



**The Legal Aid Society  
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**Testimony of The Legal Aid Society Before The New York City Council Committee on Housing and Buildings and Committee on Consumer Affairs and Business Licensing on Int. 1912-2020 and 1936 -2020.**

**April 28, 2020**

**Introduction**

Thank you Chairpersons Cornegy and Cohen, and members of the Committees on Housing and Buildings, and Consumer Affairs and Business Licensing, for the opportunity to testify on behalf of The Legal Aid Society (“the Society”), the nation’s oldest and largest not-for-profit legal services organization. We welcome this opportunity to endorse and share our view on legislation that would temporarily halt the seizure of property and execution of money judgments by city sheriff and marshals, as well as, expand the definition of harassment to include threats based on a person having been impacted by COVID-19.

Through a network of borough, neighborhood, and courthouse-based offices in 26 locations in New York City, and more than 2,000 attorneys, paralegals, social workers, investigators and support staff, along with volunteer help coordinated by the Society’s Pro Bono program, we provide comprehensive legal services to fulfill our mission that no New Yorker

should be denied access to justice because of poverty. Through three major practices – Civil, Criminal, and Juvenile Rights – the Society handles approximately 300,000 cases a year in city, state, and federal courts. This includes over 50,000 individual civil matters and law reform cases which benefit over 2 million low-income families and individuals. The Society acts as one of New York City’s first responders, protecting and enforcing the legal rights of families and individuals through long-term advocacy for the right to counsel in criminal defense or juvenile justice issues, and by directly addressing emergent and systemic issues our client communities face.

The Society’s Civil Practice improves the lives of low-income New Yorkers who struggle daily to buy food, pay rent, achieve or maintain self-sufficiency, and keep their families healthy and safe. Through sixteen neighborhood and courthouse-based offices in all five boroughs and 23 city-wide and special projects, the Society’s Civil Practice provides direct legal assistance to low income individuals. In addition to individual assistance, the Society represents clients in law reform litigation, advocacy and neighborhood initiatives, and provides extensive back up support and technical assistance to community organizations.

The Society commends the Committees for holding today’s hearings on both bills which will provide relief to numerous New Yorker who are currently on the edge of homelessness and financial distress. We strongly support the passage of the bills and have some suggested recommendations to strengthen the legislation.

### **Intro. 1912-2020**

We strongly support the passage of Intro. 1912-2020, which will temporarily halt the taking and restitution of property and execution of money judgments by city sheriffs and

marshals. As you are aware, the COVID-19 pandemic is causing devastating and lasting economic hardship that disproportionately impacts low- and moderate-income New Yorkers and communities of color. This has caused numerous low- and moderate-income New Yorkers to default or fall behind on financial obligations, including medical bills, credit card payments, auto loans, student loans and rent.

The COVID-19 pandemic has amplified New York City's ongoing housing crisis in ways that are impossible to ignore. Housing insecurity is a brutal fact of life for many New Yorkers. Forty-four percent of New York City renters are rent burdened, and four out of ten low-income people in New York are either homeless or severely rent burdened.<sup>1</sup> Even in a strong economy, a budget overwhelmed by housing costs increases a family's risk of food insecurity, lack of access to proper medical care and eviction. With little room for savings, a reduction in work hours or an unexpected expense may cause turmoil and ultimately, displacement. Similar to the COVID-19 pandemic, involuntary displacement is not born equally in New York City, where low-income black and Latinx households are most impacted by eviction and homelessness.<sup>2</sup>

Housing insecurity now impacts a far broader range of households than it did earlier this year. Reeling from a sudden loss of income, low- and moderate-income renters on the precipice, rent burdened and without savings, have now fallen off of a financial cliff. Stay-at-home orders triggered mass layoffs and shuttered businesses and entire industries. A weekly survey, conducted by public health experts over the course of the pandemic, found that one in three New

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<sup>1</sup> Center for Budget and Policy Priorities, *New York Federal Rental Assistance Fact Sheet*, (Dec. 10, 2019), available at: <https://www.cbpp.org/research/housing/federal-rental-assistance-fact-sheets#NY>.

<sup>2</sup> Oksana Mironova, Community Service Society, *Where Have All the Affordable Rentals Gone?* (May 2019), available at: <https://www.cssny.org/publications/entry/where-have-all-the-affordable-rentals-gone>; NYU Furman Center, *COVID-19 Cases in New York City, a Neighborhood-Level Analysis*, (Apr. 10, 2020), available at: <https://furmancenter.org/thestoop/entry/covid-19-cases-in-new-york-city-a-neighborhood-level-analysis>.

Yorkers did not pay their rent or mortgage in April.<sup>3</sup> Sixty-two percent of those who were unable to pay their rent stated that they feared eviction.

