



# A Bill of Rights for NYC Renters: A Strategy to Empower Tenants

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## Introduction

New York City is a tenant town, boasting more than 2.1 million rental apartments.<sup>1</sup> New Yorkers know how hard it can be to find and hold on to a safe, comfortable, and affordable apartment that they want to call home. Unfortunately, the first hurdle for renters who want to sign a new lease is deciphering a complex and legalistic lease packet, which can hide crucial information behind fine print and obscure language. This is confusing for tenants – and also a missed opportunity for the City to provide renters with crucial information about their rights as tenants, as well as information about where to turn for additional help.

This policy brief, by New York City Comptroller Scott M. Stringer, provides support for legislation that would mandate for the first time that landlords include a clear and concise “Tenant Bill of Rights” in every lease packet. By incorporating a Bill of Rights with every lease, the City would help equip every tenant with a document that can be used to fight for their rights to safe accommodation. The Bill of Rights could be translated into numerous languages and could also be posted in the public spaces of buildings as a prominent reminder of the rights and expectations of tenants and landlords.

The passage of the Housing Stability and Tenant Protection Act in June of 2019, which introduced an array of new safeguards for tenants, highlights the need for greater public awareness about new and existing tenant protections. Despite the new regulations, persistent reports of unwitting or deceitful landlords and brokers subjecting New Yorkers to violations of the law are an indication that no matter how impactful these legal gains are, laws do not enforce themselves.<sup>2,3</sup>



In consultation with tenant groups and other relevant stakeholders, the City should draft legislation that creates a Tenants Bill of Rights and mandates that a copy of the document be included in every lease packet.<sup>4</sup> While the precise content of any such Bill of Rights could take many forms, it can and should enumerate a number of important and impactful rental provisions, such as:

- **Basic rights:** A summary of a tenant's right to a livable, safe, and sanitary dwelling unit, free from leaks, rodents, pests, and hazards.
- **Housing Stability and Tenant Protection Act Updates:** The abundant new protections passed in 2019 for market rate tenants, including security deposit restrictions, an application fee limit and rules for rent increases.
- **Enforcement:** A unified listing of contact information and the responsibilities of agencies and offices that oversee housing rights— from the Department of Housing Preservation and Development (HPD) and the Attorney General's Office to the Mayor's Office to Protect Tenants.
- **Domestic Violence:** Domestic violence survivors have a range of protections and resources available to them, including access to emergency shelters run by the city's Human Resources Administration (HRA).
- **Heating Standards:** Many tenants may not know that landlords are required to maintain specific temperature ranges depending on the time of year and weather.<sup>5</sup>
- **And more:** There are important protections regarding a landlord's access to the apartment, pets, a tenant's freedom from retaliation, and month-to-month tenancy rules.

