



Lawrence K. Marks
Chief Administrative Judge

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MEMORANDUM

July 7, 2020

To: Hon. George J. Silver
Hon. Vito C. Caruso
Hon. Anthony Cannataro
Hon. Sherry Klein Heitler

From: Lawrence K. Marks *LM*

Subject: Elimination of Attorney Affirmation/Petitioner's Affidavit Requirement
in Residential and Commercial Eviction and Foreclosure Proceedings

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As you may know, Governor Cuomo yesterday issued Executive Order 202.48 (Exh. A) that, among other things: (1) continued the suspension of statutes of limitation and statutory filing deadlines for various legal proceedings in light of the COVID-19 pandemic, and (2) terminated a previous gubernatorial directive, contained in Executive Order 202.28 (Exh. B), that had prohibited the initiation of a proceeding or enforcement of an eviction of a residential tenant for nonpayment of rent, or the foreclosure of any residential mortgage. As EO 202.48 makes clear (Exh. A, p. 2), that relief afforded to residential tenants and mortgagors has been superseded by recent legislation (L. 2020, chs. 112, 126, and 127 [Exhs. C-E]).¹

As a result of this recent Executive Order, I am amending the procedure for addressing eviction and foreclosure proceedings set forth in my memoranda of June 18 and June 23, 2020, in one important respect. **Effective immediately, service of an attorney's affirmation or a petitioner's affidavit with the petition or complaint in an eviction or foreclosure proceeding – whether residential or commercial – is no longer required.** All other aspects of proceedings described in those two memoranda – including the required service of a Notice to Respondent Tenant or a Notice to Respondent in residential eviction and foreclosure matters, remain in effect. Administrative Orders AO/127/20 and AO/131/20 have been amended to reflect this new procedure (Exh. F AO/143/20). We plan to issue a further order addressing foreclosure matters in a more comprehensive fashion in the near future.

Please distribute this memorandum and attachments as necessary.

Attachment

c: Hon. Edwina Richardson-Mendelson
Administrative Judges

¹ The protections afforded to commercial tenants and commercial mortgagors set forth in EO 202.28 remain unchanged by EO 202.48.

EXHIBIT A



State of New York

Executive Chamber

No. 202.48

EXECUTIVE ORDER

CONTINUING TEMPORARY SUSPENSION AND MODIFICATION OF LAWS RELATING TO THE DISASTER EMERGENCY

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, do hereby continue the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued and contained in Executive Order 202.27, 202.28, , and 202.38, for another thirty days through August 5, 2020, except the following:

- The suspension or modification of the following statutes and regulations, and the following directives, are not continued, and such statutes, codes, and regulations are in full force and effect as of July 7, 2020:
 - The suspension of Education law section 3604(7), and any associated directives, which allowed for the Commissioner of Education to reduce instructional days, as such suspensions and directives have been superseded by statute, contained in Chapter 107 of the Laws of 2020;
 - The suspension of Section 33.17 of the Mental Hygiene Law and associated regulations to the extent necessary to permit providers to utilize staff members transport individuals receiving services from the Office of Mental Health or a program or provider under the jurisdiction of the Office of Mental Health during the emergency;
 - The suspensions of sections 2800(1)(a) and (2)(a); 2801(1) and (2); 2802(1) and (2); and 2824(2) of the Public Authorities Law, to the extent consistent and necessary to allow the director of the Authorities Budget Office to disregard such deadlines due to a failure by a state or local authority to meet the requirements proscribed within these sections during the period when a properly executed declaration of a state of emergency has been issued, are continued only insofar as they allow a state or local authority a sixty day extension from the original statutory due date for such reports;
 - Section 390-b of the Social Services Law and regulations at sections 413.4 and 415.15 of Title 18 of the NYCRR;
 - Subdivision 8 of section 8-407 of the Election Law;

