

Strengthening New York State Rent Regulations

The Housing Stability and Tenant Protection Act of 2019

Highlights of the Housing Stability and Tenant Protection Act of 2019

- The following document contains a brief overview of New York's rent regulation laws and changes to these laws under the new HSTPA
- Fact Sheets that are noted throughout the document can be found on our website, here: hcr.ny.gov/rent-laws-updates
- For additional information on tenant and owner rights and responsibilities under New York's rent regulation laws, visit: hcr.ny.gov/office-rent-administration-ora

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What is Rent Regulation?

- A number of communities in New York State have rent regulation programs known as rent control and rent stabilization
- These programs are administered by HCR's Office of Rent Administration
- Rent regulation is intended to protect tenants in privately-owned buildings from illegal rent increases and allow owners to maintain their buildings and realize a reasonable profit
- Rent control generally applies to buildings constructed before 1947
- Rent stabilization covers buildings built after 1947 and before 1974, and apartments removed from rent control
- Outside New York City rent stabilization is also known the Emergency Tenant Protection Act (ETPA)



What is the Housing Stability and Tenant Protection Act (HSTPA)?

On June 14th, 2019 Governor Cuomo signed the HSTPA which provided a series of historic reforms to the rent laws, including:

- Makes the laws permanent
- Establishes rent stabilization as an option for localities statewide
- Repeals high rent vacancy deregulation and high income deregulation
- Repeals vacancy decontrol and longevity increases
- Makes preferential rent the base rent for duration of the tenancy
- Limits MCI rent increases and IAI rent increases
- Reforms rent increase system for rent control tenants
- Establishes stronger tenant protections statewide with changes to security deposits and eviction guidelines
- Bans owners from refusing leases to tenants who have been involved in housing court cases
- Limits rent increases in manufactured home parks



2019 Rent Law Changes

High Rent / High Income Decontrol: Repealed

Pre-2019 Law

- Due to Rent Reform Act of 1997, landlords could permanently deregulate apartments not subject to tax benefits/regulation (e.g. 421-a/J-51) when the legal rent crossed the decontrol threshold
- Upon vacancy, when the legal rent of the outgoing tenant was above the decontrol threshold (currently \$2,744/month in NYC, indexed to RGB increases), the unit was no longer rent stabilized
- Without a vacancy, if legal rent crosses the decontrol threshold AND combined income of tenants in an apartment is greater than \$250,000 for two consecutive calendar years, the unit was no longer rent stabilized



HSTPA of 2019

Eliminates the decontrol threshold

- Landlords can no longer deregulate apartments due to high rent or high income

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Vacancy and Longevity Increase: Repealed

Pre-2019 Law

Landlords were entitled to the following upon vacancy:

- Vacancy Increase:
 - 20% increase upon vacancy
 - Available once per calendar year
- Longevity Increase:
 - Available if the apartment had been occupied for at least 8 years since a vacancy
 - If applicable, the legal rent could be increased by 0.6% per year that elapsed since the prior vacancy



HSTPA of 2019

Eliminates Vacancy Increase

- Landlords can only increase legal rents by RGB

Eliminates Longevity Increase

- Landlords can only increase legal rents by RGB regardless of how long a tenant is in occupancy

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Preferential Rents: Becomes effective rent for term of tenancy

Pre-2019 Law

- A landlord could choose to offer a tenant a rent that is less than the legal registered rent, called a preferential rent
- This preferential rent was not permanent for the duration of the tenancy
- Preferential rent could be revoked upon lease renewal and the rent can be raised to any amount up to the legal rent – leading to increases well above RGB guidelines and other legal increases



HSTPA of 2019

Preferential rent operates as the legal rent for the life of the tenancy

- Preferential rent cannot be raised to legal rent upon lease renewal
- Upon vacancy, the landlord can charge the legal rent, provided the prior tenant did not vacate because the owner failed to comply with the warranty of habitability

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Major Capital Improvements (MCIs): Retained but substantially modified to limit impacts on rent increases

Pre-2019 Law

- Landlords were entitled to a permanent legal rent increase for certain capital work performed for building-wide improvements with ORA approval
- The MCI rent increase was based on the actual and verified cost of the work, amortized over 8 or 9 years, depending on building size
- The MCI rent increase was capped at 6% per year to slow the impact on the tenant's rent
- Landlords could also temporarily collect a retroactive increase to cover the period between application date and approval date



HSTPA of 2019

MCI's are no longer permanent

Rent increase cap is reduced

- From 6% to 2% in NYC
- From 15% to 2% in ETPA counties
- The 2% cap applies prospectively to MCIs that became effective in the last seven years
- Buildings with 35 or fewer units are amortized over 12 years, buildings with more than 35 units are amortized over 12 ½ years
- Allowable costs will be based on a reasonable cost schedule created by HCR.

