of rent, but this judgment will be non-possessory, as the tenant during the protected period cannot be evicted. Still, the tenants who are in arrears with their rent may receive eviction notices during the duration of the act, and after the law ends they will be in arrears unless they manage to pay debt during the protected period. What is more, a judgment of this type that adjudicates debt remains on the tenant's documents and credit history, so that later he or she must deal with many difficulties such as problems in obtaining credit, low creditworthiness, blocking of bank accounts, seizure of wages, difficulties in re-renting through low creditworthiness, accrual of interest on debts, which do not just affect rent but the daily life of such a person (United Tenants of Albany).

Such verdicts exacerbate the homelessness crisis, as re-renting people have to live temporarily in homeless shelters. The inability to get a loan and buy a house or apartment prevents the creation of a community, and the generational poverty increases. In addition, debt judgments are treated as less urgent by care agencies, making it less likely that they will be covered by funds from assistance programs. Several groups of tenants who are not protected can also be distinguished. Tenants whose lease ended or was terminated as well as tenants who violated their lease can still be evicted, even if they experienced the financial hardship related to COVID-19 (United Tenants of Albany).

At the end of 2020, less than six months after the TSHA law was introduced, a new piece of legislation was passed by the state legislature – the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (CEEPPA). The purpose of

⁵ Financial assistance programs outlined in the Senate Bill S8192B that qualify a tenant for assistance include: the Nutrition Assistance Program, the New York State Disability Program, collecting Supplemental Security Income, the Household Energy Assistance Program, unemployment insurance, or collecting benefits under state or federal law.

this law was to prevent the evictions of tenants with financial or health difficulties, and the foreclosures of premises of small landlords struggling with financial difficulties. The second point of the law concerned protection from the sale of tax liens, i.e. prevention which should keep local governments aloof from engaging in the sale of such liens or enforcing them to act against a property owner during the COVID-19 emergency. The third point dealt with prohibition of credit discrimination and negative credit reporting. Credit institutions could not discriminate in granting credit to a residential property owner with 10 housing units or less who made a declaration of hardship for not granting credit due to arrears. The fourth section of the law abolished the need to recertify those qualifying for two income tax exemption programs for elderly people and persons with disabilities.

However, the three points mentioned above will not be analyzed in detail, as they do not directly address the issue of eviction. The main difference separating this law from the Tenant Safe Harbor Act was its expiration date, determined for May 1, 2021. According to one of the law's provisions, it was to be reconsidered just in May, so it was initially in effect for about four months. The most important part of this law, from a labor perspective, is Section 1, which stopped residential foreclosure proceedings for 60 days and allowed mortgage creditors who owned 10 or fewer residential units and had financial problems to file a declaration of such problems with the lender, another foreclosure party, or the court, which will prevent the filing of a foreclosure action or suspend pending proceedings at the time of the declaration, as it was stated in the Senate Bill S9114. The second main difference, therefore, separating CEEFPA from TSHA was the need to file the Declaration of Financial Hardship during the COVID-19-induced alert period. The law thus provided a safeguard for both tenants and landlords, as each party had the option to file a declaration of financial hardship. In this case, the tenant submitted it to the landlord, and the landlord submitted his own declaration to the lender. However, as with the previous law, CEEFPA did not protect against the necessity of payment of the outstanding fees after the expiration of the protection period.

A template for the Declaration of Financial Hardship with the Notice to Tenant document completion was prepared by the New York court system. The declaration includes the need to admit that a person is unable to make housing or other contractual payments for reasons related to the pandemic – due to a permanent loss of income, an increase in household expenses during the pandemic, or the need to care for children, elderly people, or persons with disabilities. The document also includes a statement that funds from government financial assistance are not sufficient to compensate for a loss of income or increased expenses. Moreover, an important note allowed to state that one was living with a person who had an increased risk of illness or death due to COVID-19. The person completing the declaration also confirmed that he or she understood that after August 31, 2021 his or her eviction from the premises was possible, as the Notice to Tenant outlined.

