

## EMERGENCY TENANT PROTECTION REGULATIONS

### REGULATORY FLEXIBILITY ANALYSIS (FOR SMALL BUSINESSES AND LOCAL GOVERNMENTS)

#### 1. EFFECT OF RULE

The Emergency Tenant Protection Regulations (“TPR”) apply only to rent regulated housing units located in those communities in Westchester, Rockland and Nassau Counties that are subject to the Emergency Tenant Protection Act (ETPA). The Housing Stability and Tenant Protection Act of 2019, Ch.36 of the Laws of 2019 (“HSTPA”), amended Section 14 of the ETPA to expand applicability of the ETPA to all counties within the State of New York. However, as of the date of this analysis, rent regulation under the ETPA has not been adopted by any municipality outside of Westchester, Rockland and Nassau counties.

The class of small businesses affected by these proposed amendments would be limited to certain small property owners, who own limited numbers of rent regulated units. DHCR has sought to provide alternative and tailored methods of compliance with the requirements to provide options to small businesses to limit any additional regulatory burden. These amendments are expected to have no impact on local governments.

#### 2. COMPLIANCE REQUIREMENTS

The proposed amendments would require small businesses that own regulated residential housing units to perform some additional recordkeeping and reporting.

Such businesses will continue to need to keep records of rent increases and improvements made to the properties in order to qualify for rent increases authorized under the proposed changes.

### 3. PROFESSIONAL SERVICES

The proposed amendments may require small businesses to obtain new or additional professional services in the form of architecture or engineering services if it seeks a waiver of the reasonable cost schedule, which was previously promulgated and is now being incorporated into the larger major capital improvement (MCI) regulation. However, such services are often already used with respect to a contested MCI application. Further, the regulation will require review of costs for MCIs when contracting for the services to comply with the reasonable cost schedule.

### 4. COMPLIANCE COSTS

There is no indication that the proposed amendments will impose significant costs upon small businesses or upon the local government anticipated by the passage of the HSTPA. Small business owners of regulated housing accommodations will need to be more vigilant to assure their compliance with these changes. Compliance costs are already a generally accepted expense of owning regulated housing. There are also increased penalties in some instances if the regulations are violated as well reflecting certain penalties added to the ETPA in 2015. However, the costs of conforming present business practices to the change in standards are not substantial. In addition, these consequences are consistent with existing law or otherwise necessary to secure compliance.

### 5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

Compliance is not anticipated to require any unusual, new, or burdensome technological applications.

#### 6. MINIMIZING ADVERSE IMPACT

The proposed regulations have no adverse impact on local government. They may have some costs to businesses which must be weighed against the fact that the rule is required by statute and necessary to enforce statutes designed to protect the public health safety and welfare. The regulations do not create different regulatory standards for small businesses. It is difficult, on a blanket regulatory basis, to make exceptions for small businesses, but the regulations do allow small businesses to use exceptions available to owners under certain circumstances. Outside of the administrative proceedings themselves, where complaints and applications are reviewed on an individual basis, it is difficult to ascertain the size of the businesses subject to these regulations. To the extent the approaches suggested in SAPA section 202-b are appropriate, present procedures take these into account.

#### 7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

The rent laws and regulations empower DHCR to enforce the law. Meetings have been held with both business owners and affected tenant interest groups, including but not limited to: CHIP (Community Housing Improvement Program), Legal Services NYC, Brooklyn Legal Services, the Legal Aid Society, REBNY (Real Estate Board of New York), SHNNY (Supportive Housing Network of New York), RSA (Rent Stabilization Association of NYC, Inc.), UHAB (Urban Homesteading Assistance Board), HCC (Housing Conservation Coordinators), Tenants & Neighbors, as well as with members of the state senate and assembly. In addition, the Office of Rent Administration's Office of

Public Information has attended at least twenty-five community meetings per year since 2019. While many of these meetings have been geared primarily for tenant-based audiences, owners and owner groups are entitled to attend and there have been meetings more directed to owners and their representatives. DHCR has also issued fact sheets and operational bulletins prior to this regulatory process to inform the public as to how HSTPA impacted many of the processes and procedures of the Office of Rent Administration. The New York legislature itself held public hearings prior to the passage of the HSTPA. At the outset of this regulatory process, the Office of Rent Administration sent out an email advising all those on the email distribution list of the regulatory process and the opportunity to participate in this process. DHCR's email distribution list consists of owners, tenants and their representatives. In addition, all interested parties will have an opportunity to comment as part of this SAPA process and all issues raised by concerned parties will be carefully reviewed and considered by DHCR prior to final promulgation. This process includes public hearings.

8. FOR RULES THAT EITHER ESTABLISH OR MODIFY A VIOLATION OR PENALTIES ASSOCIATED WITH A VIOLATION

DHCR has not by these regulations increased the penalties on violations or added any additional penalties except beyond those mandated by statute. HSTPA in the context of modifying the procedures governing overcharges specifically modified a prior DHCR policy regarding repayment of overcharges prior to the time that an owner was required to respond to an overcharge complaint