

TAKEROOT JUSTICE

Testimony to the New York State Senate Finance Committee and Assembly Ways and Means Committee on the 2021-22 Executive Budget Proposal:
Prevent Mass Closure of Small Businesses

February 23, 2021

Introduction

Committee Chairs, Assemblymembers –

Thank you for this opportunity to testify. My name is Cheryl Walker, and I am a Staff Attorney at TakeRoot Justice. At TakeRoot, we believe empowering grassroots organizing is how we decrease suffering and increase belonging in New York City. Our clients come from the most marginalized groups: low-income, people of color, women, non-English speaking and often immigrants. TakeRoot is also a member of United for Small Business NYC (USBnyc), a coalition of 15 organizations and community groups in NYC fighting to protect small businesses and non-residential tenants from the threat of displacement.

Since mid-March, we have counseled approximately one hundred small businesses negotiating with their landlords about rent and tenancy. In the midst of an ongoing pandemic that has thrust even greater economic strain on those least able to weather it, our clients are struggling to avert both corporate and personal bankruptcy.

Today, I am lifting up the experiences of our clients, the organizers who have been supporting small business owners, and other attorneys working with anxious small business owner clients.

In an effort to ensure that our state government works for Main Street the way that it works for Wall Street, we ask that the legislature allocate \$500 million in this budget to create an equitable and widely accessible commercial rent relief program.

Small Businesses and Nonprofits are in Danger of Closing Permanently

Small businesses and nonprofits provide over 957,000 jobs, with total payroll close to \$43 billionⁱ, and generate \$950 billion in annual revenues in New York State. New York nonprofits employ over 1.4 million New Yorkers and comprise almost 18% of private employment in the state.ⁱⁱ

Business revenues plummeted when the state ordered “non-essential” businesses to close and New Yorkers to stay home in an effort to stop the spread of COVID-19. There has simply not been enough money flowing to many small businesses for them to pay their workers and pay rent.

Federal government loan programs have failed to meet the need. While a handful of our clients received Paycheck Protection Program (PPP) and/or Economic Injury Disaster Loan (EIDL) loans, most were unable to apply for or obtain loans due to language barriers, onerous paperwork requirements, and the exclusion of sectors of the immigrant community. Recent analysis shows that PPP loans were not equitably distributed and were less likely to reach businesses in low-income communities and communities of color.ⁱⁱⁱ Federal loans received by a lucky few were often a small fraction of the need; further, the terms of the loans limited the percentage allowed to be used for rent.

There has been no comprehensive commercial tenant rent relief program. Through the limited support of a handful of attorneys like us, a few commercial tenants have negotiated individually with their landlords. Even when our negotiations are successful, our clients are often left in further debt and one crisis or slip away from losing their businesses.

Eviction moratoriums and restrictions on some court filings do nothing to alleviate the debt. They only prolong the evitable: landlords will utilize the courts to demand due rent, rent that business owners will not be able to pay. Over the last year, landlords have continued to demand rent even without the assistance of the courts.

The reality of small business owners is simple: if they do not have sufficient revenue to maintain operations, they will not wait for an eviction notice. They will close or file for bankruptcy.^{iv}

Rent Relief Can Prevent Mass Closures

While we applaud the legislature's leadership in sponsoring the recent package of bills, including the COVID-19 Emergency Protect Our Small Business Act passed earlier this month, which will delay evictions by a few more months, rent debt must be addressed directly to prevent mass closures. The legislature must create a path to recovery that allows commercial tenants and property owners to share the burden of the pandemic with support from the state.

Small businesses and nonprofits that have lost significant revenue due to COVID-19 and are unable to pay rent should qualify for rent abatement and only be required to pay a portion of that abated rent proportionate to their revenue. Property owners whose tenants have applied for and received the abatement should be eligible for reimbursement, to be administered by the State Department of Economic Development and funded by federal relief or any other available source of funding. In order for the program to reach the most vulnerable businesses and nonprofits, all eligible commercial tenants should receive the abatement and their landlords should be eligible for relief.

Closing

Commercial rent relief is essential to New York State's economic recovery, and I ask you to include it in the FY22 budget.

Thank you again for the opportunity to testify. I look forward to any questions that you may have.

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ⁱ New York State Comptroller. (2019). *Small Business in New York State: An Economic Snapshot*. <https://www.osc.state.ny.us/files/reports/special-topics/pdf/small-business-nys-2019.pdf>.

ⁱⁱ New York State Comptroller. (2019). *Nonprofit Organizations in New York State: Profile of Employment and Wages*. <https://www.osc.state.ny.us/files/reports/special-topics/pdf/economic-nonprofits-2019.pdf>.

ⁱⁱⁱ Weisberg, J. (2020, October 8). New York's small businesses left out of the Paycheck Protection Program. *Association for Neighborhood & Housing Development*. <https://anhd.org/blog/new-yorks-small-businesses-left-out-paycheck-protection-program>.

^{iv} Saul, J. and Goldman, H. (2020, September 29). New York region sees 40% bankruptcy surge, Braces for More. *Bloomberg*. <https://www.bloomberg.com/news/features/2020-09-29/new-york-city-bankruptcies-2020-pivotal-point-for-business-as-covid-cases-rise>.