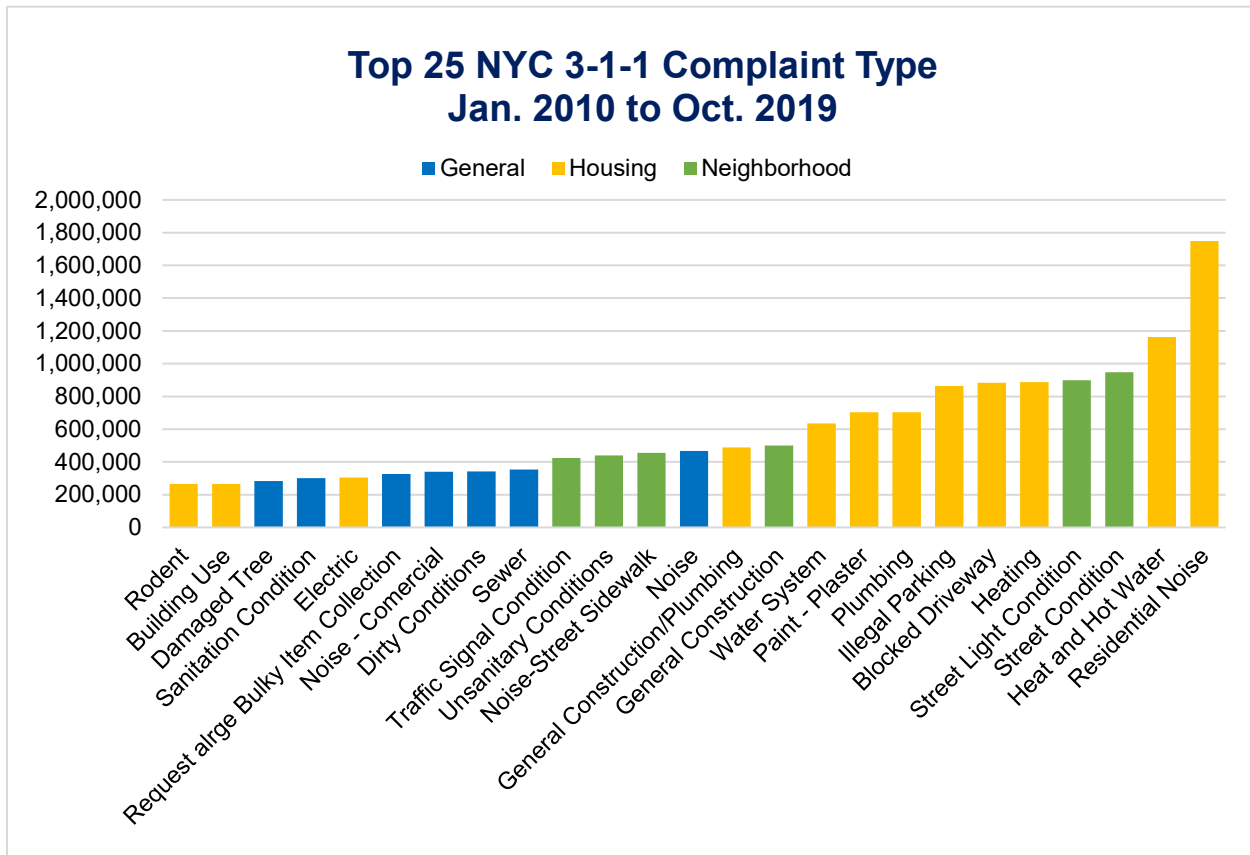
Beyond providing crucial information related to housing, the City could also consider mandating the addition of other helpful documents or forms into every lease packet. For instance, the inclusion of a voter registration form could help boost civic participation, while information about organ donation could boost the ranks of eligible donors.

In short, tenant's rights should not be reserved for those with the time to research them or the lawyers needed to invoke them. They should be accessible to every renter, in every neighborhood, across the five boroughs. Passing legislation to require the inclusion of a Tenants Bill of Rights in every lease – a potential mock-up of which is attached to this report – would help ensure that all New York renters benefit from the legal protections owed to them.

## Bridging the Knowledge Gap

Despite the array of legal protections and resources available to renters, too often tenants are left to hunt for help. Residential issues are the most common reason for dialing 311, and from 2010 to October of 2019, HPD-related calls in fact made up the greatest number of requests – with more than 5.8 million calls. Indeed, 27 percent of all service requests to 311 involved the agency. The stark reality is that questions regarding housing and the basic utilities that every home is supposed to provide represent a persistent and deeply stressful concern for many New Yorkers, as a deeper dive into the City's 311 data reveals (see Chart 1). Of the 25 most often-cited complaints, housing issues like noise, heat, and water make up the majority of complaints.

