

# Plan On It

A Dutchess County Planning Federation eNewsletter



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## Understanding Recent Changes to Tenant Laws in New York State

By Anne Saylor, Community Development Administrator

In 2019, New York State passed some of the most sweeping changes to the state's tenant laws, the primary purpose of which was to eliminate discriminatory practices and strengthen the existing tenant laws. This article is part of a series of initiatives Dutchess County is undertaking to educate local officials, property owners and the public about these changes. Because of their extent, this article will not cover all changes to the law but rather will focus on those that are most significant, particularly as they relate to improving access to housing. We have provided references at the end of this article for those interested in reading more information about all of the changes to New York State's tenant laws.

### Source of Income Discrimination Outlawed

Effective April 12, 2019, the New York State Human Rights Law was amended to protect those who rely on any lawful source of income from discrimination in housing. Under the new law, it is unlawful to refuse to sell, rent or lease, or to otherwise deny public or private housing because of a lawful source of income. The law also prohibits providing different terms and discriminatory advertising related to sources of income. Protected sources of income include: child support, alimony, foster care subsidies, social security, government public or housing assistance, and any other lawful income.

It may not be obvious to the layperson what source of income discrimination is, but most of us have seen it. Do you ever recall looking through apartment listings and seeing a statement like "Landlord does not accept Section 8 or DSS"? This is an obvious example of source of income discrimination. Simply put, under scenarios such as this one, families were not even given the opportunity to be considered for an apartment because a landlord made judgements about them due to the family receiving government assistance. There are other less obvious statements, such as "Good work history and retirees welcome," that are de facto source of income discrimination.

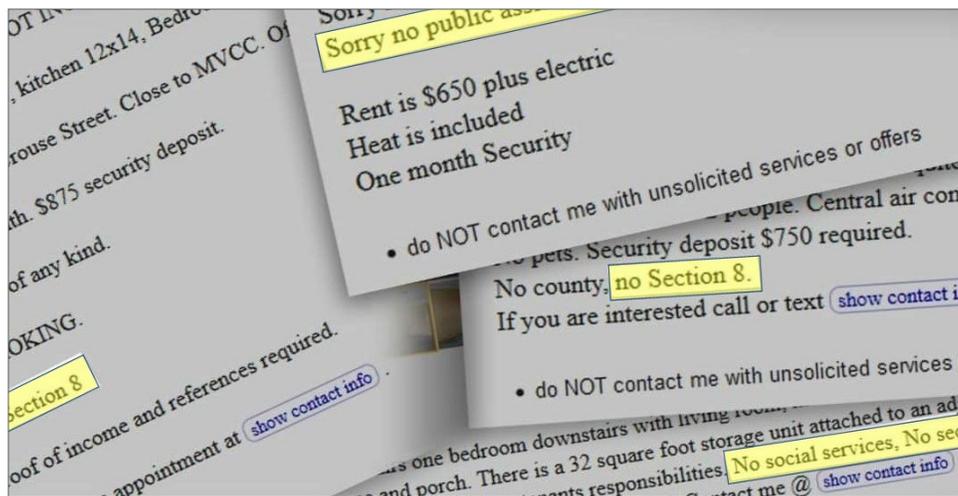
### What We're Reading

*Ever wonder what your friendly county planners are reading these days? We've launched this new segment to share interesting books, blogs and more to further spark your interest in the how's and why's of placemaking. We hope you find it inspiring!*

Heather's WEBSITE REVIEW:

Don't judge [CityLab](#) by its name. Though clearly focused on urban areas, CityLab often includes content about a wide variety of topics that can affect communities further afield, or that just make for interesting "planner" reading. Check out this piece on the [shifting future of one suburban county in Michigan](#), another focusing on the [potential of Buffalo in the face of climate change](#), or this look back at a [1970s plan to desegregate the suburbs of Westchester](#).

If you'd like to read more, sign up for one of their [email distribution lists](#), or follow CityLab on social media.



*These examples of rental housing ads show the language (highlighted) landlords may have used in the past to exclude renters with certain types of income. This type of discrimination is now unlawful in New York State. [base image credit: San Jose Spotlight]*

Some landlords claim they don't want to accept government assistance as a tenant's source of income because of the paperwork, but it is widely acknowledged that many landlords don't accept it because of their discriminatory perceptions of people on assistance (e.g. they are noisy, will cause damage to the unit, or are irresponsible). Either way, this claim regarding the hassle of paperwork doesn't even hold up for all types of assistance because in some cases, like social security, the benefit goes directly to the tenant who then uses the funds to pay rent, with no paperwork impact to the landlord.

There is also often the misperception that if landlords accept such assistance, they can't do a background check. This has been, and continues to be, untrue. As long as all applicants are treated equally, credit and reference checks – which will help uncover the concerns noted earlier – can and should be done by all landlords for every tenant. Hudson River Housing's [Homeownership Center](#) can help small landlords access this type of information, as long as they get a release from the potential tenant.

## New Tenant Protections

The Housing Stability and Tenant Protection Act (HSTPA) of 2019 created and expanded numerous tenant protections that apply to all rental housing units. Here are the most significant and broadly applicable changes that affect access to housing in Dutchess County:

### **Application fees**

- Fees for applications, including credit and background checks, are limited to the actual cost or \$20.00, whichever is less;
- To collect an application fee, the landlord must provide the tenant with a copy of the credit or background check, and a receipt from the entity conducting the check;
- Landlords must accept a copy of a credit or background check that was conducted within the past 30 days.