While New Yorkers are now protected from eviction by Governor Andrew Cuomo's 90-day eviction moratorium, the economic landscape is unlikely to be dramatically altered by the end of the state moratorium on June 20.<sup>4</sup> By June 20, renters will owe months of rental arrears and fees; many will promptly face eviction proceedings seeking thousands of dollars of debt and dispossession. Far from solving the crisis, the end of this short-term moratorium will be catastrophic for renters who have not received a paycheck in months.

The eviction of any one household is a tragedy; eviction of thousands of rental households is a humanitarian crisis. The loss of a home is not the only consequence of eviction, which it can have devastating, long-term negative effects on employment outcomes, school performance and physical and mental health.<sup>5</sup> Mass displacement will undermine recovery efforts for the foreseeable future and traumatize entire communities. Because truly affordable housing is in limited supply in New York City, many renters will have no choice but to double-up with friends or family or enter a shelter system already strained by an intractable homelessness crisis. It is likely that among those evicted will be people sick with COVID-19 or asymptotically and unknowingly carrying the virus.

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<sup>3</sup> *CUNY New York City COVID-19 Survey Week 5 (April 10-12)*, CUNY Graduate School of Public Health & Health Policy, available at <https://sph.cuny.edu/research/covid-19-tracking-survey/week-5/>.

<sup>4</sup> See, N.Y. Executive Order 202.8, (March 20, 2020), available at: [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO\\_202.8.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_202.8.pdf)

<sup>5</sup> See, e.g., Matthew Desmond and Carl Gershenson, *Housing and Employment Insecurity Among the Working Poor*, (2016), available at: <https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>.

Other jurisdictions have recognized that an effective response to this impending eviction crisis includes an eviction moratorium that extends passed the state of emergency.<sup>6</sup> New York should be leading this issue, and we strongly support the passage of legislation that will allow our communities a chance to remain intact as we recover from the global pandemic.

New Yorkers face financial challenges beyond eviction. The hardship imposed by money judgments include a nine percent post-judgment statutory interest rate; systemic and systematic improper service of process, and failure to apply existing laws when vacatur of judgments are sought; and abusive debt collection practices in connection with financial services and products, such as credit cards, auto loans and leases, rental arrears, student loans, and medical debt.

Enforcement of judgments through bank account restraint, levies, and wage garnishment presents a dire situation for the hundreds of thousands of New Yorkers who have been impacted by the economic devastation in the wake of the pandemic. At a time when almost half of all New Yorkers do not have even \$400 in cash to pay for emergency expenses, consumers across the state are now confronted with loss of income due to illness and workplace closures related to the pandemic.<sup>7</sup> Many other jurisdictions and some agencies have temporarily suspended enforcement of judgments, but there remains a tremendous need to cease enforcement for the vast majority of the remaining judgment debtors.<sup>8</sup> It is critical that this bill pass to provide temporary relief to New Yorkers facing limited income and savings from execution of money judgments.

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<sup>6</sup> *Covid-19 Housing Policy Scorecard*, The Eviction Lab, available at: <https://evictionlab.org/covid-policy-scorecard/>.

<sup>7</sup> Cargill, C., Maury, M., & Wimer, C. (June 2019), *Spotlight on Emergency Expenses*, available at [https://robinhoodorg-production.s3.amazonaws.com/uploads/2019/06/EMERGENCY-EXPENSE-REPORT\\_6\\_19\\_FINAL.pdf](https://robinhoodorg-production.s3.amazonaws.com/uploads/2019/06/EMERGENCY-EXPENSE-REPORT_6_19_FINAL.pdf).

<sup>8</sup> *Governor Cuomo and Attorney General James Temporarily Suspend State Debt Collection in Response to Coronavirus*. (March 17, 2020), available at <https://www.governor.ny.gov/news/governor-cuomo-and-attorney-general-james-temporarily-suspend-state-debt-collection-response>; U.S. Department of Education. *Secretary DeVos Directs FSA to Stop Wage Garnishment, Collections Actions for Student Loan Borrowers, Will Refund More Than \$1.8 Billion to Students, Families*, (March 25, 2020), available at <https://content.govdelivery.com/accounts/USED/bulletins/28317e2>.

An increasing number of judgment debtors have approached the Society in the last few weeks seeking assistance due to frozen bank accounts and garnished wages. For example, a client who was working from home last week discovered that her debit card was not working due to a restraint on her bank account by Capital One Bank. The client was the sole wage earner in her family, until she was let go on March 20, 2020 as a result of her employer's inability to pay employees due to the current pandemic. The bank account contained her last paycheck and retirement funds that her disabled husband cashed, to pay for back due rent. Without access to her bank account she was unable to pay for food, medication, and rent for her family. There are numerous other similarly situated New Yorkers facing ongoing debt collection, and we expect a drastic increase in the immediate aftermath of this crisis.