Another law, covering only the protection of smaller businesses, went into effect on March 9, 2021. The COVID-19 Emergency Protect Our Small Businesses Act of 2021, (CEPOSBA), so called the Senate Bill S471A, provided protection for smaller businesses with fewer than 50 employees with financial difficulties. Additionally, the act extended foreclosure protection for small businesses with 10 or fewer

premises. The act is structurally and content-wise very similar to the early CEEFPA, but it covers a different group. The end date of the law was to be May 2, 2021, the day after CEEFPA was originally scheduled to expire. The law defines the commercial tenant as one who is a resident of the state, owns and manages independent property, does not dominate its field, and employs 50 or fewer people. Analogous to the previous law, property owners are protected from the mortgage foreclosure after filing a declaration of financial hardship and operating under similar conditions to CEEFPA. Thus, the new act differs little from CEEFPA, but the group of its recipients is expanded to include companies that employ more people, as this Senate Bill S471A shows.

The aforementioned bills are the only acts which the New York State has introduced to combat evictions and foreclosures. Both bills were supposed to end in May 2021, but the state, as well as the federal government, decided to reconsider the status of the pandemic's development, which resulted in two extensions, including one in the form of a new law. The decision for the first extension was made by the then Governor General Andrew Cuomo at the beginning of May 2021 and applied to all provisions set forth in both CEEFPA and CEPOSBA. The extension was explained by the continued and dynamic development of the pandemic. The new expiration date for both laws was set for August 31, 2021, by Cuomo. However, on August 12, 2021, shortly before the official expiration, the U.S. Supreme Court ruled CEEFPA unconstitutional, necessitating other actions by state authorities.

Due to the U.S. Supreme Court ruling on August 12, 2021, the laws introduced new protection for commercial premises. Among the innovations accepted by Governor Hochul was the possibility for residents of counties or municipalities to take advantage of the ERAP program, where previously the state law had been rejected by local authorities and was not in effect. As in the case of preceding laws, the key role was played by a declaration testifying to difficulties, but without specifying their source and type. The declaration explained the character of the tenant's or landlord's problems.

This declaration looked similar to the previous one. The landlord could challenge its veracity and demand a court hearing for the tenant on the matter. The state's assistance programs became, however, the highlight of the new moratorium. The governor herself encouraged to participate in these programs, arguing that the tenant was then automatically protected. The New York State Emergency Rental Assistance Program (ERAP) was here the main initiative, which provided assistance in paying rent and utilities made overdue by the pandemic. However, in order to qualify for the program, one had to meet several specific criteria like an adequate income, lost employment and income due to COVID-19, or risk of being in a crisis of homelessness or housing instability. The program offered various options for assistance, like paying rent up to 12 months from March 13, 2020, rent assistance up to 3 months if 30% or more of gross monthly income was dedicated to rent, and paying up to 12 months from March 13, 2020, for electricity or gas arrears. All payments, after qualifying for the program, were transferred directly to the landlord or service provider, and the tenant was informed of such payments, as the Emergency Rental Assistance Program stated.

Conclusion

Taking into consideration all the documents introduced by authorities, it can be assumed that the New York State law protected temporarily from losing the place of residence rather than from the necessity of paying for tenancy. The tenant was not completely exempt from paying rent, although it may be difficult or impossible to receive wages during the pandemic. The advantage of such a system and laws may result from the fact that it is easier for the tenant to catch up financially and earn money for rent even in times of crisis if he has a stable place to live, not threatened with eviction. The additional protective solution was introduced in the city of New York where, according to the Executive Order No. 202.28 issued by Bill de Blasio, the landlord and the tenant could enter into an agreement, accepting that a security deposit paid by the tenant, plus interest, will be used to pay any overdue rent, accumulated also during the protected period. Such an agreement must depend on the tenant, and landlords may not then charge interest related to the non-continuity of payments (Morrison Foerster).

The New York State's moratorium expired on January 15, 2022, and since then tenants have had to rely on other sources when it comes to help with eviction issues. All the laws introduced throughout the state were intertwined and often complementary, and many of their provisions were repeated. Looking at the totality and assumptions of the adopted documents, one can see the most important features of the eviction ban introduced by the state. A standout feature is that the acts, although they attempted to be perpetual and their provisions often opened the way for further extensions, were more of an emergency and short-term relief than a long-term protection perspective for landlords and tenants. It should be noted, however, that even if the provisions of the federal eviction moratorium were in place throughout the United States, New York's state provisions were stronger and covered a larger group of people, and by operating on a local scale, the moratorium was able to help a larger number of persons.

