



Speaker Sheldon Silver

Keeping Housing Affordable for New York's Working Families

Over 2 million New Yorkers live in housing covered by rent stabilization and rent control, but every year thousands of rent-regulated apartments become deregulated—driving up rents and forcing working families out of New York City.

In 1997 Governor Pataki and the former Senate Majority declared their intention to end rent regulation. The Assembly resisted and was able to win a re-authorization of the program. However, Governor Pataki and then-Senate Majority forced through a number of amendments to weaken rent regulation that, combined with an extremely tight housing market, have led to the loss of over 300,000 units of rent-regulated housing.

Skyrocketing rents have forced working families and seniors out of entire neighborhoods that have been home to middle-income New Yorkers for generations. The rush to raise rents has led to widespread tenant harassment and rampant speculation in multifamily housing by investors bent on evicting regulated tenants from their homes.

For over a decade the Assembly has fought to close these loopholes and strengthen New York's rent laws. Now, at a time when more New Yorkers than ever are caught between the twin burdens of high rent and lost jobs, we must finally take action to stabilize New York City's supply of affordable rental apartments for middle-class tenants and seniors.

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Since the 1997 amendments to rent regulation, New York City has lost more than 300,000 units of rent-regulated housing.

In 2006 alone, nearly 10,000 units were lost due to vacancy decontrol and 263 were lost due to high rent/high luxury decontrol. The problem of unaffordable housing for middle-income families has been aggravated by the expiration of tax benefits, such as the 421-a benefit that required landlords who received these benefits to keep rents affordable for a period of time.

For low-income families these changes have been devastating. According to the Community Service Society, 59 percent of low-income New York City tenants devote more than half of their monthly income to rent. For middle-income families, the loss of rent-regulated apartments in New York City has forced thousands of police, teachers, firefighters, and other necessary personnel to contend with skyrocketing rent or to look for housing farther from the neighborhoods in which they work—often moving to suburbs, requiring longer commutes. The State Comptroller’s office has found that the unavailability of affordable housing for workers is one of the primary reasons why employers are reluctant to locate their businesses in New York, which in turn leads to fewer jobs and opportunities for New York residents.

The Assembly Majority’s plan would keep more apartments in rent stabilization by increasing penalties on landlords who harass tenants or violate rent-regulation orders; limit landlords’ ability to raise rents after a vacancy by repealing so-called “vacancy decontrol”; prevent landlords from exploiting loopholes to raise rents when leases are renewed; and stop them from charging more rent for questionable “capital improvements.” The legislation would also increase the rent and income cut-offs for rent stabilization so that more middle-income families can keep their homes. Finally, the plan will change the law to give New York City – not Albany – control over the rent laws. New York City tenants shouldn’t have to beg upstate legislators for better rent laws.

History and Background: What is Rent Regulation?

The majority of rent-regulated tenants live in New York City. (The most recent New York City Housing and Vacancy Survey (2005) found that 1,087,000 regulated units are located in NYC). The relevant laws currently in place that establish the rent regulation system are the New York City Rent Stabilization Law of 1968 (“Rent Stabilization Law”), the Local Emergency Housing Rent Control Law

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(“Rent Control Law”), and the Emergency Tenant Protection Act of 1974 (“ETPA”) (collectively rent regulation laws).

Aspects of this system were first put in place in 1946 to deal with the severe shortage of housing in New York City and other localities following World War II, a shortage that has only grown worse in subsequent decades. Because of the high demand for housing in New York City, particularly in Manhattan, and the barriers to building more affordable units, such as the relative unavailability of land and high construction costs, market rents would climb far above the price working and even middle-income residents could pay without rent regulation. The goal of rent regulation is to preserve a stock of affordable housing and thus protect and preserve a diverse community that includes the entire range of income groups.

The rent-regulation laws authorize localities, including New York City, to opt into a rent-regulation system and declare a housing emergency if the vacancy rate for apartments in the locality falls below five percent. New York City’s vacancy rate has been below that threshold since the law was enacted, and the City has opted to implement and retain the rent regulation system. The Rent Stabilization Law and the ETPA establish Rent Guidelines Boards, which each year examine changes in building operating expenses and grant rent increases to compensate owners for increased costs and to ensure that rents remain affordable for working New Yorkers.

Urstadt–1997: Unrelenting Attack on New York City Tenants

For decades this system of protections has been under intense attack by the real estate industry and its allies in the prior State Senate Majority. In addition, Governor Pataki did all he could do administratively to weaken tenant protection laws. A provision of the Rent Control Law (more commonly known as the Urstadt Law) currently prohibits New York City from enacting local laws to provide more comprehensive tenant protections than provided by state laws.