The Society suggests the following supportive amendments, which will further the bill's goal of reducing the harm of judgment enforcement during the current pandemic. We suggest the bill clarify what constitutes a "reasonable opportunity to show the court having jurisdiction over the matter that such party suffered a substantial loss of income because of COVID-19." There must be clarity about the procedure by which one would show they "suffered a substantial loss of income." It is critical that the process be easily understandable and accessible by the many judgment debtors and renters who will need to prepare for and make this showing without the assistance of an attorney. Over 95 percent of consumers are unrepresented in debt collection cases, and *pro se* legal assistance programs for consumer debtors, such as the Civil Legal Advice and Resource Office (CLARO) and Volunteer Lawyer for the Day (VLFD), have temporarily closed due to the ongoing public health emergency.<sup>9</sup> In housing court, while the majority of landlords are represented by attorneys, most tenants appear *pro se*.<sup>10</sup>

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<sup>9</sup> The New York State courts estimated in 2014 that 98% of consumers were unrepresented in debt collection cases. See N.Y. State Chief Judge Jonathan Lippman, *Law Day Remarks: Consumer Credit Reforms 1* (transcript) (Apr. 30, 2014). That percentage has slightly decreased to 96% of consumers in 2017 following an increase in civil legal

Similarly, a ‘reasonable opportunity’ to make such a showing must ensure address verification, as numerous default judgments that are being enforced were obtained by service of process on incorrect addresses.<sup>11</sup> Last, in listing the circumstances under which a judgment debtor or renter would be considered to have “suffered a substantial loss of income” due to COVID-19, it is important that there be a catchall provision for those who faced loss of income due to COVID-19 but are not enumerated in the listed situations.

### **Intro. 1936-2020**

We support and urge the passage of Intro 1936-2020, which amends the definition of harassment in the Housing Maintenance Code to include threats against an individual based on their status as a COVID-19 impacted person, their status as an essential employee, or their receipt of a rental concession or forbearance for any rent owed during the COVID-19 period. Access to safe and stable housing is critically important for New Yorkers at a time when landlords increasingly look to force tenants to leave their homes or otherwise give up their rights under law. Lack of housing would force thousands of tenants to survive on the streets and face increased risks for both contracting COVID-19 and experiencing serious complications from the virus. Homeless New Yorkers cannot isolate at home or practice social distancing in congregate shelters. Those who contract COVID-19 are at a high-risk of serious complications due to high rates of underlying health conditions such as diabetes, heart disease, asthma, and COPD.

The Society is concerned about reports of tenants facing increasing harassment related to COVID-19, especially senior tenants. Our experience with harassment includes baseless eviction

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services funding; According to 2018 data from the New York City Civil Court, out of a total of 100,186 consumer credit filings, attorney answers were filed in only 3,892 actions -- which is a rate of representation of only 3.88%.

<sup>10</sup> New York City Office of Civil Justice, *Universal Access to Legal Services: A Report on Year One of Implementation in New York City*, (2018).

<sup>11</sup> Creditors obtained more than approximately 700,000 default judgments in consumer credit actions filed between 2008 and 2016.

cases, illegal rent demands, vague nuisance allegations, withholding of repairs and maintenance, and repeated buyout offers. With the eviction moratorium issued by Governor Cuomo and other legislative measures to temporarily halt evictions,<sup>12</sup> we have seen landlords resort to harassment to remove tenants facing financial challenges due to the pandemic. The bill provides necessary relief to tenants facing “self-help evictions” and other forms of harassment during a public health emergency.

We recommend that the bill include an additional definition of “a person impacted by COVID-19.” We propose including a catchall provision for a person who may have been impacted by COVID-19 for purposes of the legislation but does not fall into the listed categories.

### **Conclusion**

We applaud the Committees for holding today’s hearing on these critically important bills. They will go a long way to protect low income and vulnerable New Yorkers trying to survive while facing unemployment and financial distress. Thank you for your leadership on these issues and for the opportunity to testify. We look forward to working with the Committees and the City Council in the coming months.

Respectfully submitted,

Adriene Holder, Attorney-in-Charge, Civil Practice  
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<sup>12</sup> See, e.g., N.Y.S. Assembly Bill A10290/N.Y.S. Senate S08192, “Tenant Safe Harbor Act” (prohibits landlords from evicting tenants for non-payment of rent that accrued during the current state of emergency and for six months after its eventual end.) *available at*: <https://nyassembly.gov/leg/?bn=A10290&term=2019>; N.Y.S. Assembly Bill A10224/N.Y.S. Senate Bill S8125A (suspends rent payment for 90 days for those who lost their jobs or had to close their businesses because of COVID-19.) *available at*: <https://www.nysenate.gov/legislation/bills/2019/s8125>



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