

Housing Stability and Tenant Protection Act of 2019



Tenant's Background and Credit Checks

1. Landlords cannot charge application fees.
2. Landlords can charge for credit and background checks but only the actual cost or \$20, whichever is lower.

Security Deposits

3. The inspection puts all/any flaws or damage into a written agreement between the landlord and tenant.
4. After a tenant moves out the landlord has fourteen (14) days to return the security deposit.
5. When returning the deposit the landlord must make an itemized list with explanations for every deduction.

Security Deposits

6. If the security deposit is disputed the landlord has to prove that each deduction is reasonable.

7. If a landlord "willfully" withholds a security deposit the landlord can be liable for punitive damages of up to double the amount of the security deposit.

Rent and Receiving Rent

1. "Rent" has been strictly defined to mean only the money for occupancy of the unit.
2. Only Rent can be recovered in a summary (landlord-tenant) proceeding. No late fees, utilities fees, air conditioner fees, bounced check fees, etc.
3. Cannot charge a late fee if rent is paid 5 days or less after the rent is due.
4. Late fees cannot be larger than \$50.00 or 5% of monthly rent, whichever is lower.

Rent and Receiving Rent

5. All rent payments except checks need to have written receipts. If a tenant requests, the landlord is required to give written receipts for checks as well.
6. Landlords must keep rent receipts for cash payments for 3 years.

Notices and Petitions

1. The rent demand cannot be made before the end of the 5 day grace period.
2. If the tenant is late more than 5 days in paying the rent, landlord or agent must send a written notice by certified mail that the rent payment has not been received. This should not be confused with a 14 day rent demand as they both have to be delivered upon the tenant.
3. Landlords can no longer orally make a rent demand. The demand must be in writing. The rent demand notice is now a 14 day notice not a three day notice.

Notices and Petitions

4. Effective October 12, 2019, Landlords must provide written notice for any rent increase larger than 5% or any notice not to renew a tenancy:
 - a. 30 days before if the tenant has occupied the premises less than 1 year and the tenant doesn't have at least a one (1) year lease.
 - b. 60 days before if the tenant has occupied for between one (1) and (2) years.
 - c. 90 days before if the tenant has occupied for more than 2 years or has a lease term of at least two (2) years.
5. If a tenant dies during the tenancy the landlord can bring a nonpayment proceeding against the estate but this is not effective against any other occupants that have a claim to possession.

Getting Into Court

1. Law has been amended to create the Class A Misdemeanor for Unlawful Eviction (such as illegal lock out or use of force to evict a tenant), which also carries civil penalties of not less than \$1,000, nor more than \$10,000 per violation. This change applies to all renters.

Getting Into Court

2. Law increases protections for retaliatory evictions, creating a presumption of retaliation for efforts to evict a tenant within 1 year of a good faith complaint, adding attorney's fees to a civil action for retaliatory eviction.

3. The return date, the day that the court will address the matter, has been changed to a minimum of ten (10) days and a maximum of seventeen (17) days up from a minimum of five (5) days and a maximum of twelve (12) days.

Getting Into Court

4. If a tenant pays the entire demanded rent before the first court appearance the entire case is moot and the landlord cannot continue with the case.
5. The Court will adjourn the case once for a minimum of fourteen (14) days if any party asks. After the first adjournment, further adjournments are at the court's discretion.

Getting Into Court

6. There are no attorney's fees on a default judgment (tenant fails to appear in court).

7. Judges are no longer required to only give 5 days for the tenant to pay the rent after a trial. Court now has discretion to give a longer time period to pay.

After the Judgment

1. The notice requirement for warrants of eviction has been extended from 72 hours to fourteen (14) days (including weekends and legal holidays).
2. The warrant must now also state the earliest date that the eviction can take place.
3. Warrants must be executed on a business day.
4. If a tenant pays all of the money that was due, the warrant will be vacated.
5. The Court still retains the power to vacate an eviction for good cause, even after it has been executed.

After the Judgment

6. Courts now have the power to stay an eviction for up to a year if the tenant shows a "hardship" and/or if tenant cannot find a similar dwelling in the same neighborhood after a reasonable search. Additionally, the courts may consider how an eviction may exacerbate a tenant's health condition, affect a child's enrollment in a local school and other factors.

After the Judgment

7. For holdover proceedings based on a curable default, if the landlord prevails, the courts shall grant the tenant thirty (30) days to cure prior to the issuance of the warrant.

After the Judgment

8. Landlords now have a duty to mitigate damages. This means that if a tenant vacates the premises before the end of the term the landlord must make a good faith effort to try to re let the premises at market rates.

ETPA and Rent Increases

1. Rent below the legal regulated rent shall be the rent for all renewals. You cannot bring an existing tenant from preferential to legal during the tenant's occupancy.
2. The Emergency Tenant Protection Act can now be adopted by any town in the state. It is no longer limited to the counties surrounding New York City.
3. The vacancy increase of 20% has been completely eliminated.
4. Cannot deregulate a unit regardless of the legal rent.