In 1997, with laws set to expire, Governor Pataki and then Senate Majority Leader Joe Bruno declared their intention to eliminate rent regulation. The Assembly Majority led the fight to save rent regulation—going so far as refusing to pass the state budget until an agreement was reached to preserve the rent laws.

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While the Assembly was able to save New York’s rent laws from almost certain elimination, Governor Pataki and the then-Senate Majority succeeded in inserting provisions into the law that have made it easier for landlords to remove units from rent regulation. These provisions coupled with the massive run-up in housing costs in neighborhoods throughout New York City over the past ten years have led to the loss of tens of thousands of units of formerly rent-regulated apartments and depleted the city’s already limited supply of housing options for middle-class families.

Vacancy and Luxury Decontrol

Among the amendments the Senate and Governor Pataki forced into the 1997 bill are provisions that allow landlords to remove units from rent regulation. Current law allows a landlord to pull an apartment from regulation when it becomes vacant if the legal rent exceeds \$2,000 per month. It also allows occupied apartments to be removed from the system if the legal rent exceeds \$2,000 and if the tenants’ income exceeds \$175,000 in two consecutive years. The laws establish statutory vacancy allowances for apartments covered by the Rent Stabilization Law and the ETPA that become vacant but remain in the system. For two-year vacancy leases, the vacancy allowance is 20 percent; for one-year vacancy leases, the allowance is 20 percent minus the difference between the one-and two-year guidelines for renewal leases.

Major Capital Improvements (MCIs)

The Rent Stabilization Law in New York City provides generous perpetual rent increases when owners perform capital improvements. Over time these increases can raise rents to levels that are unaffordable to current residents. In many cases landlords are improperly charging required maintenance to keep buildings in compliance with the New York City Housing Code as major capital improvements—in effect asking tenants to pay more for the privilege of living in habitable housing.

The Assembly Majority is committed to repealing provisions that Governor Pataki and the Senate secured in 1997 that undermined tenant protections.

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Harassment of Tenants

These provisions as currently structured also create the potential for landlords to rapidly push rents past the thresholds and to create vacancies, sometimes by legal means but often by harassing tenants. The explosion of tenant harassment since these laws were amended in 1997 prompted the city of New York to enact the Tenant Harassment Law that allows tenants to affirmatively sue their landlord for harassment in housing court.

Recovery for Landlord's Personal Use

The Rent Stabilization Law also allows an owner to recover "one or more dwelling units" for "personal use." This has been interpreted to mean that a landlord may take one or several units and combine them into a single unit to serve as a residence.

In a recent court decision, the law was interpreted to permit the owners of a 15-apartment tenement to evict all of the tenants from the building allegedly to convert the building into a six-story mansion for themselves and their two children.

Intersection of Rent Regulation and other Housing Preservation Programs including Mitchell-Lama and Section 8

Residents of properties developed under the Mitchell-Lama Law, which created housing with rents affordable to middle-class tenants and constructed with state financing, or which benefit from federal HUD, Section 8, contracts, that provide a federal subsidy to low-income tenants to allow them to rent market rate apartments but pay no more than one-third of their income for housing, are protected from unaffordable rent increases and from eviction without cause. Owners are permitted to opt out of these programs at the end of the regulatory period, at which time the residents are at risk of being subject to unaffordable rent increases or outright eviction. Units constructed before 1974 will then be subject to rent regulation if they are located within a jurisdiction that has rent regulation, but units constructed after 1974 are unprotected and convert directly to market rents.

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More than 30,000 units of Mitchell-Lama and 6000 units covered by project-based Section 8 contracts have been lost to opt-outs. The majority of these tenants now rely on New York's rent laws to protect against massive increases in rent. The challenges facing tenants in post-1974 Mitchell-Lama buildings were recently illustrated by the attempted sale of Starrett City in Brooklyn, where more than 11,000 tenants would have gone from affordable rents to market rate rents overnight.

Preferential Rents

When the amount of rent charged to and paid by a tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation that may be charged upon renewal or upon vacancy may be based upon the previously established legal regulated rent and not on the lower rent charged to the tenant. This has resulted in instances in which tenants are deprived of the benefit of the bargains originally made with the landlord.

Our Plan: Strengthening New York's Rent Laws to Protect Working Families

For 25 years the Assembly has successfully fought to preserve the majority of these gains and has consistently pressed for legislation to enhance tenant protections. The rent-regulation laws needed to be extended in 1997 and in 2003. Governor Pataki and the State Senate Majority held the extender legislation hostage in order to force changes that unfortunately undermined some important tenant protections. The Assembly Majority is committed to recovering lost ground and to ensuring that the system is improved to provide protections for working families in these uncertain economic times.