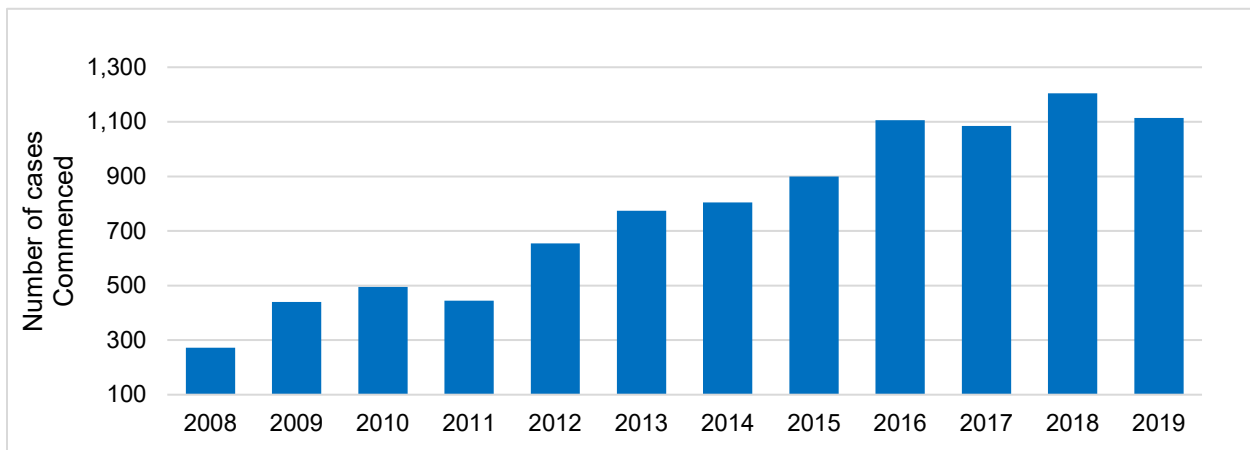
**Chart 1: Top 25 Complaints to NYC’s 311 Hotline**



Source: NYC OpenData. “311 Service Requests from 2010 to Present.” October 10, 2019.

It is telling that since 2010, 52,830 people have requested HPD literature through 311, signifying a significant demand for information. Of particular concern is a documented rise in tenant harassment, which has led to an increase of more than 300 percent from 2008 to 2019 in resident-commenced harassment cases brought to housing courts by tenants. (Chart 2).<sup>6</sup>

**Chart 2: Resident-Commenced Housing Litigation - Harassment Cases**



Source: NYC OpenData. “HPD Housing Litigation Division – Housing Litigations.” October 10, 2019.

The upsurge may be influenced by an increase in access to legal representation, augmented by the City's decision to boost investments in free legal representation for tenants facing eviction. According to the New York City Human Resources Administration's Office of Civil Justice's report on the implementation of the Universal Access to Legal Services Law, individuals served by administration-funded legal assistance for eviction, disrepair, landlord harassment and other housing related proceedings have increased from 12,736 to over 100,000 in the period from January 2014 to June 2019.<sup>7</sup>

Undoubtedly, the passage of *the Housing Stability and Tenant Protection Act* was a major step toward providing additional protections to renters. But those and other protections will be rendered moot if tenants are not given the tools they need to leverage them. Without question, the moment when every tenant must sign a lease is the most predictable and impactful opportunity to reach tenants – and put landlords on notice – about laws that empower tenants with certain rights and resources. A mandated Bill of Rights would provide the lever needed to help tenants access the suite of protections that generations of activists have fought hard to make real.

## **Precedent for Expanded Lease Packets**

There is ample precedent for including crucial information and disclosures in a lease package. Indeed, tenants leasing rent regulated units already receive a hefty packet with a standard lease, as well as riders produced by the Department of Housing and Community Renewal that exhaustively inform tenants and owners about their basic rights and responsibilities under the Rent Stabilization Law. The packet is limited in scope and not reader-friendly, yet is generally more comprehensive than the often brief and densely worded leases and riders that market-rate renters receive.