ETPA and Rent Increases

5. After a tenant vacates an apartment, landlord can increase the rent to legal.
6. No return to ETPA regulations for apartments that are already exempt/fair market.
7. Long term vacancy increase (tenants in possession for 8 years or more) of .6% is eliminated.
8. Elimination of high income decontrol for tenants who earn more than \$200,000 per year for more than two years.

Individual Apartment Improvements (IAI)

1. IAI is now capped at \$15,000 during a 15 year period and is limited to 3 times in such 15 year period.
2. The cost of the IAI is now amortized to 1/168 (14 Years) or 1/180 (15 Years) depending on if the building has up to 35 units (1/168) or more units (1/180). This is a dramatic decrease from 1/40 (3 1/3 years) or 1/60 (5 years). For example, if you have a building that is 35 or less units and you make qualified improvements of \$15,000 to an apartment, the most you can increase the legal rent is by \$89.29 ($\$15,000/168$).

Individual Apartment Improvements (IAI)

3. The IAI is now a temporary thirty (30) years increase not a permanent increase. At the end of the 30 year period the IAI increase will be removed from the legal rent.
4. Landlords must provide an itemized list of all of the work done for the IAI.

Calculating the New Rent for a Vacancy Lease

Example

Vacating tenant was in possession of an apartment for 30 years paying a legal rent of \$500.00 per month for a three bedroom apartment.

Calculation of New Rent Under the Old Law

Under the old law (pre-June 14, 2019) the new rent is calculated as follows: \$500 last legal rent x 20% vacancy increase = \$100 increase, plus 0.6% x 30 years in occupancy x \$500 = \$90 longevity increase, plus Individual Apartment Improvements (IAI) of \$40,000/40 (assuming the building is 35 or fewer units) = \$1,000 for a total new legal rent for a fully renovated rent stabilized apartment under the old law of \$1,690.00.

Calculation of New Rent Under the New Law

After old tenant vacates, the landlord may perform up to a maximum of \$15,000 in qualified IAI with a per month increase of \$89.29 ($\$15,000/168$) making the new rent for (likely what is a partially renovated) rent stabilized apartment \$589.29 ($\$500.00 + \89.29) for the three bedroom apartment. A Landlord can no longer collect a 20% vacancy increase, longevity increase of 0.6% per year or receive unlimited IAI increases of \$250 per \$10,000 invested to fully renovate the apartment.

Rent Difference Between the New and Old Laws

- Maximum rent to be charged for a 3 bedroom rent stabilized apartment under the old law \$1,690.00.
- Maximum rent to be charged for a 3 bedroom rent stabilized apartment under the new law is \$589.29.

What if...

If the landlord does not comply with the new rent increase requirements, the landlord can be subject to a rent overcharge complaint and any erroneous increase will be subject to treble damages going back up to 6 years.

Major Capital Improvement (MCI)

1. MCI rent increases are now temporary and end after 30 years.
2. Annual increases are capped at 2% of the rent in effect at the time of granting the increase.
3. All MCI increases shall be amortized over 12 years (or 144 months) in buildings with 35 units or less and 12 ½ years (or 150 months) for buildings over 35 units.

Major Capital Improvement (MCI)

1. Tenants have 60 days from landlord's filing of the MCI application to respond.
2. Rules are tightened governing the spending that qualifies for an MCI increase.
3. Increased enforcement by requiring that 25 percent of MCIs be inspected and audited by DHCR annually.

Owner Occupancy

1. Owners can now only demand one unit and it must be an immediate necessity.
2. If the tenant has lived in the unit for fifteen (15) years the owner cannot demand the unit, lowered from twenty (20) years.
3. Tenants now have a cause of action for damages and injunctive relief if the landlord makes a fraudulent statement in the proceeding.

Division of Housing and Community Renewal (DHCR)

1. The lookback period for overcharges has increased to six (6) years up from four (4) and courts may look back even further to determine the legal rent if necessary.
2. Landlords must keep records for six (6) years.
3. The treble damages will be applied to six (6) years up from two (2) years.
4. After an overcharge complaint is filed, owners can no longer avoid a determination of willfulness if the owner adjusts the rent and pays back the overcharge to the tenant.

Division of Housing and Community Renewal (DHCR)

5. An owner found to have overcharged a tenant shall be assessed the reasonable costs and attorney's fees of the proceeding plus interest from the date of the overcharge.
6. Overcharge actions can be brought in court and not just through administrative actions.

Rent Controlled Tenants

1. Limits rent-controlled rent increases to the lesser of 7.5 percent or a level equal to the average of the previous five Rent Guidelines Board increases for one-year stabilized renewal leases.
2. Prohibits fuel adjustments or pass-along increases for rent-controlled tenants.

Co-Op / Condo Conversion

Eliminates the option of "eviction plan" and institutes reforms for non-eviction plans. Requires 51 percent of tenants in occupancy to agree to purchase apartments before conversion can be effective.



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