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Recent Bills Introduced in New Jersey Address COVID-19 Real Estate Evictions and Lawsuits

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New legislation in New Jersey has been introduced that, if enacted, will impact tenants, landlords, and planned real estate developments (most commonly condominiums) in the State; one that seeks to strike a balance between tenants' and landlords' rights while ending the current ban on evictions, and the other created to limit lawsuits against planned real estate developments stemming from COVID-19 exposure in common facilities.

First, the New Jersey Senate and Assembly have passed S3691, legislation that proposes to end New Jersey's eviction moratorium while leaving certain tenant protections in place.

The highlights of the bill are as follows:

- The ban on evictions would end as of August 31, 2021 for renters who earn above 80% of the "area median income." The eviction ban would remain in place until December 31, 2021 for renters earning below that number.
- Evictions cannot be based on a failure to pay rent or a rental increase during the time period that the ban was in effect. Those past due amounts, if any, shall be treated as civil debts, and may be pursued by way of monetary judgements in court without the threat of eviction.
- Currently pending eviction actions based on nonpayment or habitual late payment of rent or failure to pay a rent increase that were commenced during

the period the ban was in effect may be dismissed if the tenant certifies that: (i) it is a very-low-income, low-income, moderate-income, or middle-income household (as those terms are defined in the bill); and (ii) that the reason for the filing of the suit was nonpayment or habitual late payment of rent, or failure to pay a rent increase during that period. If any such case is dismissed and a landlord subsequently refiles against the same tenant, the landlord may request that the suit be reinstated against that tenant.

- As a condition of receiving any State or federal rental assistance on behalf of a tenant for rent, a landlord shall waive all late fees assessed for rent unpaid during the period for which assistance is being provided.
- Landlords may not report negative credit information of tenants based on nonpayment or late payment of rent, or failure to pay rental increases during the time that the ban was in effect.
- The act additionally creates an “Eviction Prevention Program” endowed with \$500 million in federal funding for rental assistance and an additional \$250 million for utility assistance.

Secondly, the New Jersey Assembly unanimously passed bill S3584, which, as currently drafted, would provide "a planned real estate development" -- most commonly condominium properties -- with immunity from “civil liability for damages arising from, or related to, an exposure to, or transmission of, COVID-19” if the development “prominently displays” certain warning signs in appropriate areas.

The act requires such signs to state:

"Any person entering the premises waives all civil liability against the planned real estate development for damages arising from, or related to, an exposure to, or transmission of, COVID-19 on the premises, except for acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or

willful misconduct.”

The bill further provides that it shall not be construed to limit or modify any claim for relief under New Jersey’s workers’ compensation law. The bill is set to expire on January 1, 2022.

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