Granted, federal and state laws also compel some market-rate landlords to include various disclosures in leases. The most notable example is Title X disclosures. The Residential Lead-Based Paint Hazard Reduction Act (Title X) was enacted in 1992, and requires landlords of any property built prior to 1978 to disclose any known lead-based paint on the property prior to the signing of the lease. The disclosure requirement includes a form of acknowledgment which tenant and landlord must sign and the dissemination of a U.S. Environmental Protection Agency pamphlet, "Protect Your Family From Lead In Your Home."<sup>8</sup> While this Federally-mandated disclosure is geared towards specific cases, there are many state disclosure requirements that are much broader.

Many states require disclosures on basic topics covered in residential leases, from simple details like the utility arrangements and security deposit to the presence of bed bugs or methamphetamine laboratories. Forty-two out of fifty American states, plus the District of Columbia, have some form of disclosure requirements in their code, with California and D.C. widely considered to have among the most robust set. For instance, California's landlords must include information on pest control, including identification of the pest, and the pesticide(s) used to mitigate any infestation. Leases also generally include disclosures about whether a property is located in a flood zone, its general risk of flooding, any toxic mold that exceeds permissible limits, and other topics related to tenant safety and stability.

Passed in 2014, D.C.'s Tenant Bill of Rights Amendment Act is a worthy model for New York. The law requires the Office of the Tenant Advocate in Washington, D.C. to publish a "D.C. Tenant Bill of Rights" on a periodic basis. To ensure that long-time tenants benefit as well, occupants may request an updated copy of the Bill of Rights from landlords annually. It is one of the only disclosures of its kind in the United States, clearly geared towards the provision of basic rights of non-rent control tenants. D.C. also has a Senior Tenant Bill of Rights which covers everything from the lower rent cap on annual rent increases, to exemptions from capital improvement surcharges, to the provision of income qualification and pet rights for those that are disabled or visually impaired.



## Efforts to Enhance Rental Disclosures in the City

There have been four instances in recent history wherein legislation proposing the type of enhanced disclosures mentioned in this report were introduced in the New York City Council. Three times throughout the late 1990s and early 2000s, former Speaker of the City Council Gifford Miller proposed legislation known as the “Tenant’s Bill of Rights and Responsibilities”. The bill required landlords of buildings with three or more families to deliver a notice to current tenants and a lease rider to new tenants stating their rights and responsibilities as set forth in the bill. The disclosure included 15 points of clarity on expectations and basic rights that extended for the duration of their tenancy, as well as details on laws governing disputes and evictions.<sup>9,10,11</sup>

A similar bill surfaced in the City Council in 2011, sponsored by Council member Fernando Cabrera (NY-14) and written in collaboration with the Metropolitan Council on Housing.<sup>12</sup> As of March, 2012, 33 members of the city council had signed onto the bill— more than enough to pass but not enough to override a Mayoral veto. Like its predecessors, the bill was tabled, ending the hopes of advocates and tenants to close the knowledge gap that exposes New York City residents to consistent uncertainty.

## Recommendations for a New York Tenant Bill Of Rights

In consultation with relevant stakeholders — including legal experts, advocates, and tenants themselves — New York City should pass legislation requiring the creation of a Tenant Bill of Rights and mandate that the Bill of Rights be included in every lease or lease renewal packet. This publicly available summary of important rental rights will ensure that both tenants and landlords are on the same page when it comes to rights and obligations and are entering every lease with the same expectations. The legislation should require that the Bill of Rights be made available in various languages, be posted online and in a buildings’ shared spaces, and in every lease packet.

A proposed draft of the Tenant Bill of Rights has been developed by the Comptroller’s Office and is attached to this report. While the final form of any Bill of Rights should be determined through the legislative process, and in consultation with relevant stakeholders, it should at a minimum encompass the following information:

### Basic rights in clear language

#### I. Basic Summary:

The Bill of Rights should include summaries of a tenant’s right to a livable, safe and sanitary dwelling unit, specifically the right to clean public areas, a home free of leaks or cracks in ceilings and windows, vermin or rodent infestations, unreasonable noise and hazardous conditions caused by poor maintenance, construction or renovation, and a secure front door and other lock regulations.