- The suspension of Criminal Procedure Law to the extent it requires a personal appearance of the defendant, and there is consent, in any jurisdiction where the Court has been authorized to commence in-person appearances by the Chief Administrative Judge; provided further that the suspension or modification of the following provisions of law are continued:
 - Section 150.40 of the Criminal Procedure Law, is hereby modified to provide that the 20-day timeframe for the return date for a desk appearance ticket is extended to 90 days from receiving the appearance ticket;
 - Section 190.80 of the Criminal Procedure Law, is hereby modified to provide that the 45-day time limit to present a matter to the grand jury following a preliminary hearing or waiver continues to be suspended and is tolled for an additional 30 days;
 - Section 30.30 of the Criminal Procedure Law, is hereby modified to require that speedy trial time limitations remain suspended until such time as petit criminal juries are reconvened or thirty days, whichever is later;
 - Article 195 of the Criminal Procedure Law, is hereby suspended to the extent that it would prohibit the use of electronic appearances for certain pleas, provided that the court make a full and explicit inquiry into the waiver and voluntariness thereof;
 - Sections 190.45 and 190.50 of the Criminal Procedure Law, are hereby modified to the extent necessary to allow an incarcerated defendant to appear virtually with his or her counsel before the grand jury to waive immunity and testify in his or her own defense, provided the defendant elects to do so;
 - The suspension of Section 180.80 and 190.80 of the Criminal Procedure Law, as modified by Executive Order 202.28, is hereby continued for a period not to exceed thirty days in any jurisdiction where there is not a grand jury empaneled; and when a new grand jury is empaneled to hear criminal cases, then 180.80 and 190.80 of the criminal procedure law shall no longer be suspended beginning one week after such grand jury is empaneled;
 - The suspension of Sections 180.60 and 245.70 of the Criminal Procedure Law, as modified by Executive Order 202.28, which allowed protective orders to be utilized at preliminary hearings, is hereby continued for a period of thirty days; and
 - The suspension of Sections 182.20, in addition to the modification contained in Executive Order 202.28 of section 182.30 of the Criminal Procedure Law is hereby extended for a period of thirty days, to the extent that it would prohibit the use of electronic appearances for felony pleas, or electronic appearances for preliminary hearings or sentencing;
- Business Corporation law sections 602, 605, and 708, as such suspensions have been superseded by statute, as contained in Chapter 122 of the Laws of 2020;
- Banking Law Section 39 (2), as such suspension has been superseded by statute, as contained in Chapters 112 and 126 of the Laws of 2020, as well as the directives contained in Executive Order 202.9;
- Insurance Law and Banking Law provisions suspended by virtue of Executive Order 202.13, which coincide with the expiration of the Superintendent's emergency regulations;
- Subdivision (28) of Section 171 of the Tax Law, to the extent that the Commissioner has extended any filing deadline;
- Sections 3216(d)(1)(c) and 4306 (g) of the Insurance Law, and any associated regulatory authority provided by directive in Executive Order 202.14, as the associated emergency regulations are no longer in effect;
- The directive contained in Executive Order 202.28, as extended, that prohibited initiation of a proceeding or enforcement of either an eviction of any residential or commercial tenant, for nonpayment of rent or a foreclosure of any residential or commercial mortgage, for nonpayment of such mortgage, is continued only insofar as it applies to a commercial tenant or commercial mortgagor, as it has been superseded by legislation for a residential tenant, and residential mortgagor, in Chapters 112, 126, and 127 of the Laws of 2020; and
- The directive contained in Executive Order 202.10 related to restrictions, as amended by Executive Order 202.11, related dispensing hydroxychloroquine or chloroquine, as recent findings and the U.S. Food & Drug Administration's revocation of the emergency use authorization has alleviated supply shortages for permitted FDA uses of these medications.
- The directives contained in Executive Order 202.3, that closed video lottery gaming or casino gaming, gym, fitness center or classes, and movie theaters, and the directives contained in Executive Order 202.5 that closed the indoor common portions of retail shopping malls, and all places of public amusement, whether indoors or outdoors, as amended, are hereby modified to provide that such directives remain in effect only until such time as a future Executive Order opening them is issued.

IN ADDITION, I hereby suspend or modify for thirty days through August 5, 2020:

- the provisions of Articles 11-A and 11-B of the State Finance Law, and any regulations authorized thereunder, to the extent necessary to respond to the direct and indirect economic, financial, and social effects of the COVID-19 pandemic.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I do hereby issue the following directives for the period from the date of this Executive Order through August 5, 2020:

- The directive contained in Executive Order 202.41, that discontinued the reductions and restrictions on in-person workforce at non-essential businesses or other entities in Phase Three industries or entities, as determined by the Department of Health, in eligible regions, is hereby modified only to the extent that indoor food services and dining continue to be prohibited in New York City.



G I V E N under my hand and the Privy Seal of the
State in the City of Albany this sixth
day of July in the year two thousand
twenty.

BY THE GOVERNOR

Me. C.
Secretary to the Governor

Ad. Cuomo

EXHIBIT B



MAY 7, 2020 Albany, NY

No. 202.28: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency

No. 202.28

EXECUTIVE ORDER

Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency

WHEREAS, on March 7, 2020, I issued Executive Order Number 202,
declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of
COVID-19 have been documented in New York State and are expected to be
continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York,
by virtue of the authority vested in me by Section 29-a of Article 2-B of the
Executive Law, do hereby continue the suspensions and modifications of law,

and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, for thirty days until June 6, 2020, except as modified below:

- The suspension or modification of the following statutes and regulations are not continued, and such statutes, codes and regulations are in full force and effect as of May 8, 2020:
 - 10 NYCRR 405.9, except to the limited extent that it would allow a practitioner to practice in a facility where they are not credentialed or have privileges, which shall continue to be suspended; 10 NYCRR 400.9; 10 NYCRR 400.11, 10 NYCRR 405; 10 NYCRR 403.3; 10 NYCRR 403.5; 10 NYCRR 800.3, except to the extent that subparagraphs (d) and (u) could otherwise limit the scope of care by paramedics to prohibit the provision of medical service or extended service to COVID-19 or suspected COVID-19 patients; 10 NYCRR 400.12; 10 NYCRR 415.11; 10 NYCRR 415.15; 10 NYCRR 415.26; 14 NYCRR 620; 14 NYCRR 633.12; 14 NYCRR 636-1; 14 NYCRR 686.3; and 14 NYCRR 517;
 - Mental Hygiene Law Sections 41.34; 29.11; and 29.15;
 - Public Health Law Sections 3002, 3002-a, 3003, and 3004-a to the extent it would have allowed the Commissioner to make determination without approval by a regional or state EMS board;

- Subdivision (2) of section 6527, Section 6545, and Subdivision (1) of Section 6909 of the Education Law; as well as subdivision 32 of Section 6530 of the Education Law, paragraph (3) of Subdivision (a) of Section 29.2 of Title 8 of the NYCRR, and sections 58-1.11, 405.10, and 415.22 of Title 10 of the NYCRR;
- All codes related to construction, energy conservation, or other building code, and all state and local laws, ordinances, and regulations which would have otherwise been superseded, upon approval by the Commissioner of OPWDD, as applicable only for temporary changes to physical plant, bed capacities, and services provided; for facilities under the Commissioners jurisdiction.

IN ADDITION, I hereby temporarily suspend or modify the following if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, for the period from the date of this Executive Order through June 6, 2020:

- Sections 7-103, 7-107 and 7-108 of the General Obligations Law to the extent necessary to provide that:
 - Landlords and tenants or licensees of residential properties may, upon the consent of the tenant or licensee, enter into a written agreement by which the security deposit and any interest accrued thereof, shall be used to pay rent that is in

arrears or will become due. If the amount of the deposit represents less than a full month rent payment, this consent does not constitute a waiver of the remaining rent due and owing for that month. Execution in counterpart by email will constitute sufficient execution for consent;

- Landlords shall provide such relief to tenants or licensees who so request it that are eligible for unemployment insurance or benefits under state or federal law or are otherwise facing financial hardship due to the COVID-19 pandemic;
- It shall be at the tenant or licensee's option to enter into such an agreement and landlords shall not harass, threaten or engage in any harmful act to compel such agreement;
- Any security deposit used as a payment of rent shall be replenished by the tenant or licensee, to be paid at the rate of 1/12 the amount used as rent per month. The payments to replenish the security deposit shall become due and owing no less than 90 days from the date of the usage of the security deposit as rent. The tenant or licensee may, at their sole option, retain insurance that provides relief for the landlord in lieu of the monthly security deposit replenishment, which the landlord, must accept such insurance as replenishment.
- Subdivision 2 of section 238-a of the Real Property Law to provide that no landlord, lessor, sub-lessor or grantor shall

demand or be entitled to any payment, fee or charge for late payment of rent occurring during the time period from March 20, 2020, through August 20, 2020; and

- Section 8-400 of the Election Law is modified to the extent necessary to require that to the any absentee application mailed by a board of elections due to a temporary illness based on the COVID-19 public health emergency may be drafted and printed in such a way to limit the selection of elections to which the absentee ballot application is only applicable to any primary or special election occurring on June 23, 2020, provided further that for all absentee ballot applications already mailed or completed that purported to select a ballot for the general election or to request a permanent absentee ballot shall in all cases only be valid to provide an absentee ballot for any primary or special election occurring on June 23, 2020. All Boards of Elections must provide instructions to voters and post prominently on the website, instructions for completing the application in conformity with this directive.
- The suspension of the provisions of any time limitations contained in the Criminal Procedure Law contained in Executive Order 202.8 is modified as follows:
 - Section 182.30 of the Criminal Procedure Law, to the extent that it would prohibit the use of electronic appearances for certain pleas;

- Section 180.60 of the Criminal Procedure Law to provide that (i) all parties' appearances at the hearing, including that of the defendant, may be by means of an electronic appearance; (ii) the Court may, for good cause shown, withhold the identity, obscure or withhold the image of, and/or disguise the voice of any witness testifying at the hearing pursuant to a motion under Section 245.70 of the Criminal Procedure law—provided that the Court is afforded a means to judge the demeanor of a witness;
- Section 180.80 of the Criminal Procedure Law, to the extent that a court must satisfy itself that good cause has been shown within one hundred and forty-four hours from May 8, 2020 that a defendant should continue to be held on a felony complaint due to the inability to empanel a grand jury due to COVID-19, which may constitute such good cause pursuant to subdivision three of such section; and
- Section 190.80 of the Criminal Procedure Law, to the extent that to the extent that a court must satisfy itself that good cause has been shown that a defendant should continue to be held on a felony complaint beyond forty-five days due to the inability to empanel a grand jury due to COVID-19, which may constitute such good cause pursuant to subdivision b of such section provided that such defendant has been provided a preliminary hearing as provided in section 180.80.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of Executive Order through June 6, 2020:

- There shall be no initiation of a proceeding or enforcement of either an eviction of any residential or commercial tenant, for nonpayment of rent or a foreclosure of any residential or commercial mortgage, for nonpayment of such mortgage, owned or rented by someone that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic for a period of sixty days beginning on June 20, 2020.
- Executive Order 202.18, which extended the directive contained in Executive Orders 202.14 and 202.4 as amended by Executive Order 202.11 related to the closure of schools statewide, is hereby continued to provide that all schools shall remain closed through the remainder of the school year. School districts must continue plans for alternative instructional options, distribution and availability of meals, and child care, with an emphasis on serving children of essential workers.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this seventh of May in the year two thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

EXHIBIT C

LAWS OF NEW YORK, 2020

CHAPTER 112

AN ACT to amend the banking law, in relation to the forbearance of residential mortgage payments

Became a law June 17, 2020, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The banking law is amended by adding a new section 9-x to read as follows:

§ 9-x. Mortgage forbearance. 1. As used in this section, the following terms shall have the following meanings:

(a) "Covered period" means March 7, 2020 until the date on which none of the provisions that closed or otherwise restricted public or private businesses or places of public accommodation, or required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason in Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14, as extended by Executive Orders 202.28 and 202.31 and as further extended by any future Executive Order, issued in response to the COVID-19 pandemic continue to apply in the county of the qualified mortgagor's residence;

(b) "qualified mortgagor" means an individual who resides in New York whose principal dwelling is encumbered by a home loan pursuant to paragraph (a) of subdivision six of section thirteen hundred four of the real property actions and proceedings law or whose principal dwelling is a co-operative unit whose shares are encumbered by any loan otherwise meeting the requirements of a home loan under paragraph (a) of subdivision six of section thirteen hundred four of the real property actions and proceedings law, from or serviced by a regulated institution;

(c) "regulated institution" means any New York regulated banking organization as defined in this chapter and any New York regulated mortgage servicer entity subject to supervision by the department; and

(d) "trial period plan" means an agreement whereby the mortgagor is required to make trial payments in full and on-time in order to be considered for a permanent loan modification.

2. Notwithstanding any other provision of law, New York regulated institutions shall:

(a) make applications for forbearance of any payment due on a residential mortgage of a property located in New York widely available to any qualified mortgagor who, during the covered period, is in arrears or on a trial period plan, or who has applied for loss mitigation and demonstrates financial hardship during the covered period; and

(b) grant such forbearance for a period of one hundred eighty days to any such qualified mortgagor who is in arrears or on a trial period plan, or who has applied for loss mitigation and demonstrates financial hardship, with the option to extend an additional one hundred eighty days.

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.

(c) Such forbearance may be backdated to March seventh, two thousand twenty.

3. Notwithstanding any other provision of law, any mortgage forbearance granted by a regulated institution pursuant to executive order number 202.9 of two thousand twenty, this section, or any other law, rule or regulation to the qualified mortgagor as a result of financial hardship during the covered period shall be subject to the following provisions:

(a) the mortgagor shall have the option to extend the term of the loan for the length of the period of forbearance. The regulated institution shall waive interest on the principal for the term of the forbearance and waive any late fees accumulated as a result of the forbearance; or

(b) the mortgagor shall have the option to have the arrears accumulated during the forbearance period payable on a monthly basis for the remaining term of the loan without being subject to penalties or late fees incurred as a result of the forbearance; or

(c) if the mortgagor is unable to make mortgage payments due to mortgagors' demonstrated hardship and the mortgagor and regulated institution cannot agree on a mutually acceptable loan modification, the mortgagor shall have the option to defer arrears accumulated during the forbearance period as a non-interest bearing balloon payment payable at the maturity of the loan consistent with the safety and soundness of such regulated institution, or at the time the loan is satisfied through a refinance or sale of the property. Any late fees accumulated as a result of the forbearance shall be waived.

(d) The exercising of options provided for in paragraph (a), (b) or (c) of this subdivision by a qualified mortgagor shall not be reported negatively to any credit bureau by any regulated institution.

4. Notwithstanding any other provision of law, adherence with this section shall be a condition precedent to commencing a foreclosure action stemming from missed payments which would have otherwise been subject to this section. A defendant may raise the violation of this section as a defense to a foreclosure action commenced on the defendant's property when such action is based on missed payments that would have otherwise been subject to this section.