References

- "5,589 New Cases in One Day Break Influenza Record." *The New York Times*, 29 Jan. 1920, p. 1.
- "About Us." Eviction Lab, <https://evictionlab.org/about/>.
- "Cares Act Eviction Moratorium – Congress." *CRS Reports – Congress*, 7 Apr. 2020, <https://crsreports.congress.gov/product/pdf/IN/IN11320>.
- Catena, Felix J. "Administrative Order 4JD-030-2020 Fourth Judicial District." *New York State Bar Association*, vol. 92, no. 3, 2020, https://nysba.org/app/uploads/2020/04/NYSBA-April-2020-Journal_FinalWEBLinks.pdf.
- Chief Administrative Judge of the Courts. "Administrative Order of the Chief Administrative Judge of the Courts." *nycourts.gov*, 22 Mar. 2020, <https://www.nycourts.gov/whatsnew/pdf/AO-78-2020.pdf>.
- Chief Administrative Judge of the Courts. "Administrative Order of the Chief Administrative Judge of the Courts." *nycourts.gov*, 18 Jun. 2020, <https://www.nycourts.gov/whatsnew/pdf/AO-127-20.pdf>.
- Chief Administrative Judge of the Courts. "Administrative Order of the Chief Administrative Judge of the Courts." *nycourts.gov*, 7 Jul. 2020, <https://nycourts.gov/whatsnew/pdf/AO-143-20.pdf>.

- "Court Structure." *nycourts.gov*, <https://ww2.nycourts.gov/courts/8jd/structure.shtml>.
- Desmond, Matthew, and Rachel Tolbert Kimbro. "Eviction's Fallout: Housing, Hardship, and Health." *Social Forces*, vol. 94, no. 1, 2015, pp. 295-324, <https://doi.org/10.1093/sf/sov044>.
- Desmond, Matthew. *Eksmitowani. Nędza i zyski w jednym z amerykańskich miast*. Tomasz S. Gałązka (transl.). Warszawa: Marginesy, 2019.
- "Executive Order." *Legal Information Institute*, https://www.law.cornell.edu/wex/executive_order.
- "Governor Cuomo Signs Extension of the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 and the COVID-19 Emergency Protect Our Small Businesses Act of 2021." *New York State*, Governor Kathy Hochul, 4 May 2021, <https://www.governor.ny.gov/news/governor-cuomo-signs-extension-covid-19-emergency-eviction-and-foreclosure-prevention-act-2020>.
- "Governor Hochul Signs New Moratorium on Covid-Related Residential and Commercial Evictions into Law, Effective through January 15, 2022." *New York State*, Governor Kathy Hochul, 2 Sep. 2021, <https://www.governor.ny.gov/news/governor-hochul-signs-new-moratorium-covid-related-residential-and-commercial-evictions-law>.
- "Governors' Powers & Authority." *National Governors Association*, <https://www.nga.org/governors/powers-and-authority/#orders>.
- Hoylman, Brad. "NY State Senate Bill S8192B." *NY State Senate*, 6 Jul. 2020, <https://www.nysenate.gov/legislation/bills/2019/s8192/amendment/b>.
- "H.R.748 – CARES Act. 116th Congress (2019-2020).", 27 Mar. 2020, <https://www.congress.gov/bill/116th-congress/house-bill/748/text?q=%7B%22search%22%3A%5B%22corona+virus+aid+relief+and+economic%22%5D%7D&r=2&s=1>.
- Kaplan, Anna M. "NY State Senate Bill S471A." *NY State Senate*, 6 Jan. 2022, <https://www.nysenate.gov/legislation/bills/2021/s471>.
- Kavanagh, Brian. "NY State Senate Bill S9114." *NY State Senate*, 29 Dec. 2020, <https://www.nysenate.gov/legislation/bills/2019/S9114>.
- Marks, Lawrence K. "Memorandum: Coronavirus – Procedures to Reduce Courthouse Traffic." *New York State Bar Association*, 13 Mar. 2020, <https://nysba.org/app/uploads/2020/03/Agenda-Item-10-Free-Expression-Report-with-staff-memo.pdf>.
- Marks, Lawrence K. "Memorandum: Revised Procedure for Addressing Residential and Commercial Eviction Proceedings." *New York State Unified Court System*, 12 Aug. 2020, https://nycourts.gov/whatsnew/pdf/Rev_Ev_8_12.pdf.
- Marks, Lawrence K. "Memorandum: Updated Protocols." *New York State Unified Court System*, 15 Mar. 2020, <https://www.nycourts.gov/whatsnew/pdf/Updated-Protocol-AttachmentA3.pdf>.
- "Milestones: A History of Housing in the United States." *The House I Live In*, <https://www1.cuny.edu/sites/thehouse/milestones-for-the-house-i-live-in-a-history-of-housing-in-the-united-states/>.
- New York State Attorney General. "Attorney General James Provides Guidance to New Yorkers Following Expiration of Eviction Moratorium." *Letitia James: NY Attorney General*, <https://ag.ny.gov/press-release/2022/attorney-general-james-provides-guidance-new-yorkers-following-expiration>.
- New York State Office of Temporary and Disability Assistance. "Emergency Rental Assistance Program." *New York State Office of Temporary and Disability Assistance*, <https://otda.ny.gov/programs/emergency-rental-assistance/>.
- "New York Tenant Safe Harbor Act Extends COVID-Related Eviction Protections for Residential Tenants." *Morrison Foerster*, 2 Jul. 2020, <https://www.mofo.com/resources/insights/200702-new-york-tenant-safe-harbor-act-extends.html>.
- "Notice To Tenant." *New York State Unified Court System*, https://www.nycourts.gov/eefpa/PDF/Eviction_Hardship_Declaration-English.pdf.