## II. Utilities and Landlord Requirements:

The Bill of Rights should provide tenants with a clear sense of their right to certain utilities, like the right to running hot water at all times between 6 a.m. and midnight, at a minimum temperature of one hundred twenty degrees Fahrenheit or 110 degrees for tubs or showers equipped with anti-scald valves<sup>13</sup>, and the right to adequate heat, which must be maintained at 68°F between October 1 and May 31 (between 6 a.m. and 10 p.m.) when outside temp is below 55°F, and between 10:00 p.m. and 6:00 a.m. when outside temp is below 40°F.<sup>14</sup> Domestic violence status, having a child, and legal source of income are among those categories protected from housing discrimination.<sup>15</sup> Tenants need to know how to file the necessary complaints.



## III. Pets and Other Details:

Subtle but crucial protections are just as important as the general rules. Tenants should be made aware of the rules regarding a landlord's access to the apartment, or the fact that no-pet clauses are waived if a tenant "openly and notoriously" kept a pet on the premises for at least three months and the landlord took no action.<sup>16</sup> From the real property law's freedom from retaliation protections, to policies regarding month-to-month tenancy, citing these more obscure provisions will no doubt serve to improve the quality of life for tenants over time.

## IV. Contact Information:

The Bill of Rights should include up-to-date contact information for agencies and offices charged with overseeing housing laws in the city, as well as contact information for approved legal service providers. This vital information, all located in one handy place, would allow residents to know where to look for harassment or discrimination complaint forms, or how to take advantage of the right to counsel.

## V. Disability, and Elderly-Specific disclosures:

As of 2018, 572,132 renters — twenty-seven percent of all renters in New York City — were 60 and older.<sup>17</sup> Many other New Yorkers are living with a disability. Both of these groups are eligible for certain additional protections, including limits on rent increases through the Senior Citizen Rent Increase Exemption (SCRIE) Program and the Disability Rent Increase Exemption (DRIE) Program. Utilization rates for these programs are very low. As of 2016, only 56 percent (73,299) of eligible households used them.<sup>18</sup> Moderate to low-income senior tenants often have the most difficult time dealing with housing costs due to their lack of

savings and dependence on fixed incomes; ensuring that all eligible tenants take advantage of these rent stabilization programs is crucial. Among a number of reasons for the underutilization of SCRIE and DRIE, limited public awareness and language barriers are paramount issues.<sup>19</sup> As with Washington D.C.'s Tenant Bill of Rights, the NYC Tenant Bill of Rights should provide an alternative rider/disclosure informing our city's growing elderly population and those living with disabilities of the rights and resources afforded them as tenants.

## VI. Housing Stability and Tenant Protection Act Update:

New tenant protections passed in 2019 offer a wealth of new opportunities for public education, but among the most important to include in any new Bill of Rights would be:

1. **The new \$20 application fee limit on landlords, and the proper steps to pursue redress for an overcharge.** This new addition makes it illegal for landlords and others working as agents of the landlord to charge more than \$20 for applications, to cover the costs of background and credit checks. Landlords can only collect this fee if they provide either a copy of the credit and background checks or an invoice from the entity conducting the checks.<sup>20</sup> Furthermore, tenants even have the option to provide the landlord with background or credit checks pulled within 30 days prior to the submittal of the rental application, allowing them to avoid any application fee altogether. Given the exorbitant fees traditionally required during the rental application process, this policy is crucial and yet is among the most difficult to enforce. Those applying to lease a new home are often worried about losing out on a place if they ask too many questions or do not submit to assorted demands. Including this provision in the Bill of Rights not only gives tenants the knowledge necessary to recover lost funds, but also may serve as a deterrent for overcharges.<sup>21</sup>
2. **Security deposit restriction to one month's rent and the 14-day return requirement.** The new rent reforms limit security deposits to one month's rent, a critical new protection first proposed by Comptroller Stringer who, in conjunction with legislative partners, led the fight to win passage of the law in 2019. The law also gives tenants the right to an itemized list of damages and a two-week timeframe in which a security deposit must be returned; otherwise, landlords must pay back 100% of the deposit.<sup>22</sup> Questions regarding security deposits are among the most daunting for tenants. Many simply expect never to see them again, regardless of whether or not there is damage to a unit. An explanation of the new security deposit rules cannot be overlooked.
3. **The 30-day notice for any rent increase above 5% and for non-renewal up to 1 year or less of tenancy.**<sup>23</sup> If your landlord is not going to renew your lease, or they plan to raise your rent more than 5%, they must provide notice at least 30 days prior to the first renewal. This notice period increases to 60 days in the second year of tenancy or for those with two-year leases, and 90 days thereafter. As our city endures a housing affordability crisis, the surprise of one's lease not being renewed can mean severe financial distress.