5. Notwithstanding anything to the contrary in this section, this section shall not apply to, and does not affect any mortgage loans made, insured, or securitized by any agency or instrumentality of the United States, any government sponsored enterprise, or a federal home loan bank, or the rights and obligations of any lender, issuer, servicer or trustee of such obligations, including servicers for the Government National Mortgage Association.

§ 2. This act shall take effect immediately.

The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

ANDREA STEWART-COUSINS
Temporary President of the Senate

CARL E. HEASTIE
Speaker of the Assembly

EXHIBIT D

LAWS OF NEW YORK, 2020

CHAPTER 126

AN ACT to amend a chapter of the laws of 2020 amending the local finance law relating to bond anticipation notes issued in calendar years 2015 through 2021, as proposed in legislative bills numbers S. 8417 and A. 10492, in relation to expenditures and temporary transfer of reserve funds for expenses related to state disaster emergency declared pursuant to executive order 202 of 2020 and authorizing the extension of repayment of inter-fund advances made for expenses related to state disaster emergency declared pursuant to executive order 202 of 2020 (Part A); to amend the public service law, in relation to issuing a moratorium on utility termination of services during periods of pandemics and/or state of emergencies; and to amend a chapter of the laws of 2020 amending the public service law, relating to issuing a moratorium on utility termination of services during periods of pandemics and/or state of emergencies, as proposed in legislative bills numbers S.8113-A and A.10521, in relation to the effectiveness thereof (Part B); to amend the banking law, in relation to the forbearance of residential mortgage payments (Part C); and to amend the criminal procedure law, in relation to hearings conducted on a felony complaint during a state disaster emergency (Part D)

Became a law June 17, 2020, with the approval of the Governor. Passed on message of necessity pursuant to Article III, section 14 of the Constitution by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law legislation providing for important provisions relating to a state disaster emergency. Each component is wholly contained within a Part identified as Parts A through D. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. The title of a chapter of the laws of 2020 amending the local finance law relating to bond anticipation notes issued in calendar years 2015 through 2021, as proposed in legislative bills number S. 8417 and A. 10492, is amended to read as follows:

to amend the local finance law, in relation to bond anticipation notes issued in calendar years 2015 through 2021; to authorize the expenditure and temporary transfer of reserve funds for expenses related to [~~COVID-19~~] the state disaster emergency declared pursuant to executive order

EXPLANATION--Matter in italics is new; matter in brackets [~~-~~] is old law to be omitted.

202 of 2020; and to authorize the extension of repayment of inter-fund advances made for expenses related to [~~COVID-19~~] the state disaster emergency declared pursuant to executive order 202 of 2020

§ 2. Section 2 of a chapter of the laws of 2020 amending the local finance law relating to bond anticipation notes issued in calendar years 2015 through 2021, as proposed in legislative bills numbers S. 8417 and A. 10492, is amended to read as follows:

§ 2. Notwithstanding any provision of sections 6-c or 6-g of the general municipal law or section 3651 of the education law to the contrary, the governing board of a town, village, county, city, water improvement district, sewer improvement district, fire district or school district, by resolution which shall not be subject to referendum requirements, may authorize expenditures from capital reserve funds for capital costs attributable to the [~~COVID-19 pandemic~~] state disaster emergency declared pursuant to executive order 202 of 2020.

§ 3. Section 3 of a chapter of the laws of 2020 amending the local finance law relating to bond anticipation notes issued in calendar years 2015 through 2021, as proposed in legislative bills numbers S. 8417 and A. 10492, is amended to read as follows:

§ 3. Notwithstanding any provision of the general municipal law, the town law or the education law to the contrary, the governing board of a town, village, county, city, water improvement district, sewer improvement district, fire district or school district, by resolution which shall not be subject to referendum requirements, if any, may authorize the temporary transfer of moneys from reserve funds to pay for operating costs attributable to the state disaster emergency declared pursuant to executive order 202 of 2020 or other costs attributable to the [~~COVID-19 pandemic~~] state disaster emergency declared pursuant to executive order 202 of 2020, provided, that the reserve fund from which the funds were temporarily transferred shall be reimbursed from the fund to which the transfer was made over a period of not more than five fiscal years, starting with the fiscal year following the transfer. At least twenty percent of the moneys temporarily transferred shall be reimbursed each fiscal year. Such reimbursement shall include an additional amount reasonably estimated to be the amount that would have been earned on the investment of the transferred moneys had they been retained in the capital reserve fund.

§ 4. Section 4 of a chapter of the laws of 2020 amending the local finance law relating to bond anticipation notes issued in calendar years 2015 through 2021, as proposed in legislative bills numbers S. 8417 and A. 10492, is amended to read as follows:

§ 4. Notwithstanding the provisions of subdivision 3 of section 9-a of the general municipal law, for inter-fund advances made pursuant to such subdivision for costs attributable to the [~~COVID-19 pandemic~~] state disaster emergency declared pursuant to executive order 202 of 2020, repayment of moneys to the fund from which they were advanced shall be made by close of the fiscal year next succeeding the fiscal year in which such advance was made.

