



# Emergency Tenant Protection Act (ETPA) of 1974 Chapter 576 Laws of 1974 as Last Amended

5 PAGES

## AT A GLANCE

This Fact Sheet describes the Housing Stability and Tenant Protection Act (HSTPA) of 2019 and the areas of New York State covered by the Emergency Tenant Protection Act (ETPA) of 1974.

## DEFINITIONS

### Division of Housing and Community Renewal (DHCR):

DHCR is the New York State agency that invests in communities, preserves and protects affordable housing and enforces the state’s rent control and rent stabilization laws.

### Emergency Tenant Protection Act (ETPA):

Outside New York City, rent stabilization is also known as ETPA, short for the Emergency Tenant Protection Act, and is applicable in some localities in Nassau, Westchester and Rockland counties.

### Housing Stability and Tenant Protection Act (HSTPA) of 2019:

The act, which went into effect on June 14, 2019, made changes to how rents can be raised and changed formulas for vacancy leases, Major Capital Improvements (MCI) and Individual Apartment Improvements (IAI).

## SUMMARY AND HIGHLIGHTS

ETPA stabilizes rents in localities that declare a state of emergency, such as Nassau, Rockland, and Westchester counties.

<b>Scope</b>	<ul style="list-style-type: none"> <li>ETPA covers buildings of six or more units that were built before 1974.</li> <li>Some municipalities limit ETPA to buildings of a specific size — for instance, buildings with 20 or more units.</li> </ul>
<b>Process</b>	<ul style="list-style-type: none"> <li>In addition to regulating rent increases, ETPA entitles rent stabilized tenants to receive required services, to have their leases renewed, and to be protected from eviction except on grounds allowed by law.</li> <li>HSTPA provides that any municipality declaring an emergency and adopting local legislation pays the cost of administering ETPA. In turn, each municipality can charge the owners of housing accommodations a fee of \$20 per unit per year.</li> <li>Each county that has declared an emergency and adopted ETPA has a Rent Guidelines Board (RGB) that sets annually the maximum allowable rates for rent increases in stabilized apartments.</li> </ul>

## FACT SHEET #8: IN DETAIL

This bulletin provides only general information concerning ETPA. For specific information, refer to the full text of the Act.

Currently, in Nassau, Rockland, and Westchester counties, rent stabilization applies to non-rent controlled apartments in buildings of six or more units built before January 1, 1974 in localities that have declared an emergency and adopted ETPA. For rents to be placed under regulation, there must be a rental vacancy rate of less than 5% for all or any class or classes of rental housing accommodations. Some municipalities limit ETPA to buildings of a specific size, for instance, buildings with 20 or more units.

With the enactment of the Housing Stability and Tenant Protection Act (HSTPA) on June 14, 2019, any locality in New York State can enact rent stabilization if “a declaration of emergency” regarding available apartments is made in the subject locality pursuant to the Emergency Tenant Protection Act (ETPA) of 1974. “A declaration of emergency” can be made based on the kind of vacancy rate cited above.

It is the responsibility of the locality to secure and obtain a survey of the housing accommodations to determine the existence of an emergency.

Certain types of housing accommodations are not included in the provisions of ETPA, for example: housing accommodations in buildings containing less than six dwelling units; rent controlled apartments; motor courts; tourist homes; certain nonprofit units; certain governmentally supervised housing; and housing accommodations in buildings completed on, or after, January 1, 1974.

Each municipality declaring an emergency and adopting local legislation pays the cost of administering ETPA. In turn, each municipality can charge the owners of housing accommodations a fee of \$20 per unit per year as HSTPA provides.

Each county that has declared an emergency

and adopted the EPTA has a rent guidelines board that sets the maximum allowable rates for rent increases in stabilized apartments. These guidelines rates are set once a year and are effective for leases beginning on or after October 1st of each year.

If a municipality in a county outside of Nassau, Rockland or Westchester county declares a housing emergency, a County Rent Guidelines Board will be created by DHCR based on recommendations made by the local municipal government. If additional municipalities in that county subsequently declare emergencies, DHCR will recreate the County RGB to ensure that all of the participating municipalities are represented on the County RGB. The County RGB sets the rates for rent adjustments in covered housing accommodations in the municipality or municipalities that have declared an emergency.

