



Emergency Eviction and Foreclosure Prevention Act

What is the Emergency Eviction and Foreclosure Prevention Act?

- **It is a NYS law that was enacted (passed) on December 28, 2020.** The law gives protection from nonpayment and no-cause holdover evictions until May 1, 2021 for tenants who fill out the hardship declaration form and submit it to their landlord and/or the court.
- Tenants who “persistently and unreasonably engage in behavior that infringes on the rights of other tenants or is a safety hazard” are **not** protected from eviction proceedings.
- Tenants will be signing the hardship declaration form under the penalty of perjury (S 210.25, listed as a class A misdemeanor).
- This Act stops **all** pending eviction cases until February 26, 2021.

What qualifies a tenant for eviction protection?

- Tenants facing eviction for nonpayment of rent can use this form to stay their case if they have lost income or had increased costs during the COVID-19 pandemic **and** government assistance has not made up for the lost income or increased expenses.
- Tenants who are facing no-cause holdover evictions can use this form to declare that moving into new permanent housing would pose a significant health risk to someone in the household who has an increased risk for severe illness or death from COVID-19.

What about tenants with active evictions?

- If a tenant has an active eviction court case, it is stopped until February 26, 2021. The court will mail a hardship declaration form in English (and the tenant’s primary language, if known) that can be completed and given to either the court or the landlord.
- If the court issued a default eviction order before December 28, 2020, the tenant may call or write to the court to ask for their case to be re-opened. Filing an order to show cause should not be necessary.
- If there is an active eviction warrant, it is **stopped** until the court holds a status conference with the tenant and the landlord. At this conference, the tenant can file a hardship declaration.



What are the responsibilities of the landlord?

- Landlords must provide tenants with a phone number, a mailing address, and an active email address to return the hardship declaration form.
- Prior to suing a tenant in a new eviction case, the landlord must give the tenant a hardship declaration form (in the tenant's primary language). This should be given both when the warning notice or rent demand is given and again when the landlord delivers the court papers.
- In order to file a new eviction case, a landlord must submit an affidavit that explains how they delivered the hardship declaration form to the tenant and confirm they did not receive it back from the tenant **or** say that the tenant engages in ongoing behavior that disturbs other tenants or is causing a safety hazard.
- Landlords must continue to maintain their properties regardless of how much rent they are collecting or owed.

What else should you know about the Emergency Eviction and Foreclosure Prevention Act?

- Tenants who fill out this form should keep a copy for their own records. If they owe rent, they should keep track of how much they owe and how much they have paid.
- Tenants can give a hardship declaration to their landlord before the eviction case is started and it cannot begin until May 1, 2021.
- Homeowners and landlords who owe 10 or fewer rental units are protected from foreclosure by this same Act.
- The Hardship Declaration form is available at www.nycourts.gov. The form is available in English and Spanish and will be translated into six additional languages by January 12, 2021.

The Emergency Eviction and Foreclosure Prevention Act does not mean that tenants do not or will not owe their landlords rent payments. They will still need to pay the full amount of owed rent at some point unless there is further intervention by the state or federal governments.

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