§ 5. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2020 amending the local finance law relating to bond anticipation notes issued in calendar years 2015 through 2021, as proposed in legislative bills numbers S. 8417 and A. 10492, takes effect.

Section 1. Subdivisions 9, 10 and 12 of section 91 of the public service law, as added by a chapter of the laws of 2020 amending the public service law, relating to issuing a moratorium on utility termination of services during periods of pandemics and/or state of emergencies, as proposed in legislative bills numbers S.8113-A and A.10521, are amended to read as follows:

9. No telephone corporation shall terminate or disconnect a residential service customer for the non-payment of an overdue charge for the duration of the state disaster emergency declared pursuant to executive order two hundred two of two thousand twenty (hereinafter "the COVID-19 state of emergency"). Telephone corporations shall have a duty to restore service, to the extent not already required under this chapter, ~~[to]~~ at the request of any residential customer within forty-eight hours if such service has been terminated during the pendency of the COVID-19 state of emergency and disconnection of such service was due to non-payment of an overdue charge.

10. ~~[After]~~ For a period of one hundred eighty days after the COVID-19 state of emergency is lifted or expires, no telephone corporation shall terminate or disconnect the service of a residential customer account because of defaulted deferred payment agreements or arrears then owed to the telephone corporation when such customer has experienced a change in financial circumstances due to the COVID-19 state of emergency, as defined by the department. The telephone corporation shall provide such residential customer with the right to enter into, or restructure, a deferred payment agreement without the requirement of a down payment, late fees, or penalties~~[, as such is provided for in article two of this chapter]~~.

12. Implementation of the provisions of this section shall not prohibit a telephone corporation from recovering lost or deferred revenues after the lifting or expiration of the COVID-19 state of emergency, pursuant to such means for recovery as are provided for in this chapter, and by means not inconsistent with any of the provisions of this article. Nothing in this section shall prohibit a telephone corporation from disconnecting service at the request of a customer. Nothing in this section shall prohibit a telephone corporation from disconnecting service when it is necessary to protect the health and safety of customers and the public.

§ 2. Section 5 of a chapter of the laws of 2020 amending the public service law, relating to issuing a moratorium on utility termination of services during periods of pandemics and/or state of emergencies, as proposed in legislative bills numbers S.8113-A and A.10521, is amended to read as follows:

§ 5. This act shall take effect immediately and shall expire March 31, 2021 when upon such date the provisions of this act shall be deemed repealed.

§ 3. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2020 amending the public service law, relating to issuing a moratorium on utility termination of services during periods of pandemics and/or state of emergencies, as proposed in legislative bills numbers S.8113-A and A.10521, takes effect; provided however, that the amendments to subdivisions 9, 10 and 12 of section 91 of the public service law made by section one of this act shall not affect the repeal of such subdivisions and shall be deemed to be repealed therewith.

Section 1. Section 9-x of the banking law, as added by a chapter of the laws of 2020, amending the banking law relating to the forbearance of residential mortgage payments, as proposed in legislative bills numbers S. 8243-C and A. 10351-B, is amended to read as follows:

§ 9-x. Mortgage forbearance. 1. As used in this section, the following terms shall have the following meanings:

(a) "Covered period" means March 7, 2020 until the date on which none of the provisions that closed or otherwise restricted public or private businesses or places of public accommodation, or required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason in Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14, as extended by Executive Orders 202.28 and 202.31 and as further extended by any future Executive Order, issued in response to the COVID-19 pandemic continue to apply in the county of the qualified mortgagor's residence;

(b) "qualified mortgagor" means an individual [~~who resides in New York~~] (i) whose [principal dwelling] primary residence is located in New York and is encumbered by a home loan pursuant to paragraph (a) of subdivision six of section thirteen hundred four of the real property actions and proceedings law or whose [principal dwelling] primary residence is located in New York and is a co-operative unit whose shares are encumbered by any loan otherwise meeting the requirements of a home loan under paragraph (a) of subdivision six of section thirteen hundred four of the real property actions and proceedings law, from or serviced by a regulated institution; and (ii) who demonstrates financial hardship as a result of COVID-19 during the covered period;

(c) "regulated institution" means any New York regulated banking organization as defined in this chapter and any New York regulated mortgage servicer entity subject to supervision by the department; and

(d) "trial period plan" means an agreement whereby the mortgagor is required to make trial payments in full and on-time in order to be considered for a permanent loan modification.

