



Testimony on the Good Cause Eviction Proposal

Testimony Provided by

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Introduction

On behalf of the membership of LeadingAge New York, thank you for the opportunity to submit written testimony on the proposal commonly referred to as “good cause eviction” (S.3082, Salazar). LeadingAge New York represents over 400 not-for-profit and public providers of senior housing, aging services, and long-term and post-acute care, as well as provider-sponsored Managed Long Term Care plans. Of our members, approximately 134 are not-for-profit senior housing providers, with more than 60 of those providing market-rate rentals for older adults.

New York is home to nearly 3.6 million residents aged 65 and older, representing more than 17 percent of the population. Both the number and percentage of older New Yorkers are expected to continue to rise, with the proportion of those aged 80 and older outpacing growth in any other age group over the next two decades.¹ More than 20 percent of older households rent, and of those, nearly 80 percent live in multi-family properties,² which can offer not only independent living units with age-appropriate design and accessibility features, but amenities such as personal emergency response, dining, housekeeping and transportation services included in the monthly cost of living.

Senior housing resident needs and abilities range from those still active, working, and able to seek necessary support from the community to those living independently but in need of on-site assistance to remain outside of the formal care system. Senior housing providers therefore face a unique challenge as they must continuously reevaluate the ability of both the landlord and the tenant to uphold the obligations of a lease agreement and maintain a safe, healthy property that meets resident needs.

The following testimony outlines our opposition to Senate Bill Number 3082, introduced by Senator Julia Salazar, which would restrict a landlord’s ability to terminate a tenancy via eviction or non-renewal, as well as the ability to increase rent.

Termination of Tenancy

This legislation would prohibit, for the owner of nearly any multi-family residential rental property of four or more units in the state not already subject to a similar law, termination of a tenancy by eviction or non-renewal of a lease agreement without first showing “good cause” to the court.

This would substantially limit a senior housing landlord’s ability to respond quickly and proactively to a situation that endangers the lives of all the residents of the senior housing building. Senior housing providers are committed to the wellbeing of their residents and their ability to age safely in place, where possible; however, physical and mental health can change rapidly as we age, and at times, a tenant may no longer be able to live safely in their apartment without endangering their own life or the lives of those around them. In these circumstances, a senior housing landlord must be able to expediently terminate the tenancy or act to deny renewal to protect the safety of all involved. The requirement that a landlord present proof of the tenant’s lease violation to the court to receive approval for lawful termination of the tenancy would make this process unduly long, particularly in the wake of COVID-related court backlogs, and could mean a continued threat to the health and wellbeing of the tenant and their neighbors.

Furthermore, existing protections for seniors and changes made to landlord-tenant law by the Housing Stability and Tenant Protection Act of 2019 (HSTPA) to slow the eviction process, require increased notice of a rent increase of greater than five percent or intent not to renew a lease, and to allow the court to stay an eviction for up to one year where it’s determined that relocation would cause a significant hardship all help to support senior renters in the event that an eviction becomes necessary to protect their health or the health of those around them. LeadingAge New York encourages completion of a study to confirm the statewide impact of these and other changes on tenants, landlords, and courts, required by Part M of the HSTPA to be submitted to the Governor, the Legislature, and the courts by December 31, 2022.

¹ Housing America's Older Adults 2019. (2019).

https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Housing_Americas_Older_Adults_2019.pdf

² Ibid.

LeadingAge NY also questions whether this legislation could inadvertently be applied to licensed adult care facility, assisted living, and continuing care retirement communities. All are regulated by the New York State Department of Health, and residents are currently afforded significant legal protections as it relates to the conditions and termination of residency. We urge the legislature to avoid imposing another layer of requirements that could be conflicting, or otherwise at odds with the care needs of the individual and ability of the provider to adequately address those needs.

Limitations on Rent Increases

The bill would also effectively prohibit landlords of covered buildings from increasing rent in a calendar year by more than the greater of three percent or 150 percent of the annual percentage change in the Consumer Price Index (CPI) for the region in which the unit is located.

Annual rent increases in excess of the amount outlined by the bill in question may, at times, be necessary to make capital repairs to aging infrastructure, to meet changing accessibility guidelines, or to add resident-driven improvements to a market-rate or luxury property, particularly in age-restricted housing where residents may be facing increasing mobility and connectivity challenges.

Increases in essential property payments can also easily drive an annual increase in rent greater than the amount presumed allowable under this legislation. For market-rate, multi-family senior housing providers, these can include not only mortgage, tax, and utility payments, but the resources and employees required to maintain services and programming from one year to the next. As the COVID-19 pandemic has driven up the minimum costs of food, staff, insurance, and health care equipment, so too has it exacerbated the challenge of providing a safe and comprehensive community setting that can continue to meet the needs of its senior residents without modest rent increases to offset unavoidable spending growth.

Furthermore, planning a rent increase based on the change in CPI as reported the August preceding the calendar year of the increase – or, alternatively, assuming a maximum increase of three percent until that number is reported – will cause confusion and substantially limit and slow the ability of senior housing providers to budget for the upgrades and repairs necessary to maintain a safe living environment for older adults. Providers outside of New York City and other areas of the state boasting higher property values will be most acutely impacted in their efforts to secure critical funding and financing dependent primarily on a property's projected income, resulting in fewer options for older adults living in already underserved rural and suburban communities.

Conclusion

While well-intentioned, the proposal to limit evictions and rent increases for market-rate housing providers statewide as detailed in Senate Bill Number 3082 would have a devastating effect on the health and safety of a significant number of seniors in New York and would ultimately result in fewer quality rental units and communities available to meet the needs of older adults and other vulnerable populations. In the event that an eviction becomes necessary to protect the wellbeing of a resident or their neighbors, particularly in a situation where the reasonableness of a rent increase must be debated, the additional time and evidence required by this legislation to prove a landlord acting in good faith does, in fact, have “good cause” could mean more time that a senior in need – who is experiencing physical or mental distress that may be harmful to them or those around them – remains at risk.

For these reasons, LeadingAge New York opposes the advancement of “good cause eviction” legislation and urges the Legislature to do the same.

Founded in 1961, LeadingAge New York is the only statewide organization representing the entire continuum of not-for-profit, mission-driven, and public continuing care including home and community-based services, adult day health care, nursing homes, senior housing, continuing care retirement communities, adult care facilities, assisted living programs, and Managed Long Term Care plans. LeadingAge New York's 400-plus members serve an estimated 500,000 New Yorkers of all ages annually.