THE RENT LAWS OF 2019

ENACTED JUNE 14, 2019

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Individual Apartment Improvements: • The amortization schedule for IAIs was previously 1/40th or 1/60th of the cost of the improvement, depending upon whether the building had 36 or more units. The legislation lengthens the amortization schedule to 14 years (1/168) or 15 years (1/180), depending upon whether building has more or less than 36 units • The total cost for IAIs over a 15-year period is capped at $15,000 • The IAI increases are made temporary and such increases "shall be removed from the legal regulated rent thirty years from the increase became effective inclusive of any increases granted by the applicable rent guidelines board." • Increases are no longer allowed for increase in services. • DHCR is required to promulgate a schedule of reasonable costs • Work is required to be done by licensed contractors • Common ownership between the owner and contractor is prohibited • The owner is limited to three IAI increases over a fifteen-year period, totaling an aggregate of $15,000 • The owner is required to "resolve" all outstanding hazardous or immediately hazardous violations of housing maintenance, building and fire codes.	Part K	23
• Technical Correction enacted on June 20, 2019 (Part Q) adds language clarifying that the IAI cap applies to IAIs "beginning with the first individual apartment improvement on or after" June 14th.	Part Q	25-44
Major Capital Improvements: • The amortization schedule for MCIs was previously 8 years or 9 years depending upon whether the building has 36 or more units. The legislation lengthened the amortization schedule to 12 and 12.5 years, again depending upon whether the building has 36 or more units. • Previously, the law imposed a 6% cap on rent increases attributable to MCI work; the cap has been reduced to 2%. • The 2 % cap also applies to any renewal leases which includes rent increases for any MCI approved between June 16, 2012 and June 15, 2019. • MCI increases are made temporary and an MCI increase is required to be removed from the legal regulated rent after thirty years "inclusive of any increases granted by the applicable rent guidelines board."	Part K	23

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• DHCR is required to issue a notice to the owner and tenants 60 days prior to the end of the temporary MCI and the total amount to be removed from the legal regulated rent. • Unlike the prior law, MCI increases can no longer be retroactive in effect. • **Technical Correction enacted on June 20, 2019 (Part Q)** with regard to the provisions relating to MCI orders granted between 2012 and 2019, S. 6615 deleted the language passed last week that stated that the owner was required to reduce increases to 2% as of September 1, 2019 and replaced it with language stating that the 2% cap applies to "any renewal lease commencing on or after" June 14th.	Part K Part Q	23 25-44
<u>DHCR Procedures and Regulations:</u> DHCR is required to establish an annual inspection and audit process for 25% of MCI applications. In addition, DHCR is now required under the new law to promulgate rules relating to various aspects of MCI and IAIs, including but not limited to the following: • Providing that the collection of MCI increases "approved on or after June 16, 2012 and June 16, 2019 shall not exceed 2% in any year beginning on or after September 1, 2019 for any tenant in occupancy on the date the major capital improvement was approved." • A schedule of reasonable **costs** for MCIs. • Criteria for eligibility of a temporary MCI increase, excluding operational costs or unnecessary cosmetic improvements. • Reduction of any increase by an amount equal to any governmental grant or any insurance payment • Prohibiting MCI and IAI increases for buildings or apartments with outstanding hazardous or immediately hazardous housing maintenance, building or fire codes. • Prohibiting MCI increases for buildings with 35% or fewer rent regulated tenants. • Requiring that increases "be removed from the legal regulated rent thirty years from the date the increase became effective inclusive of any increases granted by the local rent guidelines board.	Part L	39

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• Establishing a notification and documentation procedure for IAIs, including the "centralized electronic retention of such documentation and other supporting documentation." • Establishing a form to be used by landlords "to obtain written informed consent" for IAIs. • Annual rent stabilization fee payable by the owner to the City Department of Finance is increased from $10 to $20 per stabilized unit.	Part L	39
Statewide Expansion of ETPA	Part G	15
Rent Control Increases: The new law amends the rent increase formula for rent control by providing that an owner can collect the lesser of 7.5% or the average of the previous five years of one-year RGB guidelines. In addition, the law prohibits fuel pass-along increases.	Part H	18
Rent Overcharges: The law applicable to rent overcharges was changed significantly in 1997, when a four-year statute of limitations and a four-year record-keeping requirement were enacted. The new law changes this area of the law dramatically, including but not limited to the following: • The 4-year "look back" period is increased to 6 or more years prior to the most recent rent registration statement. • Despite the supposed 6 year look back period, the new law provides that DHCR or the courts may consider all available rent history which is "reasonably necessary" to make such determination. • The 4-year record-keeping requirement is increased to 6 years but an owner's election not to maintain records beyond that time period does not limit DHCR's authority to examine the rental history prior to that time period. However, recovery of overcharge penalties limited to the 6 years preceding the complaint. • In addition, the new law also provides that the voluntary adjustment of rent or tender of a refund after the filing of an overcharge complaint is no longer a "safe harbor" on the issue of willfulness.	Part F	8

