

ASK THE ADMINISTRATOR

Q: I have been asked by many clients to summarize the changes in the rent laws (formally known as the Housing Stability and Tenant Protection Act of 2019) that were enacted by the State on June 14, 2019. Given the numerous provisions in the HSTPA and the wide range of issues that it addressed, the following outline provides merely a basic summary. It is important that you familiarize yourselves with the latest changes.

You should contact your attorney or RSA for more specific guidance relating to the applicability of the new laws to the ownership and management of your property.

Under the HSTPA:

- 1. High-rent vacancy deregulation and high-income, high-rent deregulation are repealed. Previously deregulated units remain deregulated**
- 2. Vacancy allowances and long-term occupancy increases are repealed**
- 3. Individual apartment improvements (IAIs):**
 - Limited to a total of \$15,000 in improvements over 15 years.
 - Buildings of under 36 units (14-year amortization).
 - Buildings of 36 or more (15-year amortization).
 - Increases expire in 30 years.
 - DHCR shall promulgate schedule of reasonable costs.
 - Work must be done by a licensed contractor.
 - Owner and contractor cannot be the same.
 - Owner must clear all hazardous or immediately hazardous violations.
 - New form to owners to obtain written informed consent from tenants.
- 4. Major Capital Improvements (MCIs):**
 - Buildings of under 36 units (12-year amortization).
 - Buildings of 36 or more units (12.5-year amortization).
 - MCI increase cap reduced from 6% to 2%.
 - MCI increases granted between 2012 and 2019 reduced prospectively from 6% to 2%.
 - Increases expire in 30 years.
 - Additional notification and documentation procedures.
 - Owner must clear all hazardous or immediately hazardous violations.
- 5. Rent control increases to be calculated as the lesser of 7.5% or the previous five-year RGB average. Fuel cost pass-alongs prohibited**
- 6. New York City rent stabilization fees increased from \$10 to \$20 per stabilized unit**
- 7. ETPA sunset provision repealed. ETPA expanded Statewide, allowing additional localities to opt in**
- 8. Rent Overcharges:**
 - Statute of limitations/look back period increased from four years to six years. In addition, while record-keeping was increased from four years to six years, DHCR or courts may consider all available rent history which is “reasonably necessary to make a determination.”
 - Liability period for increased from four years to six years preceding the complaint.
 - “Safe harbor” resulting from voluntary payment of overcharges repealed.
 - DHCR and courts have concurrent jurisdiction.
 - Newly-enacted provisions apply to ALL pending cases and proceedings, and to new claims.
- 9. Owner Occupancy:**
 - Limits to one apartment occupancy by owner or immediate family.
 - Occupancy period for tenant to receive added protections as “long-term tenant” reduced from 20 to 15 years.
 - Owner must establish “immediate and compelling necessity.”
 - Applies to pending matters.
 - Owner-occupancy-related fraud claims can result in damages plus legal fees.
- 10. Leases with not-for-profit organizations. Formerly homeless and other vulnerable occupants now deemed to be tenants**

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11. Miscellaneous provisions:

- Increases tenant protections against retaliation by owners against tenants.
- Owner must provide unregulated tenant with written notice of renewal of rent increases of more than 5% or intention NOT to renew; amount of notice determined by length of tenancy.
- Owner has duty to mitigate damages when tenant vacates.
- Owner cannot use prior litigation or tenant screening report as basis to refuse applicant.
- Owner required to keep cash rent receipts for three years and tenants who pay by check or money order can request receipts. Once a request is made that request the owner is obligated to provide receipts until the end of the tenancy.
- Owner required to advise tenant by certified mail that rent not received within five days of date due.
- Owner can only charge and pass along a \$20 of background check/application fee. If the tenant has provided a copy of a background/credit check conducted in the past 30 days then the owner can't charge.
- Late fees are capped at the lesser of 5% or \$50.00.
- Owner cannot recover legal fees in housing court.

12. Housing Court Proceedings:

- Three-day demand increased to 14 days.
- Owner cannot orally make rent demands.
- Rent is only rent, no other fees or charges.
- Owner must accept the rent at any time prior to a hearing.
- Notice of Petition return date for non-payments increased from five to 10 days.
- Notice of Petition return date for other than non-payment cases increased to not less than 10 days (previously five) to no more than 17 (was 12).
- Deposit of rent provisions changed dramatically.
- Maximum stay of warrant of eviction increased from six to 12 months.
- Courts to consider whether the refusal to grant a stay would cause "extreme hardship," including the ability of the tenant "to relocate and maintain quality of life," and whether owner would incur "substantial hardship."
- Tenant entitled to restoration prior to execution of warrant unless owner establishes rent withheld in bad faith.

13. Security deposits:

- Owners prohibited from more than one month's security from regulated and unregulated tenants.
- Procedures created for apartment inspections and return of security deposits.

14. Condo/Coop Conversions:

- Statutory authority for eviction plans repealed.
- Non-eviction plans require purchase agreements from 51% of tenants; non-tenants excluded from calculation. ■



Article provided by Howard Stern, Esq., Administrator of the RSA Legal Plan for small property owners, who is solely responsible for its content.

The RSA Legal Plan

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