



Memorandum in Opposition S.8125/A.10224

This Memorandum in Opposition is submitted by the Rent Stabilization Association of New York City on behalf of its 25,000 members who own or manage approximately one million apartments in the City of New York.

RSA strenuously opposes S.8125, which would suspend for 90 days rent payments by residential and small business commercial tenants who have lost income or been forced to close their place of business as a result of government-ordered restrictions in response to the COVID-19 epidemic.

S.8125 provides that residential and small business commercial tenants "shall not and shall never be required to pay any rent waived during such time period." In exchange, any "person" (a term that is undefined) shall receive "forgiveness" of mortgage payments for such "covered property."

However, that "forgiveness" of mortgage payments only arises if owners face "financial hardship," a more burdensome and indeterminate threshold which is inapplicable to the residential or commercial tenants.

S.8125 is a simplistic, one-sided, fatally flawed piece of legislation that fails to recognize the economic and financial realities which underlie the entire residential industry in general and rent regulated residential properties in particular. The bill views rental payments in a vacuum and fails to appreciate the complex inter-relationship between those rental payments and the very ability of apartment building owners to pay not only their mortgages but their property taxes, water and sewer charges, utilities, insurance, contractors or any other expenses. However, that failing does not begin to account for its most significant flaw.

Most egregiously, it is only when one reads to the final provisions of S.8125 that it becomes evident that the bill excludes from the definition of "covered property" any property "for which a certificate of occupancy authorizing residential use of such building or portion of such building has "not" been issued." Therefore, while residential tenants will benefit, apartment building owners in which those tenants reside would not, even if they could establish financial hardship, be eligible for the mortgage relief promised by S.8125. While S.8125 presents itself as providing relief for owners that is commensurate with the relief provided to tenants, that is simply an illusion. The damage wrought by S.8125 would be incalculable but, most assuredly, would result in widespread abandonment, foreclosures, and devastation of the housing stock.

Even if S.8125 were amended to incorporate residential properties for mortgage relief, it would still fall far short of the financial needs of apartment building owners. Property tax relief is essential to any legislative effort to provide rental payment relief to tenants. Property taxes- which typically constitute 30-40% of a building's rent roll- not only must be paid by building owners to avoid in rem foreclosure by the City but, from the broader perspective, are essential to the short-term and long-term financial viability of the City. Neither those taxes nor any other financial obligations can be paid by apartment building owners without the requisite rental payments from tenants.

This bill eliminates a contractual obligation to pay rent for three months requiring building owners to waive 25% of the tenant's annual rent obligation at a time when government should be aiding small businesses, particularly when the Governor's executive order placed a 90 day hold on eviction proceedings. This bill shifts the burden to owners facing their own economic challenges. The cost of any such rent payment forgiveness should be borne by government not owners.

Owners do not want to evict tenants. Owners want to work with tenants negatively impacted by Covid-19 to provide for reasonable payment terms. There is a federal Covid-19 relief legislation, which provides some financial relief to such individuals, which should help them meet rent and other obligations.

RSA strongly urges the disapproval of S.8125.