### Nassau County

Village of Baxter Estates  
 Village of Cedarhurst  
 Village of Floral Park  
 Village of Flower Hill  
 Village of Freeport  
 City of Glen Cove  
 Village of Great Neck  
 Village of Great Neck Plaza  
 Village of Hempstead  
 Town of North Hempstead  
 City of Long Beach  
 Village of Lynbrook  
 Village of Mineola  
 Village of Rockville Centre  
 Village of Russell Gardens  
 Village of Thomaston

### Rockland County

Town of Haverstraw  
 Village of Spring Valley

## Westchester County

Village of Croton-on-Hudson  
 Village of Dobbs Ferry  
 Town of Eastchester  
 Town of Greenburgh  
 Town of Harrison  
 Village of Hastings-on-Hudson  
 Village of Irvington-on-Hudson  
 Village of Larchmont  
 Town of Mamaroneck  
 Village of Mamaroneck  
 Village of Mount Kisco  
 City of Mount Vernon  
 City of New Rochelle  
 Village of Ossining  
 Village of Sleepy Hollow  
 Village of Pleasantville  
 Village of Port Chester  
 City of Rye  
 Village of Tarrytown  
 City of White Plains  
 City of Yonkers

## #8 ADDENDUM: FREQUENTLY ASKED QUESTIONS - MUNICIPALITIES CONSIDERING ADOPTING ETPA

### 1. What is rent stabilization?

Rent Stabilization is a system of rent regulation under New York State law that aims to protect tenants from illegal rent increases. Outside New York City, rent stabilization is often referred to by the law that governs the system, the Emergency Tenant Protection Act (“ETPA”). In addition to regulating rent increases, the ETPA entitles rent stabilized tenants to receive required services, to have their leases renewed, and to be protected from eviction except on grounds allowed by law.

Historically, the only municipalities that were eligible to adopt the ETPA outside of New York City were those located in the counties of Westchester, Rockland and Nassau. However, the Housing Stability and Tenant Protection Act of 2019 (“HSTPA”), which was adopted in June 2019, removed this geographic restriction so that any municipality in New York State that decides to adopt ETPA is eligible to do so.

### 2. Is my municipality subject to rent stabilization?

Not automatically. The ETPA is only applicable to municipalities that pass a local law adopting the system.

### 3. How do we opt in to the program?

ETPA is designed to address a housing emergency where there is a less than 5% apartment vacancy rate in a given municipality. The first step in opting into the ETPA is to complete a vacancy study of the class or classes of housing accommodations for which the municipality suspects there may be a housing emergency, the cost of which is paid by the municipality. If the vacancy study

finds that there is a less than 5% vacancy rate, then the municipality can declare an emergency and enact a local law adopting ETPA.

#### 4. What buildings will rent stabilization apply to?

ETPA generally applies to residential buildings containing 6 or more units that were constructed prior to 1974. However, a municipality may limit the applicability of the ETPA by, for example, increasing the number of units per building that are required to fall under the ETPA.

#### 5. Once ETPA is adopted, how are rents determined?

After a municipality adopts ETPA, a Rent Guidelines Board (“**RGB**”) is tasked with determining the percentage rent increases applicable to such municipality. An RGB is made up of two tenant representatives, two owner representatives and five public members, each of whom must meet certain criteria set out in the ETPA.

Under the HSTPA, if the municipality adopting ETPA is the first in the county to do so, it must make recommendations of individuals to make up the RGB to the DHCR within 30 days after adopting ETPA. At the time of adoption, the RGB will determine the initial percentage increases for the municipality as well as what the fair market rent should have been for new leases during a period, to be determined by the RGB, prior to the municipality’s adoption of ETPA. Thereafter, if additional municipalities in the same county declare emergencies, the HSTPA requires that the RGB be reconstituted so that every municipality that has adopted ETPA in a given county is represented by the same County RGB. DHCR will provide guidance on this process.

