



Prohibition of Evictions Without Good Cause

(S.3082, Salazar, Brisport, Stavisky, Bailey, Biaggi, Breslin, Brouk, Gianaris, Harckham, Hoylman, Jackson, Kavanagh, Krueger, Liu, May, Mayer, Myrie, Ramos, Rivera, Sepulveda, Serrano)

**New York State Senate Joint Hearing
Standing Committees on the Judiciary and Housing, Construction & Community
Development
Friday, January 7, 2022**

Testimony of Michael McKee, Treasurer

With only one week until expiration of the moratorium on evictions, New York State is on the cusp of an eviction disaster: hundreds of thousands of tenants are behind in their rent; the state has allocated more than \$2 billion in rent relief funds and the ERAP program is now exhausted; Governor Hochul's request for another \$1 billion in rent relief funds from the federal government has produced a measly \$27 million; and **four million tenants throughout the state lack any protections** against unfair rent increases and unjust evictions.

It seems clear by now that neither the governor nor the legislature intends to continue the moratorium on evictions beyond January 15, which is unfortunate. It is therefore incumbent upon you to enact some basic protections, starting with Senator Salazar's bill to curb evictions without good cause.

The real estate lobby is hard at work misrepresenting what this bill means, painting it as a radical shifting of the landlord-tenant power relationship. In fact, the protections provided to unregulated tenants by this bill are thoroughly reasonable, even modest. But they are essential if tenants who are not lucky enough to live in housing regulated by state or federal government are to have any ability to defend their homes from bad actor landlords.

Let me be clear about what the bill does and doesn't do, and why it's an essential protection.

- (a) It is not rent control. Not even close. What the bill does is give tenants a **defense** in eviction proceedings, but only **if** the tenant chooses to fight an unfair eviction or unreasonable rent increase. Realistically, many tenants will not; they will move, or swallow a rent increase, either out of fear, inability to take time off from work, lack of expert advice or legal representation, and above all because they are simply unaware of their rights and there is no one telling them they have rights. Organizers are always warning tenants not to self-evict when their landlords tell them they must leave, but a depressing number of renters do exactly that.
- (b) **If** the tenant chooses to fight, it will be up to a judge to decide whether the eviction or rent increase is merited. This is not a self-enforcing law. See comments below about judges.
- (c) The bill does NOT, contrary to constant misstatements, require a landlord to renew any tenant's lease. It gives tenants a defense against eviction if their lease has expired, or if they never had a lease.
- (d) The "reasonable" rent increase standards are not a cap, as the real estate propaganda claims. This is a rebuttable presumption, which a landlord can rebut with evidence of why a larger rent hike is needed. And let's remember that when this bill was first introduced, inflation was in the range of 2 percent per year. We are now looking at an economy in which 1.5 times inflation is 9-10 percent, so I would urge you not to increase these reasonable rent increase standards.
- (e) Unregulated tenants are now being hit with huge rent increases. The New York Times reported last week that market-rate tenants in New York City are facing 30-40 percent rent hikes.
<https://www.nytimes.com/2021/12/31/realestate/in-2021-new-yorks-housing-market-made-a-stunning-comeback.html> We have heard of cases where tenants are being slammed with 60-70 percent increases.

In addition to passing this bill, and doing it promptly before landlords start dragging tenants into court, you need to amend the Tenant Safe Harbor Act by extending the period it covers past January 15. Remember that TSHA is a defense only to a non-payment proceeding, so without good cause eviction protections unregulated tenants will be defenseless in holdover cases. But for tenants who are sued for non-payment it can be a lifesaver.

Plus, you need to implement a statewide right to counsel program similar to the New York City program, *and fund it*. It's good that Governor Hochul put \$25 million into such a program, but that's clearly not enough. And while you can provide immediate funds to existing legal services and legal aid organizations, it will take time to build out a workable RTC program -- just as it did in New York City, where the program has been a tremendous success, with the result that the number of evictions is going down year by year.

It's important to remember the context in which disputes about evictions are going to play out. Eviction cases are handled in different ways in different parts of the state. Outside of New York City, landlord-tenant cases are basically lumped in with other civil cases. (Rochester will have a separate Housing Court at some point.)

Not all judges are required to have a law degree, and many judges, even those who are lawyers, lack knowledge about landlord-tenant law. In some areas, eviction cases are heard by justices of the peace.

Few tenants outside New York City are represented by lawyers, while most landlords have representation.

Judges routinely ignore the law. For example, the judge in Rochester who ordered the December 2020 eviction of schoolteacher Clianda Florence-Yarde and her children, ignoring serious code violations and the lack of a certificate of occupancy without which landlords are not allowed to bring summary proceedings against tenants.

Just to remind you, Ms. Florence-Yarde and her family were evicted the night the Rochester police arrested Assembly Member Demond Meeks and others who were present. It's important to point out that Ms. Florence-Yarde was in court trying to force the landlord to make repairs, and the landlord retaliated by bringing a holdover case against her.

Good cause eviction, Tenant Safe Harbor Act, and right to counsel are three interlocking parts of what you need to do to give tenants at least some protections.

In addition, you need to put significant state funds into rent relief, whether you get more federal funds or not.

Two final points: we have heard rumors that some legislators want to exempt single-family homes and co-ops from these protections. That is unacceptable. In the aftermath of the 2008 housing bubble collapse, predatory investors scooped up thousands of

single-family homes and are now renting them out at market rents. Tenants who move into deregulated apartments in a co-op do not deserve to be arbitrarily evicted or have their rents leap. Some sponsors or holders of unsold shares refuse to sell apartments and instead profiteer by charging market rents.

We call on the state senate to pass Senator Salazar's bill quickly, and to do it whether the Assembly agrees or not. We have waited too long already for this necessary correction.

If you do not act, you and we are soon going to be witnesses to an eviction tragedy all over New York State. Please don't let that happen.

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