



MEMORANDUM IN OPPOSITION

TITLE OF LEGISLATION:

S. 8125 (Gianaris) relating to suspend residential and commercial rent payments.

SUMMARY OF PROVISIONS:

This legislation will waive commercial and residential rent for 90 days for tenants that have lost employment or been forced to close their place of business as a result of government ordered restrictions in response to COVID-19, and waive certain mortgage payments for 90 days for mortgagors who experience financial hardship due to COVID-19.

REASONS FOR OPPOSITION:

The Association For A Better Long Island and Long Island Builders Institute, whose members combine to form the region's largest property owner and taxpayer, strongly opposes this legislation. It is clear that the COVID-19 pandemic will leave the State of New York with a multibillion-dollar deficit. This legislation will only exacerbate the problem and further damage an economy already under assault. It applies broadly to a residential tenant or commercial tenant who is either unwilling or unable to pay rent. The cascading impact of this bill could easily result in thousands of commercial and multi-family residential properties being thrown into bankruptcy with resulting chaos in the market, a loss of property maintenance, and problematic real estate tax collections. Furthermore, this legislation was conceived before guidance is established on how federal stimulus, the CARES Act, will assist New Yorkers.

The following are our concerns:

1. The bill applies broadly to a residential tenant or commercial tenant that is unable to pay rent directly as a result from covid-19 – effectively the proposal permits anyone not to pay. As a result, there will be a permanent loss of 25% of a year's rent, which would be devastating and unsustainable to property owners.
2. An immediate and obvious flaw is that there is no criteria for what proof is necessary for the tenant to prove hardship. Nor does it account for those who will be eligible for bridge loans, grants, or unemployment to cover such rent payments out of the Federal stimulus bill. It thereby creates a permanent waiver of rent for 90 days based upon "hardship" with no definition, meaningful criteria or enforcement mechanism.

3. The bill only factors in mortgage as a factor in the rent formula. However owners must calculate rent based on a variety of costs: mortgages, taxes, utilities, insurance, and labor.
4. There is no rule making or application process outlined for how to determine eligibility. If it is a wholesale reduction in rent or complete zeroing out, for how long would such reductions be in place.
5. The bill includes an automatic lease renewal at current rental rate. The language is overly broad and indicates anyone is eligible for such a benefit. Also the language does not specify what length of time is included in the automatic lease renewal.
6. It would be reasonable to require a short-term lease extension at current rent, and should include a lease rider that allows for that to be broken once situation/crisis is resolved.
7. Regarding commercial tenants, the language applies to small business which is defined in Section 131 of EDA as: *For the purposes of this chapter, a small business shall be deemed to be one which is resident in this state, independently owned and operated, not dominant in its field and employs one hundred or less persons.* There no guidance on how to determine if a business is dominant in its field or how a devastated field due to the pandemic makes any prior dominance irrelevant.

For all the reasons stated above, the Association For A Better Long Island and Long Island Builders Institue strongly opposes SB 8125.