

Coops Now Exempt from the 2019 Housing Stability and Tenant Protection Act

On December 22, 2021, Governor Hochul signed into law legislation that exempts most private cooperatives (coops) from the 2019 Housing Stability and Tenant Protection Act (HSPTA).

In our September 5, 2019 Alert, we explained that HSPTA, which was intended to provide protections to tenants in rental properties, had the unintended consequence of applying to coops and warned about its impact. The legislature has now corrected this error, and coops are no longer subjected to many of the arduous provisions of HSPTA. However, such legislative changes will apply only to the landlord-tenant relationship between coops and their shareholders. When a condominium (condo) board rents out a unit owned by the condo, or a shareholder sublets his or her apartments, thereby acting as a landlord and/or sub-landlord, the restrictions of the of HSPTA will continue to apply to those leases.

Significant Changes to HSPTA Affecting Coops

1. Security deposits and rent advances can now exceed one month's maintenance.
2. In the event the rent under a proprietary lease is increased greater than 5 percent above the current rent, a coop no longer needs to provide written notice as previously required under HSPTA, unless required under the proprietary lease or any other applicable law.
3. Fees or charges to prospective shareholders that are necessary to compensate a managing agent and/or transfer agent for the processing, review, or acceptance of a prospective shareholder's application can now exceed \$20. The costs of any background or credit checks may also exceed \$20, provided that such costs are not more than the actual costs of such background or credit checks. If any fee is charged for such checks, the applicant must still be provided with copies of the reports.
4. Penalties for late payment of maintenance or rent will no longer be capped at \$50 or 5 percent of monthly rent, whichever is less. Rather, the cap will be increased to 8 percent with no dollar limit for coops.
5. Coops are permitted to send rent default notices by methods other than certified mail, provided such methods are authorized under the proprietary lease.
6. Coops can now seek legal fees, late fees, or any other "fees, charges or penalties" in a landlord-tenant proceeding brought against a shareholder, provided that the proprietary lease authorizes such additional fees to be recoverable in such a proceeding.

While the foregoing generally summarizes changes to HSPTA, boards of coops should contact their legal counsel to seek specific guidance about how these modifications may affect the operation of their buildings.



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