- “One Hundred Sixteenth Congress of the United States of America.” *Congress.gov*, 3 Jan. 2020, <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>.
- Parrott, Jim, and Mark Zandi. “Averting an Eviction Crisis – Urban Institute.” *Urban Institute*, Jan. 2021, <https://www.urban.org/sites/default/files/publication/103532/averting-an-eviction-crisis.pdf>.
- State of New York. “COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020.”, 24 Dec. 2020, https://www.nycourts.gov/whatsnew/pdf/S9114_Kavanagh_2020.pdf.
- State of New York Executive Chamber. “Executive Order No. 202.” *Governor of New York*, 7 Mar. 2020, https://www.governor.ny.gov/sites/default/files/atoms/files/EO_202.pdf.
- State of New York Executive Chamber. “Executive Order No. 202.28.” *New York Library Association – NYLA*, 7 May 2020, <https://www.nyla.org/userfiles/Advocacy/EO202.28.pdf>.
- State of New York Executive Chamber. “Executive Order No. 202.48.” *Governor of New York*, 6 Jul. 2020, https://www.governor.ny.gov/sites/default/files/atoms/files/EO_202.48.pdf.
- State of New York Executive Chamber. “Executive Order No. 202.6.” *Governor of New York*, 18 Mar. 2020, <https://www.governor.ny.gov/sites/default/files/atoms/files/EO202.6.pdf>.
- State of New York Executive Chamber. “Executive Order No. 202.8.” *Governor of New York*, 20 Mar. 2020, https://www.governor.ny.gov/sites/default/files/atoms/files/EO_202.8.pdf.
- State of New York Senate Assembly. “Housing Security and Tenant Protection Act of 2019.”, 11 Jun. 2019, <https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2019/11/Housing-Stability-and-Tenant-Protection-Act-of-2019.pdf>.
- Stewart-Cousins, Andrea. “NY State Senate Bill S6458.” *New York State Senate*, 21 Jun. 2019, <https://www.nysenate.gov/legislation/bills/2019/S6458>.
- “Tenant Safe Harbor Act.” *United Tenants of Albany*, https://utalbany.org/wp-content/uploads/2020/08/8.2020_Safe-Harbor-Act-Explained-UTA.pdf.
- “Why Eviction Matters.” *Eviction Lab*, <https://evictionlab.org/why-eviction-matters/#whatis-an-eviction>.
- Wilson, Mel. “National Eviction Crisis in the Era of the Coronavirus Pandemic.” *National Association of Social Workers*, Social Justice Brief, <https://www.socialworkers.org/LinkClick.aspx?fileticket=gmNJzUL1BpM%3D&portalid=0>.