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Individual Apartment Improvements (IAIs): Retained but substantially modified to limit impacts on rent increases

Pre-2019 Law

- Landlords were entitled to a permanent legal rent increase for IAIs
- IAIs permitted upon vacancy (when most are completed) with no caps on cost
- Under certain circumstances, IAIs permitted with consent for occupied apartments
- IAI rent increase was amortized over 3 or 5 years depending on building size
- IAIs are not filed with, reviewed, or approved by ORA



HSTPA of 2019

IAI spending is capped

- Maximum is \$15,000 over a 15-year period;
- No more than three IAIs can be charged during this 15-year period

IAIs are no longer permanent;

- Burn off after 30 years
- Increases not allowed where the apartment has outstanding hazardous or immediately hazardous violations
- HCR to create a centralized database

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Rent Control: Eliminate Maximum Base Rent (MBR) formula and align with Rent Stabilization

Pre-2019 Law

- Rent increases in rent-controlled apartments were set according to the MBR formula
- Annual increases for rent controlled apartments were capped at 7.5% per year; significantly higher than what is typically permitted for rent stabilized apartments
- Landlords must apply for MBR vs. rent stabilization increases which are automatically available



HSTPA of 2019

- Maximum Collectible Rent increases will now be the average of the five most recent Rent Guidelines Board annual rent increases for one-year renewal leases
- For 2019 this annual increase will be .85%
- Fuel pass-along charges are repealed and landlords must apply

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Additional Changes: No Sunset & Extended lookback periods

Pre-2019 Law

- Rent regulation laws had a sunset date (renewed every four to eight years)
- Only municipalities with self-declared housing emergencies in Nassau, Rockland, and Westchester counties can opt-in
- Tenant rent overcharge complaints had a four-year lookback period; period that landlords may be liable for treble damages is two years



HSTPA of 2019

- No sunset established; laws do not expire automatically
- Geographic limitations lifted so municipalities state wide can opt-in
- Lookback extended to six years; landlords advised to maintain records for at least six years but implicitly longer; treble damage liability period extended to six years and exemptions tightened



HSTPA removed the geographic limitation of ETPA

All municipalities in the state can opt-in to Rent Stabilization

- Each locality must conduct a survey to determine the existence of an emergency
 - To declare an emergency there must be a rental vacancy of <5% for any class of rental accommodations
 - Must be in a six or more unit building built before 1974
- County Rent Guidelines Board will be established
- The County RGB sets rates for rent adjustments in the localities that have declared an emergency
- Rates set once a year and are effective for leases beginning on or after Oct.1st
- Initial legal rents will be registered based on current rent
- Locality pays the cost of rent regulation and can charge owners up to \$20 annually per registered unit

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What Obligations do Landlords Have to Tenants Under ETPA?

- **Landlords are required to submit documentation** to HCR each year including registration statements for rent regulated apartments
- **Landlords are limited to increasing rents** by the percentages set by the Rent Guidelines Board each year
- **Landlords are generally obligated to offer one or two-year renewal leases** to each tenant prior to expiration of the current lease
- **Landlords are required to maintain their rent regulated apartments** in accordance with standards set forth in the ETPA, in addition to local building and housing maintenance laws

If a landlord fails to follow rent stabilization law, tenants can file cases with the Office of Rent Administration



Statewide Housing Security and Tenant Protection Act of 2019: Benefits to All Tenants

- Bans use of tenant screening bureaus, which prevent tenants who've challenged unfair landlords from finding apartments
- Prohibits landlords from evicting tenants for filing complaints on code violations
- Limits security deposits to one month's rent and provides required procedures to ensure the landlord promptly returns the security deposit
- Includes a wide variety of protections for tenants during the eviction process, including strengthening protections against retaliatory evictions
- Creates the crime of unlawful eviction, where a landlord illegally locks out or uses force to evict a tenant
- Requires landlords to provide notice to tenants if they intend to increase the rent more than five percent or do not intend to renew the tenants' lease
- Provides tenants more time in eviction proceedings to get a lawyer, fix violations of the lease, or pay rent owed
- Expands the ability of the court to stay an eviction for up to one year if the tenant cannot find a similar suitable dwelling in the same neighborhood after due and reasonable efforts or the eviction would cause extreme hardship

For more information

<https://ag.ny.gov/consumer-frauds/housing-issues>



**Homes and
Community Renewal**

Protections for Tenants and Owners of Manufactured Homes

New and expanded protections for owners and tenants of manufactured homes in manufactured home parks

- **Annual rent increases capped** at 3%
- **Two-years notice of evictions** proceedings due to change of use
- **Park owners must provide a stipend** up to \$15,000 to homeowners who must move due to change of use
- **Late fees are now limited** to 3% of the delinquent payment
- **Park owners must provide Bill of Rights**, detailing owner's and tenant's rights
- **Home owners must be offered an annual lease** for site rental
- **Park owners are barred from collecting attorneys' fees** from a homeowner due to breach of lease



Manufactured Home Rent-to-Own Contracts

Rent-to-own contract must be in writing and clearly state all terms of the agreement

What is a Rent-to-Own Contract?

An agreement between a park owner and Manufactured Home renter under which the renter will eventually become the owner of the home they are renting

How Does the Law Protect Renters in Rent-to-Own Contracts?

- The contract must include a description of the home and all relevant information such as serial number, year manufactured, and site or lot number
- The contract must include:
 - A complete description of any payments made (rent amount, rent-to-own payment, etc)
 - The length of the agreement
 - The number of payments
 - The annual percentage rate and finance charges
 - Any additional fees



Operationalizing the Law: NYS Rent Connect

In 2019, HCR created portals dedicated to both tenants and owners to simplify interactions with HCR's ORA

Tenants and Owners
can complete
Applications Online:

- Lease issues
- Overcharge complaints
- Defective conditions
- Owner registration

MCI Cases

- File responses to open MCI cases online
- Estimate impact of MCI increase on monthly rent using the **MCI Payment Estimator**

NYS Rent Connect
Assistant

- Easy access to records and forms
- Info on current rent increases
- General information and answers to questions

rent.hcr.ny.gov



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