To that end, the Assembly Majority has introduced a package of legislative initiatives outlined below:

Preferential Rents

A.465 (Jeffries). This bill would disallow the practice of increasing previously preferential rent upon lease renewal.

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Vacancy Decontrol

A.2005 (Rosenthal). This bill would repeal vacancy decontrol of apartments renting at or above \$2,000/month and recapture all formerly rent-regulated apartments in New York City that rent for less than \$5000/month.

Luxury Decontrol

A.860 (Bing). This bill would apply an adjustment for inflation to the rent and luxury decontrol thresholds, and provides for periodic annual adjustments in the future.

Vacancy Allowance

A.1686 (Lopez). This bill would reduce the amount of a permissible rent increase after a vacancy, from 20 percent to 10 percent and limit the number of allowable increases to one per year.

Landlord Recovery for Personal Use

A.1686 (Lopez). This bill would limit a building owner's ability to recover a rent-regulated apartment for personal use.

Mitchell-Lama Conversions and Section 8 Buyouts:

A.1687 (Lopez): Section 8. This bill would permit the declaration of an emergency pursuant to the EMPTA for rental housing accommodations located in buildings covered by a project-based assistance contract pursuant to section 8 of the US housing act of 1937.

A.857 (Bing): Mitchell-Lama Conversions. This bill would protect tenants in Mitchell-Lama developments that become subject to Rent Stabilization or the Emergency Tenant Protection Act by prohibiting an owner from applying for a rent increase based on unique and peculiar circumstances when a project withdraws from this program.

Urstadt Law

A.1688 (Lopez). This bill would amend the Local Emergency Housing Rent Control Act by removing the provision that prohibits cities of one million or more from strengthening rent regulation laws to provide more comprehensive coverage than provided by state laws.

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Major Capital Improvements

A.1928 (O'Donnell). This bill would extend the length of time over which major capital improvement (MCI) expenses may be recovered and require that rent surcharges authorized for MCIs shall cease when the cost of the improvement has been recovered.

Tenant Harassment and Violation of DHCR Orders

A.2002 (Silver). This bill would increase the amount of civil penalties the Division of Housing and Community Renewal could impose on landlords who harass tenants or who violate orders of DHCR related to rent-regulated housing.

Loft Law

Originally passed in 1982, the Loft Law provides a mechanism for legalizing commercial lofts in New York City that have been converted for combined commercial and residential use. The law, which the Legislature in 2008 renewed until May 31, 2010, provides tenants who became residents of loft buildings in the early 1980s with protections against arbitrary evictions and rent hikes.

Currently it is estimated that in Brooklyn alone, 10,000 people who live in buildings zoned for commercial or manufacturing use are not protected by the existing Loft Law. When the Assembly became aware of the large number of tenants threatened with eviction, it developed a package of bills to address the situation. By expanding the Loft Law, the Assembly seeks to increase the number of residents who would be covered under the existing statute and to provide important tenant protections for residents whose loft apartments are not currently covered.

A.2816-A (Glick) – 2008 bill. This bill would:

- allow fines imposed by the Loft Board to be enforced as money judgments by a court;
- allow a single residential tenant of an interim multiple dwelling to bring a specific performance action against an owner without a prior finding by the Loft Board;

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- provide that in any loft building where the owner has failed to achieve compliance with the compliance timetable, any residential tenant of the building may maintain a special proceeding pursuant to Article 7-A of the Real Property Actions and Proceedings Law for the purpose of undertaking work to achieve compliance;
- allow both the State of New York Mortgage Agency (SONYMA) and the New York City Residential Mortgage Insurance Corporation (REMIC) to insure mortgages made for the purpose of achieving compliance with Article 7-C of the Multiple Dwelling Law;
- require that owners of interim multiple dwellings offer leases upon Loft Board approval of compliance that reflect the existing rights of occupants, including those related to use and services, as they existed prior to approval, provided that they do not violate the certificate of occupancy of the building or any provision of law; and
- prohibit an owner of a building containing rent-regulated units that were previously interim multiple dwellings from recovering possession of any such unit for his or her personal use and occupancy or family's use and occupancy where a member of the tenant household had resided in the building for 20 years or more.

A.4726-A (Lopez). This bill would expand the existing Loft Law to cover people who lived in illegal lofts for a period of at least one year, from January 1, 2006, to December 31, 2007.

A.2875-A (Lopez). This bill would prohibit the interruption of essential services in uncovered loft dwellings if the lofts are used for residential purposes with the owners' knowledge and consent.

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