# NEW YORK RENT LAW: NEW RULES OF ENGAGEMENT

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In June 2019, New York State approved the Housing Stability and Tenant Protection Act (HSTPA). HSTPA introduces significant changes for real estate owners and investors, and it may have far-reaching consequences for the New York City housing market, where many apartments are rent-controlled or rent-stabilized. Previous regulation for these apartments was set to expire on June 15, giving rise to the need to re-visit these laws.

The HSTPA significantly restricts how and when landlords may increase rents. Under previous regulations, once rents and tenant income hit certain thresholds, rent-stabilized apartments would revert back to market rates. This provision has been eliminated by the HSTPA. Thus, HSTPA may benefit wealthy tenants as well as those in need of assistance.

Many tenants in NYC pay what is known as preferential rent, where a tenant pays less than the legal maximum rent. This will not change under HSTPA, which states that landlords are no longer allowed to increase rents at lease renewals. Whereas landlords were previously allowed up to a 20% rent increase when a tenant vacated, HSTPA limits any increase to the preferential rent discount previously agreed upon, if any.

There are limits on increases stemming from capital improvements. A major capital improvement (MCI) is one that directly or indirectly benefits all tenants. An individual apartment improvement (IAI) is limited to a specific tenant residence. HSTPA reduces the rent increase for an MCI from 6% under the previous regulation to just 2%. Increases for an IAI are also significantly reduced and are limited to a 15-year period.

The law also establishes these new guidelines, among others:

- Security deposits are limited to one month's rent and must be returned within 14 days of a tenant vacating the premise
- At least 30 days' notice is required for certain rent increases, with the notice period being increased based on how long the tenant has occupied the apartment
- Changes to eviction laws give judges more power to postpose evictions under certain circumstances. In addition, there is now a $20 limit on application fees, even when a background check is performed
- Late fees are limited to $50 or 5% of the rent, whichever is less
- Blacklisting of allegedly troublesome tenants is prohibited

There are restrictions on when a landlord can remove an apartment from the market for personal use.

There are also limitations on when a landlord can convert an apartment building to condominium or cooperative ownership.

The regulations are seen as a major victory for tenants and tenant advocacy groups, while owners and investors are decrying the potentially devastating impact on profitability. Whereas previous business plans may have relied on the ability to raise rents to market rate over a holding period, those plans are now effectively illegal with the new regulation extensively limiting landlords' options. Some claim that, ironically, New York's updated law damages the affordable housing market, by removing the incentive for developers to undertake new construction — possibly leading to housing shortages and hurting those that the law aims to protect, as investors find other locations and means of investing their capital. Furthermore, the limits on rent increases due to MCI or IAI may result in more buildings falling into disrepair as landlords are not incentivized to spend on capital improvements. Some owners have threatened to leave the market.

Is this just an emotional response, or is the New York housing market still profitable and attractive to investors? That remains to be seen. Some have noted that an exodus from the market can potentially lead to investment opportunities for others. If investors seek to unload properties, will there be more lucrative deals to be found? Will the value of properties drop (which would also result in a decrease in tax revenues)?

While there may be an emotional component to investors leaving the market, ultimately, owners will need to re-evaluate their business plans in light of the new regulations to determine the best and most appropriate course of action. At any rate, an emotional response is likely to be short-lived, as the market adjusts to the new law and stabilizes.