This grace period for non-renewal and large rent increases eases some of the apprehension that can exist in the tenant-landlord relationship. A Tenant Bill of Rights could help to assure that there will be fewer surprises and more time to plan accordingly in any case.

## **Furthering Renter Protections**

While the passage of the Housing Stability and Tenant Protection Act was a major step toward providing adequate protections for our city's renters, it is not enough. The law greatly reduced the ability of landlords to deregulate rent-regulated buildings, assuring that many more tenants will be able to stay in their homes. However, further protections are needed to guarantee increased stability for NYC renters.

Regulators and courts rely on tenants to be the vigilant first line of defense against unscrupulous renting practices. NYC tenant protections and obligations must be made available in plain language, and a Tenant Bill of Rights is the most efficient way to do so. Furthermore, with the momentum of the recent rent legal reforms and an ongoing push to expand protections for NYC renters, now is the time to strengthen the safety net and give tenants the information they need to safeguard their rights.

## Acknowledgements

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## Endnotes

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<sup>1</sup> New York City Rent Guidelines Board, “2019 Housing Supply Report”, May 2019, <https://www1.nyc.gov/assets/rentguidelinesboard/pdf/hsr19.pdf>

<sup>2</sup> Luis Ferré-Sadurní, “Does Your Real Estate Broker Owe You a Refund?”, *The New York Times* (September 22, 2019), <https://www.nytimes.com/2019/09/22/nyregion/broker-refunds-nyc-renters.html>

<sup>3</sup> Josefa Velasquez, “POLS DRAFT PROPOSAL TO FINE BROKERS, LANDLORDS WHO FLOUT NEW RENT LAWS”, *The City* (August 16, 2019) [https://thecity.nyc/2019/08/pols-want-to-fine-brokers-landlords-who-flout-new-rent-laws.html?utm\\_campaign=mailchimp&utm\\_source=daily&utm\\_medium=newsletter](https://thecity.nyc/2019/08/pols-want-to-fine-brokers-landlords-who-flout-new-rent-laws.html?utm_campaign=mailchimp&utm_source=daily&utm_medium=newsletter)

<sup>4</sup> Due to the differences in legal protections for market rate and rent regulated tenants, this report is tailored mostly to the protections market rate tenants whom are more likely to suffer from housing instability and are at higher risk of eviction. However, the Comptroller does believe an alternative Tenant Bill of Rights for rent regulated tenants would still be an effective way to inform New Yorkers living in rent controlled and stabilized units of their rights and protections, especially regarding the SCRIE and DRIE programs.

<sup>5</sup> NYC Admin. Code §27-2029

<sup>6</sup> While resident-commenced harassment cases have increased from the 2008-18 period, the total number of legal actions that HPD’s Housing Litigation Division (HLD) initiates against building owners has not seen significant variation year over year. The average total actions from 2008 to 2018 was 12,389 and the median percent change year-over-year was less than 1 percent.