2. Notwithstanding any other provision of law, New York regulated institutions shall:

(a) make applications for forbearance of any payment due on a residential mortgage of a property located in New York widely available to any qualified mortgagor who, during the covered period, is in arrears or on a trial period plan, or who has applied for loss mitigation [~~and demonstrates financial hardship during the covered period~~]; and

(b) grant such forbearance of all monthly payments due with respect to the mortgage secured by the qualified mortgagor's primary residence in New York for a period of up to one hundred eighty days to any such qualified mortgagor [~~who is in arrears or on a trial period plan, or who has applied for loss mitigation and demonstrates financial hardship~~], with the option to extend the forbearance of such monthly payments for up to an additional one hundred eighty days provided that this extension is subject to the mortgagor demonstrating continued financial hardship. If any qualified mortgagor has already received a forbearance pursuant to executive order 202.9 of two thousand twenty, the time of such forbearance shall be considered as part of the requirement of this section to provide a forbearance of up to one hundred eighty days, and any extension thereof pursuant to this section.

(c) Such forbearance may be backdated to March seventh, two thousand twenty, provided that the maximum length of the forbearance may be no longer than one hundred eighty days and any extension thereof pursuant to this section.

3. Notwithstanding any other provision of law, any mortgage forbearance granted by a regulated institution pursuant to executive order number 202.9 of two thousand twenty, this section, or ~~[any other law, rule or regulation to the]~~ 3 NYCRR Part 119 to a qualified mortgagor as a result of financial hardship ~~[during the covered period]~~ shall be subject to the following provisions:

(a) the mortgagor shall have the option to extend the term of the loan for the length of the period of forbearance. The regulated institution shall ~~[waive interest on the principal for the term of the forbearance and waive any late fees accumulated as a result of the forbearance]~~ not charge additional interest or any late fees or penalties on the forborne payment; or

(b) the mortgagor shall have the option to have the arrears accumulated during the forbearance period payable on a monthly basis for the remaining term of the loan without being subject to penalties or late fees incurred as a result of the forbearance; or

(c) the mortgagor shall have the option to negotiate a loan modification or any other option that meets the changed circumstances of the qualified mortgagor; or

(d) if ~~[the mortgagor is unable to make mortgage payments due to mortgagors' demonstrated hardship and]~~ the mortgagor and regulated institution cannot reasonably agree on a mutually acceptable loan modification, the ~~[mortgagor]~~ regulated institution shall ~~[have the option]~~ offer to defer arrears accumulated during the forbearance period as a non-interest bearing balloon ~~[payment]~~ loan payable at the maturity of the loan ~~[consistent with the safety and soundness of such regulated institution]~~, or at the time the loan is satisfied through a refinance or sale of the property. Any late fees accumulated as a result of the forbearance shall be waived.

~~[(d)]~~ (e) The exercising of options provided for in paragraph (a), (b) ~~[or]~~, (c) or (d) of this subdivision by a qualified mortgagor shall not be reported negatively to any credit bureau by any regulated institution.

4. Notwithstanding any other provision of law, adherence with this section shall be a condition precedent to commencing a foreclosure action stemming from missed payments which would have otherwise been subject to this section. A defendant may raise the violation of this section as a defense to a foreclosure action commenced on the defendant's property when such action is based on missed payments that would have otherwise been subject to this section.

5. Notwithstanding anything to the contrary in this section, this section shall not apply to, and does not affect any mortgage loans made, insured, purchased or securitized by any agency or instrumentality of the United States, any government sponsored enterprise, or a federal home loan bank, or a corporate governmental agency of the state constituted as a political subdivision and public benefit corporation, or the rights and obligations of any lender, issuer, servicer or trustee of such obligations, including servicers for the Government National Mortgage Association.

6. Notwithstanding any other provision of law or of this section, the obligation to grant the forbearance relief required by this section shall be subject to the regulated institution having sufficient capital and liquidity to meet its obligations and to operate in a safe and sound manner. Any regulated institution that determines that it is not able to offer relief pursuant to this section to any qualified mortgagor must notify the department within five business days of making such determi-

nation. Any such notice filed with the department shall include information about the qualified mortgagor, the reason the regulated institution determined that it was unable to offer any relief pursuant to this section, information about the regulated institution's financial condition supporting the regulated institution's determination, and any other information required by the department. At the same time that the regulated institution provides notice to the department, it shall advise the qualified mortgagor that the application for relief was denied and provide a statement that the applicant may file a complaint with the New York state department of financial services at 1-800-342-3736 or <http://www.dfs.ny.gov> if the applicant believes the application was wrongly denied.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2020, amending the banking law relating to the forbearance of residential mortgage payments, as proposed in legislative bills numbers S. 8243-C and A. 10351-B, takes effect.

PART D

Section 1. Section 180.65 of the criminal procedure law, as added by a chapter of the laws of 2020, amending the criminal procedure law relating to conducting hearings on a felony complaint during a state disaster emergency, as proposed in legislative bills numbers S. 8414 and A. 10493, is amended to read as follows:

§ 180.65 Hearing upon felony complaint; emergency provision during disaster emergency.