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• DHCR and the courts are given concurrent jurisdiction, subject to the tenant's choice of forum. • The legislation applies to all pending claims and claims filed on or after the effective date	Part F	8
Owner-Occupancy: The new law significantly impairs the ability of an owner to refuse to renew a lease based upon their intention to use the premises for their personal use and occupancy. The law: • Limits an owner to one apartment for owner use and occupancy • Reduces the length of the occupancy period for a tenant to establish protections as a "long-term" tenant from 20 years to 15 years • Adds requirement that owner's use is based upon immediate and compelling necessity • Applies to all tenants in possession, including pending matters • Owner-occupancy fraud is actionable and punishable by damages plus legal fees	Part I	19
Leases with Not For-Profits: Persons occupying apartments leased by not-for-profits to provide housing to homeless or other vulnerable individuals are deemed to be tenants	Part J	22
Statewide Housing Security and Tenant Protection Act of 2019 (HSTPA): The HSTPA amends the Real Property Law (RPL), Real Property Actions and Proceedings Law (RPAPL), General Obligations Law (GOL) and the Judiciary Law (JL) to: • Increases protections against retaliation by owners against tenants (RPL 223-b) • Requires the landlord to provide written notice of renewal rent increase of greater than 5% or of intention not to renew; timing of notice dependent upon length of occupancy (RPL 226-C) • No More 30 Day Notice to terminate monthly tenancy for month to month tenant (RPL 232-a NYC) (RPL 232-b outside NYC)	Part M	42

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• Codifies landlord duty to mitigate damages when a tenant vacates prior to the end of the lease (RPL 227-e) • Prohibits the landlord from refusing to rent to a potential tenant based upon prior landlord-tenant litigation or tenant screening report (RPL 227-f) • Strengthens tenant rights to rent receipts and requires owners to retain records of all cash receipts for at least three years. (RPL 235-e) • Owner required to send notice, by certified mail, advising tenant of the failure to receive rent within five days of the date required by the lease (RPL 235-e) • Prohibits the charging of a fee for an apartment application (RPL 238-a) • Allows charging of a fee for background checks and credit checks but limits the amount to no more than $20 unless the potential tenant can provide proof of such check and payment within the prior 30 days (RPL 238-a) • Caps fees for late rent payments at $50 or 5% of the monthly rent, whichever is less (RPL 238-a) Attorneys' fees may not be recovered in residential summary proceedings. (RPL 234)	Part M	42
<u>Housing Court Proceedings (RPAPL):</u> • Increases 3-day rent demand notice to 14-day notice (RPAPL 711) (commercial and residential tenancies affected) • Eliminates oral rent demands (RPAPL 711) • "Rent" means the monthly amount charged, <u>excluding</u> fees, charges or penalties (RPAPL 702) • Mandates landlord acceptance of rent at any time prior to the hearing on the petition (RPAPL 731) • Notice of petition made returnable 10 days after service as opposed to the current 5 days (RPAPL 731) • Time period for service of notice of petition for other than non-payments is increased from not less than 5 nor more than 12 days to not less than 10 nor more than 17 days (RPAPL 733) • Changes deposit of rent provisions in numerous respects, including adjournments, defenses, and stays (RPAPL 745)	Part M	42

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• Entitles tenant to restoration of possession prior to execution of warrant unless the owner establishes that the rent was withheld in bad faith (RPAPL 749) • Consolidates non-payment and holdover stay provisions ○ Increases maximum length of stay from six months to one year. (RPAPL 753) ○ Requires that Housing Court "shall" consider whether refusal to grant a stay would cause "extreme hardship," including the ability of the tenant "to relocate and maintain quality of life;" also requires that Housing Court "shall" consider any "substantial hardship" on the owner (RPAPL 753) • Makes the unlawful eviction of a tenant punishable by criminal and civil penalties. (RPAPL 768) • Limits security deposits to one month's rent and creates timetables and procedures for the return of the deposit to the tenant. (GOL 7-107) • Prohibits OCA from selling landlord-tenant data to third parties. (JUD 212)	Part M	42
Coop/Condo Conversions: • The new law amends the General Business Law relating to coop/condo conversions by (1) repealing the statutory authority for eviction plans and (2) Increasing the purchasing percentage for non-eviction plans from 15% to 51% and by requiring the purchasers under such plans to be in-place tenants	Part N	58
Manufactured Homes	Part O	64
Technical Correction Enactment (June 20, 2019): Those amendments include the following provisions: • Correction of a typographical error relating to the rent guidelines board so that it is now clearer that the City's rent guidelines board does not have the authority to adopt vacancy guidelines. • Addition of language to address two deregulation issues to be clear: (1) that apartments that were lawfully deregulated prior to June 14th	Part Q	25-44

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"shall remain deregulated," and (2) that market rate units in buildings that receive benefits pursuant to the Affordable New York program "shall be subject to the deregulation provisions" that were in effect prior to June 14th. • Addition of language clarifying that the IAI cap applies to IAIs "beginning with the first individual apartment improvement on or after" June 14th. • With regard to the provisions relating to MCI orders granted between 2012 and 2019, S. 6615 deleted the language passed last week that stated that the owner was required to reduce increases to 2% as of September 1, 2019 and replaced it with language stating that the 2% cap applies to "any renewal lease commencing on or after" June 14th. • With regard to MCIs, there are also changes relating to the timing and the content of the notice required to be provided to tenants. • Mandate of DHCR to complete the promulgation of rules and regulations by June 14, 2020, with the additional proviso that DHCR is obligated to "immediately commence and continue implementation of all provisions of this act." • Addition of language to address regulated status of formerly homeless tenants in housing provided pursuant to government contracts. • Addition of language relating to the required notice for unregulated tenants.	Part Q	25-44