<sup>7</sup>The Office of Civil Justice of the New York City Human Resources Administration, Universal Access to Legal Services A Report on Year Two of Implementation in New York City, Fall 2019, [https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ\\_UA\\_Annual\\_Report\\_2019.pdf](https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2019.pdf)

<sup>8</sup>United States Department of Housing and Urban Development, “THE LEAD DISCLOSURE RULE”, [https://www.hud.gov/program\\_offices/healthy\\_homes/enforcement/disclosure](https://www.hud.gov/program_offices/healthy_homes/enforcement/disclosure)

<sup>9</sup> Int 0437-2004 (Miller), “Tenant’s Bill Rights and Responsibilities”, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=442801&GUID=97A2EAF4-2129-4FEF-A056-FF8665E7055A&Options=ID%7cText%7c&Search=437>

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<sup>10</sup> Intro 115-2002 (Miller), “*Tenant’s Bill Rights and Responsibilities*”, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=437556&GUID=926A4AEC-D068-483B-8F29-30E165C41674&Options=Advanced&Search=>

<sup>11</sup> Intro 0548-1999 (Miller), “*Tenant’s Bill Rights and Responsibilities*”, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=432737&GUID=3FC154FD-57F5-4852-8759-04FBA4A91533&Options=Advanced&Search=>

<sup>12</sup> Int 0477-2011 (Cabrera), “*Tenant’s Bill Rights and Responsibilities*”, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=842801&GUID=4F0FF5BF-257E-449B-9D12-3B784CD42337&Options=ID%7cText%7c&Search=477>

<sup>13</sup> NYC Admin. Code § 27-2031

<sup>14</sup> NYC Admin. Code § 27-2029

<sup>15</sup> N.Y. Exec. Law § 296 5 (a)(1) & N.Y. Exec. Law § 292 (36)

<sup>16</sup> NYC Admin. Code §27–2009.1

<sup>17</sup> Florentina Sarac, Rent Café, “*The Next Gen of Renters: Mom and Dad – Renters over 60 Grew by 43% in a Decade*”, <https://www.rentcafe.com/blog/renting/the-future-of-renting-will-be-centered-around-a-new-older-demographic/>

<sup>18</sup>New York City Department of Finance, “*2018 Report on the New York City Rent Freeze Program*”, [https://www1.nyc.gov/assets/rentfreeze/downloads/pdf/2018-scrie\\_drie\\_report.pdf](https://www1.nyc.gov/assets/rentfreeze/downloads/pdf/2018-scrie_drie_report.pdf)

<sup>19</sup> Enterprise Community Partners and LiveOn New York, “*Reducing Rent Burden for Elderly New Yorkers: Improving the Senior Citizen Rent Increase Exemption Program*”, 2016, <https://www.enterprisecommunity.org/download?fid=6810&nid=4614>

<sup>20</sup> There is a pending legal challenge in the New York State Supreme Court regarding the New York Department of State’s interpretation of New York Real Prop. Law Section 238-a(1). Despite the New York Department of State, “*Guidance for Real Estate Professionals Concerning the Statewide Housing Security & Tenant Protection Act of 2019 and the Housing Stability and Tenant Protection Act of 2019* report (revised on January, 31 2020), due to an order issued by a New York Supreme Court Justice, there is currently no restriction on the amount collected for broker’s fees and tenants can be made to pay them. <https://www.dos.ny.gov/licensing/pdfs/DOS-Guidance-Tenant-Protection-Act-Rev.1.31.20.pdf>

<sup>21</sup> N.Y.RPL §238-A. 1 (a)-(b)

<sup>22</sup> N.Y. GOB §§ 7-108-1a(a) & N.Y. GOB §§ 7-108-1a(e)

<sup>23</sup> N.Y. RPL § 226-c (Regarding New York Real Property Law §226-c stipulations for lease non-renewal and rent increases above 5 percent: for tenancies of less than a year there is a 30-day notice requirement; for tenancies of at least one year and less than two years or where the lease term is more than one but less than two years, there is a 60-day notice requirement; for all tenancies and lease terms of two years and more than two years, there is a 90-day notice requirement.)