Statement Before the New York State Senate Standing Committee on the Judiciary and Senate Standing Committee on Housing, Construction, and Community Development

On the Good Cause Eviction Proposal

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Thank you, members of the committee.

I am Howard Husock, a senior fellow in Domestic Policy Studies at the American Enterprise Institute (AEI), where I focus on municipal government, urban housing policy, civil society, and philanthropy. I am also the author of two housing policy books—*The Poor Side of Town: And Why We Need It* (Encounter Books, 2021) and *America's Trillion-Dollar Housing Mistake: The Failure of American Housing Policy* (Ivan R. Dee, 2003)—and numerous studies of American public policy. I've recently testified in front of the New York Advisory Committee to the US Commission on Civil Rights on eviction-related policy during the COVID-19 pandemic. Additionally, I testified in front of three United States congressional committees on housing policy and related legislation. I previously served as director of case studies at the Harvard Kennedy School of Government. I am a resident of New York state and do not own nor operate rental property.

No one should disagree that eviction from one's home can be a painful and costly experience. The legislation (The Good Cause Eviction Proposal/S.3082) we are considering understandably seeks to limit such situations. But in the goal of helping some, one must be careful not to unduly harm others.

It is too easy to view our housing market as one in which predatory owners exercise undue economic power. The reality is different: The housing market is a sensitive ecosystem in which property owners, many of them of relatively modest means themselves, balance what they feel the rental market can bear with their own cost of continuing to provide well-maintained housing. Housing markets should be understood as urban ecosystems, in which owner and tenant are interdependent, the former providing a vital good and the latter making possible upkeep and ongoing provision. The idea that the profit motive is antithetical to good housing conditions does not withstand scrutiny by the endemic maintenance problems of public housing, in which rental payments are limited by statute. Federal and state evictions that have been promulgated in response to the COVID-19 pandemic have had undue and devastating effects on rental property owners throughout New York and around the country.

The proposed bill (The Good Cause Eviction Proposal/S.3082) interferes in ways that can unbalance this delicate ecosystem. Central to its language is the idea that eviction for nonpayment should not be permitted when "a rent increase is unreasonable." That is defined as follows: "rent increase is presumed to be unreasonable and, therefore, not a basis for eviction, if it exceeds either 3% of the previous rental amount or 1.5% of the Consumer Price Index whichever is higher."

First, I'm sure I don't have to remind members of the committee that inflation today has moved sharply upward—and is expected to move further upward. A key metric in this bill would, in other words, inevitably be a moving target. Indeed, the annualized US inflation rate was 4.9 percent this past August[1]—but rose to 6.8 percent for November.[2] What is viewed as unreasonable in one snapshot may well be reasonable in the next (as displayed by inflation rates over the past year). Keep in mind that inflation can hit residential property owners in specific ways: They are not in a position to decline to pay increased heating bills—nor increased grocery bills for their own families.

Yes, measures of tenant need are important to track. But not all property owners have their own large financial cushion. An Urban Institute report surveyed landlords and tenants in August 2020 and found that the COVID-19 crisis and the statewide eviction moratorium were disproportionately affecting Black and Hispanic rental property owners who were struggling to pay their mortgage. Yet, 48 percent of Hispanic and 42 percent of Black rental property owners offered their tenants rent payment plans.[3] Landlords cannot be certain of finding replacement tenants, after all—and they fear an interruption of the income stream they use to pay their own bills and the costs of repairs, which themselves help support small contractors. That's what I mean by an ecosystem of economic interdependence.

This bill may allow us to track trends in evictions (a worthy goal), but it will do nothing to account for the pain of foreclosures, bankruptcies, or deferred maintenance that leads to leaks and building damage. It does nothing to take into account the relative financial wherewithal of affluent tenants and struggling property owners or to discourage those who might be able to pay rent but can put it off at the expense of a working-class property owner. After all, there is no roster of New York state property owners to provide insight into how many are themselves immigrants and persons of color, yet this bill assumes that property owners would, left unchecked, act in a predatory manner. Moreover, it should not be assumed that owners are in position to exercise arbitrary power unchecked by market conditions. Indeed, many have reason to be concerned about finding replacement tenants should they be forced to undertake eviction for any reason. As the New York Times has reported, there is reason to believe that, in the wake of the COVID pandemic, New York City may experience significant population loss.

> "More than 837,400 people who submitted change-of-address requests from New York City addresses in 2020, a 36 percent increase over 2019, according to a pandemic migration report from the NYC office of the comptroller, citing United States Postal Service data."[4]

In effect, this bill would extend price regulation on residential property statewide—bringing with it savings for some but wider costs as well. Maintenance of property would be at risk, as would new capital investment. This bill would come at a time when previously enacted rent regulation is already tied up in litigation that may overturn it[5]—which calls for legislative caution.

More broadly, there is no doubt that we, as a society, believe that a significant social safety net must be provided to protect those who do not adequately benefit from our economy. That is why we provide Supplemental Nutrition Assistance Program assistance, the earned income tax credit, Medicaid, and other programs that serve different purposes but are unified by providing assistance directly to those in need. This bill would ask one class of persons—property owners—to be at risk for nonpayment of revenue that they had reason to expect and on which they rely. It is a bill that risks a range of negative consequences.

It is an honor to speak in front of the New York State Senate, and I look forward to answering any questions you may have.

Endnotes

[1] Federal Reserve Bank of Dallas, "Behind the Numbers: PCE Inflation Update, August 2021," https://www.dallasfed.org/research/pce/2021/pce2108.aspx.

[2] Jeff Cox, "Inflation Surged 6.8% in November, Even More Than Expected, to Fastest Rate Since 1982," CNBC, December 10, 2021, https://www.cnbc.com/2021/12/10/consumer-price-index-november-2021.html.

[3] Jung Hyun Choi and Laurie Goodman, "Black and Hispanic Landlords Are Facing Great Financial Struggles Because of the COVID-19 Pandemic. They Also Support Their Tenants at Higher Rates.," Urban Institute, September 4, 2020, https://www.urban.org/urban-wire/black-and-hispanic-landlords-are-facing-great-financial-struggles-because-covid-19-pandemic-they-also-support-their-tenants-higher-rates.

[4] Joanne Kaufman, "They Had Reasons for Leaving the City. So Why Are Their Friends Mad?," *New York Times*, January 9, 2022, https://www.nytimes.com/2022/01/07/realestate/pandemic-move-friends.html?referringSource=articleShare.

[5] Trevor Burrus and Sam Spiegelman, "Are Rent Control Laws Unconstitutional?," Cato Institute, January 28, 2021, https://www.cato.org/blog/are-rent-control-laws-unconstitutional.