### **Security Deposits and Advance Rental Payments**

- Security deposits are limited to one month's rent;
- Advance payment requirements, such as first and last month's rent, are not permitted;
- Establishes new process for move-in and move-out inspections;
- Landlord has 14 days from the tenant's vacancy to return the deposit and/or provide an itemized statement if any portion of the deposit is retained.

The limits on application fees and security deposits remove a critical barrier to helping people access housing. It is difficult for many people to come up with a security deposit plus one or more months of rental charges, not to mention \$100+ application fees at every complex someone submits an application to. In a tight rental market like ours, applicants may have to apply to multiple places before finding an available unit and these \$100+ fees add up quickly, making it even more difficult to save for the security deposit.

Finally, the law has numerous tenant protections related to lease termination/rent increase notices, duty to mitigate early lease terminations, rent receipts, late rent and late fees, rent demands and the eviction process. A summary of these changes can be found on the [PowerPoint presentation](#) posted on our website, as well as the New York State Division of Housing and Community Renewal ([NYS DHCR](#)) website.

## Expansion of Rent Stabilization

You may have heard a rumor that “rent control” has been expanded statewide; however, this is not the case. Rent control, which is a practice that sets the actual rents, continues to be limited to New York City only. What the law does permit now is the expansion statewide of the option for rent stabilization, a practice that controls the amount a rent can be increased. Prior to the amendment, this was only permitted in New York City and the surrounding suburban counties of Nassau, Westchester and Rockland. The NYS DHCR has a [fact sheet](#) which describes the differences between the two programs in more detail, including additional protections not addressed in this article.

Rent stabilization only covers units in apartment buildings that meet the following criteria:

- 6 or more units;
- Built before January 1, 1974; and
- Have not been [substantially rehabilitated](#) since that date.

Rent stabilization does NOT cover:

- Buildings containing less than 6 units;
- Non-profit housing units;
- Housing supervised by a government agency;
- [Substantially rehabilitated](#) housing completed after 1973;
- New construction completed after 1973;
- Non-residential space converted to residential after 1973.

In order to enact rent stabilization, a town, city or village (we have 30 such municipalities in Dutchess County) must follow very prescribed steps. Below is a simplified list of the most important steps that would need to be taken by a municipality to enact rent stabilization:

- 1) City, town or village must conduct a statistically valid study to document a vacancy rate of less than 5%, which is generally conducted by an outside consultant for a fee. For those of you familiar with Dutchess County’s annual Rental Housing Survey, please note that it cannot be used to fulfill the vacancy study requirement for rent stabilization.
- 2) Once undertaken, if the study documents a vacancy rate of less than 5%, the city, town or village board must hold a public hearing and declare an emergency regarding available apartments.
- 3) Once the locality makes the emergency declaration, NYS DHCR will set up a 9-member county rent guideline board. The law has criteria regarding who can and cannot serve on the board.

As noted above, steps 1 and 2 must be undertaken at the city, town or village level. The law does not allow the County to undertake a county-wide study or make a county-wide emergency declaration. However, if even a single municipality within Dutchess County were to make such a declaration, the County Legislature would then recommend members to NYS DHCR for the county rent guideline board based on state guidelines. Once established, the board would set the annual rent increases for units covered by rent stabilization.

## What Does this Mean for Rental Housing in Dutchess County?

These extensive changes to New York's tenant laws will have varying impacts here in Dutchess County. While the expansion of rent stabilization can seem like a positive step for tenants, its applicability may be quite limited in our communities. One local municipality reviewed their approximately 2,100 rental units and has estimated that fewer than 150 would be covered by rent stabilization. Prior to spending money for a vacancy study, communities may want to consider an informal assessment of how many units would be impacted; our Department can assist with this assessment. Additionally, many economists argue that while various techniques such as rent control and rent stabilization can help current tenants, in the long run they can actually constrain new development, making it harder for future renters to find housing and drive higher increases in the portion of the rental market that is not controlled.

As for the broader expansions to tenant rights, such as the prohibition against source of income discrimination and the reduction of up-front costs often associated with securing rental housing, these should help ease some of the burden for renters in Dutchess County. Though our annual Rental Housing Survey relies on voluntary participation by landlords and thus is not a statistically valid study, it has anecdotally shown very low vacancy rates throughout Dutchess County for at least 20 years. It is likely that, taken together, these recent changes on the state level will ease some of the complications associated with securing rental housing locally.

### More Information

[Rent Laws 2019 Updates](#), NYS DHCR

[Source of Income Discrimination in Housing](#), NYS Division of Human Rights

[Rent Stabilization and Rent Control Fact Sheet](#), NYS DHCR

[Rent Control: What Does the Research Tell Us About the Effectiveness of Local Action?](#), Urban Institute

[What Does the Economic Evidence Tell Us About the Effects of Rent Control?](#), The Brookings Institution

Click here to [view past issues of Plan On It](#).

This newsletter was developed by the Dutchess County Department of Planning and Development, in conjunction with the Dutchess County Planning Federation.

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