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Memorandum

To: Tim Foley, Executive Director, the Building & Realty Institute

From: Carl L. Finger, Esq.

Regarding: Covid-19 Emergency Eviction and Foreclosure Prevention Act of 2020

Date: January 11, 2021

Our firm has analyzed the Covid-19 Emergency Eviction and Foreclosure Prevention Act of 2020 in attempt to gain and provide an understanding of its impact, requirements, and in general the method for prosecuting pending and new summary proceedings for the non-payment of rent or other lease violations. The statute is a tangled web of additional requirements which vary based on the type of case, procedural status of the case, and various occurrences as the case proceeds in Court. Given that this is a novel statute with provisions not seen before in any context and noting that the requirements overlap, and in some instances, may conflict either internally or with established law, we strongly recommend that any landlord confer with counsel familiar with the law, before taking any action.

Salient provisions including the following:

- A. Automatic stay of all cases through February 26, 2021.
- B. Notice to Tenant with Declaration of Hardship in English and native language and with mailing address, telephone number, email address of landlords and with list of all not-for-profit legal services providers must be served with every document served upon the Tenant and must be served prior to inception of an action by due diligence. Service by due diligence must be supported by an affidavit of service thereof.
- C. Every Petition filed must be accompanied by an affidavit from the Landlord, depending on the type of case, as follows:
  - a. Non-Payment: Neither Petitioner nor any agent received the Hardship Declaration from Respondent or any tenant or occupant.
  - b. Holdover: Hardship Declaration received or not received BUT Respondent is persistently and unreasonably engaging in behavior that substantially

infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others

D. Effect of filing of Covid-19 Hardship Declaration:

a. Non-Payment

i. No new proceeding may be filed.

ii. Pending proceedings stay extended to May 1, 2021

b. Holdover

i. Substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others, proceed in accordance with statute.

ii. Does not substantially infringe on the use and enjoyment of other tenants or occupants or cause a substantial safety hazard to others, stay to May 1, 2021.

iii. Establish substantially infringes or tenant fails to provide hardship declaration, no additional stay.

E. Procedural Requirements

a. The statute includes a panoply of procedural requirements including additional notices, additional stays, additional court inquiry requirements, additional hearings, and other requisites which will increase the time and expense associated with summary proceedings.