



Legislation Details (With Text)

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Title: Resolution calling upon DHCR to withdraw their recently proposed rule changes and reinstate the process of drafting rules with the input of tenants, and calling upon the Governor to order DHCR to do so.

Sponsors: Stanley E. Michels, Sheldon S. Leffler, Stephen DiBrienza, Ronnie M. Eldridge, Kathryn E. Freed, Karen Koslowitz, Margarita Lopez, Gifford Miller, Eva S. Moskowitz, Michael C. Nelson, Bill Perkins, Adolfo Carrion, Kenneth K. Fisher, Helen M. Marshall

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Res. No. 1531

Resolution calling upon DHCR to withdraw their recently proposed rule changes and reinstate the process of drafting rules with the input of tenants, and calling upon the Governor to order DHCR to do so.

By Council Member Michels, Leffler, DiBrienza, Eldridge, Freed, Koslowitz, Lopez, Miller, Moskowitz, Nelson, Perkins and Reed; also Council Members Carrion, Fisher and Marshall

Whereas, The New York State Division of Housing and Community Renewal (DHCR) recently proposed an extensive recodification of the Rent Stabilization Code and New York City Rent and Eviction Regulations, "the rule", the substance of which required more than one hundred and fifty pages, without any consultation with tenants, and without any kind of summary to allow lay individuals to understand the proposed changes; and

Whereas, This rule is the cornerstone to rent regulation in New York City, and virtually all of the proposed changes to the rule favor landlords, thus significantly reducing the rent protections afforded to New York City's tenants; and

Whereas, The proposed changes to the rule are in contradiction of laws passed by the State legislature and the Council and will further erode the availability of affordable housing in New York City; and

Whereas, The changes make the requirement to register rents almost meaningless by replacing the legal "registered" rent with the so-called "regulated" rent, thereby allowing as legal any rent, whether registered or not, from four years earlier plus all legal additions; and

Whereas, Under the proposed rule, landlords would no longer be required to register rents in order to get lawful rent increases, even though under the law landlords are legally limited to the last registered rent; and

Whereas, The proposal changes the current four-year limit on the ability to challenge a rent overcharge to a four-year limit on the ability to refer to a rent, thus effectively making it a three-year statute of limitations because the fourth year becomes the base and is essentially unchallengeable; and

Whereas, As proposed, the rule eliminates the possibility of treble damages for failure to timely or properly file when the tenant initiates overcharge proceedings; and

Whereas, The proposed rule would require that in order to dispute a Major Capital Improvement (MCI) increase, tenants would have to file an affidavit from an independent expert, an engineer or architect, whom they hire, or have 51% of the complaining tenants' sign affidavits within 30 days challenging a landlord's MCI application, a requirement that all but guarantees that there will be very few challenges to MCIs; and

Whereas, This proposal allows for a waiver of the requirement that a system has satisfied its "useful life" prior to its replacement being eligible for an MCI, thus further increasing the likelihood of landlords doing unnecessary work in order to raise rents, and providing an opportunity for landlords to escalate rents exponentially using MCIs; and

Whereas, This proposal provides for surcharges on washers, dryers and dishwashers, and grants landlord the ability to levy unlimited surcharges on any utility service they provide such as telecommunications, cable, gas or electric; and

Whereas, A new procedure would require tenants to give landlords ten days advance notice of any complaint prior to filing with DHCR; and
Whereas, The proposal doesn't reflect the Council initiative included in the Rent Stabilization Law passed earlier this year, which requires that first deregulated tenant receive notice of such status, and in fact further limits the statute of limitations from the current four years allowed for all overcharges to 90 days from date of occupancy for complaints about unauthorized deregulation; and
Whereas, Changes to the criteria for establishing that unit is not legally being used as a primary residence by establishing a list of acceptable evidence including the use of any other address for the purpose of filing taxes, obtaining a driver's license or voting, by any occupant, not just the prime tenant, is likely to create great difficulties for prime tenants who have family members in their apartments who live somewhere else, like college; and
Whereas, The proposal would limit prime tenants with roommates to charging such roommates a "proportional" share of rent rather than leaving private living and financial arrangements up to tenants and their roommates, without even defining proportional and therefore allows landlords to intrude into such arrangements; now, therefore, be it

Resolved, That the Council calls upon DHCR to withdraw its recently proposed rule changes and reinitiate the process of drafting rules with the input of tenants, and calls upon the Governor to order DHCR to do so.

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