During the period of the COVID-19 state disaster emergency, as declared pursuant to executive order number two hundred two of two thousand twenty and extensions thereof and article two-B of the executive law, the following additional provisions shall apply to the conduct of a hearing on a felony complaint pursuant to this article:

1. The appearance of any party and any witness at such hearing may be by electronic appearance through an independent audio-visual system, as such terms are defined in section 182.10 of this title, where the court finds upon its own motion after hearing from the parties and any such witness, either in person or by electronic appearance, that due to the person's circumstances and such disaster emergency a personal appearance by such party or witness would be an unreasonable hardship to such person or witness or create an unreasonable health risk to the public, court staff or anyone else involved in the proceeding.

2. At any such hearing on the felony complaint, the judge must be able to hear and see the image of each witness clearly [~~though~~] through the independent audio-visual system and such sound and visual image shall be similar to the sound and image the judge would hear and see if the witness were present together with the judge testifying in the courtroom. Documents, photographs and the like offered at the hearing may be exchanged among the parties by electronic means. A stenographic transcription or appropriate audio recording of the proceedings shall be maintained, and the live testimony received by electronic appearance, and other electronic appearances where practicable, shall be video recorded by the court, and a copy provided to the people and the defense.

3. The authority for an electronic appearance pursuant to this section shall be considered sufficient means to enable the court to conduct a hearing on a felony complaint within the meaning of section 180.80 of this article.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2020, amending the criminal procedure law relating to conducting hearings on a felony complaint during a state disaster emergency, as proposed in legislative bills numbers S. 8414 and A. 10493, takes effect, provided, however, that the amendments made to section 180.65 of the criminal procedure law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through D of this act shall be as specifically set forth in the last section of such Parts.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

ANDREA STEWART-COUSINS
Temporary President of the Senate

CARL E. HEASTIE
Speaker of the Assembly

EXHIBIT E

LAWS OF NEW YORK, 2020

CHAPTER 127

AN ACT in relation to prohibiting the eviction of residential tenants who have suffered financial hardship during the COVID-19 covered period

Became a law June 30, 2020, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. For the purposes of this act, "COVID-19 covered period" means March 7, 2020 until the date on which none of the provisions that closed or otherwise restricted public or private businesses or places of public accommodation, or required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason in Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14, as extended by Executive Orders 202.28 and 202.31 and as further extended by any future Executive Order, issued in response to the COVID-19 pandemic continue to apply in the county of the tenant's or lawful occupant's residence.

§ 2. Notwithstanding any provision of law to the contrary:

1. No court shall issue a warrant of eviction or judgment of possession against a residential tenant or other lawful occupant that has suffered a financial hardship during the COVID-19 covered period for the non-payment of rent that accrues or becomes due during the COVID-19 covered period.

2. (a) A tenant or lawful occupant may raise financial hardship during the COVID-19 covered period as a defense in a summary proceeding under article 7 of the real property actions and proceedings law.

(b) In determining whether a tenant or lawful occupant suffered a financial hardship during the COVID-19 covered period, the court shall consider, among other relevant factors:

(i) the tenant's or lawful occupant's income prior to the COVID-19 covered period;

(ii) the tenant's or lawful occupant's income during the COVID-19 covered period;

(iii) the tenant's or lawful occupant's liquid assets; and

(iv) the tenant's or lawful occupant's eligibility for and receipt of cash assistance, supplemental nutrition assistance program, supplemental security income, the New York State disability program, the home energy assistance program, or unemployment insurance or benefits under state or federal law.

3. This act shall not prohibit any court from awarding a judgment for the rent due and owing to a successful petitioner in a summary proceeding under article 7 of the real property actions and proceedings law.

§ 3. This act shall take effect immediately.

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.

CHAP. 127

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The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

ANDREA STEWART-COUSINS

Temporary President of the Senate

CARL E. HEASTIE

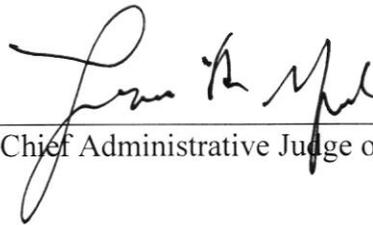
Speaker of the Assembly

EXHIBIT F

ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, I hereby order and direct that petitions in eviction proceedings involving property pursuant to Article 7 of the Real Property Actions and Proceedings Law (RPAPL) and in foreclosure proceedings shall no longer require an accompanying attorney affirmation or petitioner's affidavit, as previously required pursuant to Administrative Orders AO/127/20 and AO/131/20. AO/127/20 and AO/131/20 are modified to this extent only, and shall otherwise continue in full force and effect, including but not limited to the continued requirement of service of a Notice to Respondent Tenant or Notice to Respondent as described in those orders.

This order shall take effect immediately, and shall remain in effect until further order.



Chief Administrative Judge of the Courts

Dated: July 7, 2020

AO/143/20