After the first year, the RGB would be tasked with meeting annually, typically in June, to

set the rent guidelines in effect for one- or two-year leases commencing on or after the following October. An RGB is required to make the determination of the appropriate rent guidelines after considering, among other things, comments from the public and data compiled by DHCR’s Research and Analysis Unit.

#### 6. How will landlords in my municipality be affected?

Landlords of rent regulated apartments have obligations to their tenants that market rate landlords do not necessarily have. These include:

- **Documentation:** Landlords of rent regulated apartments are required to submit documentation to the DHCR each year. These submissions include registration statements for their rent regulated apartments detailing, among other things, the tenant and legal regulated rent for each apartment. Landlords are also required to submit responses to surveys about their annual income and expenses, which are used by the DHCR Research and Analysis Unit to compile data that is considered by the RGB in determining the appropriate yearly percentage rent increases;
- **Rent Increases:** Landlords of rent regulated apartments are limited to increasing rents by the percentages set by the RGB each year. Aside from these percentage increases, landlords may also be entitled to pass on the cost of certain upgrades made to their buildings and apartments to their rent regulated tenants. However, such increases are usually only allowed after permission is granted by the DHCR and strict limitations on such increases were instituted by the HSTPA. Rent collected in violation of the foregoing is considered an overcharge under the ETPA. Upon the complaint of

a tenant, such overcharges may lead to penalties and interest being assessed on the landlord by the DHCR. See [Fact Sheet #26](#);

- **Renewal Leases:** Landlords of rent regulated apartments are generally obligated to offer one or two-year renewal leases to each tenant prior to the expiration of each tenant's current lease unless the landlord has a valid basis for eviction as set out in the ETPA. Moreover, landlords of rent regulated apartments are generally unable to change the terms of a lease from those contained in an initial vacancy lease. Failure to offer a tenant a proper ETPA lease renewal may, upon the complaint of such tenant, lead to penalties being assessed on the landlord by the DHCR. See [Fact Sheet #4](#);
- **Services:** Landlords are required to maintain their rent regulated apartments in accordance with the standards set forth in the ETPA. While landlords of market rate apartments are bound by state and local building and housing maintenance laws, the ETPA adds another layer of compliance. A landlord who the DHCR determines has failed to comply with these standards may be subject to rent reductions and civil penalties until such services are restored. See [Fact Sheet #3](#).

## 7. Are there any administrative costs to a municipality that has adopted ETPA?

Yes. Each municipality declaring an emergency and adopting local legislation pays its proportionate share of the yearly cost of DHCR's administration of ETPA. As authorized by the HSTPA, the yearly administrative fee charged by DHCR to each ETPA municipality is equal to \$20.00 per rent regulated unit in the municipality per year. The ETPA permits a municipality to charge owners of rent regulated apartments an assessment of up to \$20.00 per unit per year to offset this cost.

## 8. Can a municipality opt out of ETPA?

Yes. The ETPA authorizes a municipality that has adopted rent stabilization to wholly opt out of regulation or to remove certain classes of buildings from regulation. However, a municipality looking to opt out must first take certain steps laid out in the ETPA, including holding a public hearing.



➤ **Rent Connect:**  
rent.hcr.ny.gov

✉ **Ask a question:**  
portal.hcr.ny.gov/app/ask

🗣️ **For translation help:**  
hcr.ny.gov/language-accessibility

➤ **Our website:**  
hcr.ny.gov/rent

**To visit a Borough Rent Office, by appointment only, please contact:**

### QUEENS

92-31 Union Hall Street  
6th Floor  
Jamaica, NY 11433  
718-482-4041

### BROOKLYN

55 Hanson Place  
6th Floor  
Brooklyn, NY 11217  
718-722-4778

### UPPER MANHATTAN

163 W. 125th Street  
5th Floor  
New York, NY 10027  
212-961-8930

### LOWER MANHATTAN

25 Beaver Street  
New York, NY 10004  
212-480-6238

### BRONX

1 Fordham Plaza  
4th Floor  
Bronx, NY 10458  
718-430-0880

### WESTCHESTER

75 South Broadway  
3rd Floor  
White Plains, NY 10601  
914-948-4434