



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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New York State Attorney General

December 31, 2020

Peter R. Kehoe
Executive Director, New York State Sheriffs' Association
27 Elk Street
Albany, NY 12207

VIA E-MAIL

Dear Executive Director Kehoe:

On December 28, 2020, the COVID-19 Emergency Evictions and Foreclosure Prevention Act (EEFPA) of 2020 was signed into law. It provides protections for tenants at risk of eviction. Attached to this letter is a comprehensive description of the law.

The EEFPA allows tenants to get an automatic stay of eviction in all cases through May 1, 2021 by completing and sending a hardship declaration (“Declaration”) to their landlord or providing the Declaration to the Court or a Sheriff, Marshal or City Constable. A copy of the Declaration should be posted on the Court website shortly.

The EEFPA also contains changes that affect eviction warrants. All eviction warrants -- those currently issued and those that will be issued – are now defective unless they contain specific language referencing the Declaration. The eviction warrant must contain a statement that the tenant has failed to submit a Declaration after having been properly served with the Declaration and must list the dates of service. In the alternative, the warrant may contain a statement that the tenant is ineligible for the stay because the tenant 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, with a specific description of the behavior (“Ongoing Nuisance Behavior”).

Sheriffs and other law enforcement officers who execute eviction warrants should review all newly issued eviction warrants to confirm that they contain the proper language required by the EEFPA. If the eviction warrant does not contain the proper language, the EEFPA prohibits eviction. Eviction warrants issued before the EEFPA went into effect will not contain this language and therefore cannot be executed upon. Instead, the landlord must go back to court for

a status conference on whether the eviction warrant should be amended at which point the tenant can submit a Declaration.

The EEFPA also allows tenant to provide a Declaration to a Sheriff or other law enforcement officer who is executing an eviction warrant. Upon receipt of a Declaration from the tenant, the Sheriff or other law enforcement officer is prohibited from executing on the eviction warrant and must return the Declaration to the court indicating the appropriate index/case number. The warrant may be executed even if the tenant provides a Declaration only when the eviction warrant states the tenant is ineligible due to Ongoing Nuisance Behavior.

The OAG encourages Sheriffs and other law enforcement officers who execute eviction warrants to provide Declarations to all occupants when engaged in an eviction. The EEFPA's intent is to avoid as many evictions as possible because "stabilizing the housing situation for tenants ... is to the mutual benefit of all New Yorkers and will help the state address the pandemic, protect public health, and set the stage for recovery." Providing tenants and other occupants with Declarations at the point of eviction furthers this mandate and will allow people to remain housed during the pandemic.

We hope this letter and the attached guidance provides you with the information you need to comply with the EEFPA. The OAG is available to assist or answer any questions you may have about the new law.

Respectfully submitted,



LETITIA JAMES
New York Attorney General