

New York's New Good Cause Eviction Law

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Some questions to ask about New York's new back-door rent regulation law.

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New York recently enacted a “good cause eviction” law, which says property owners cannot evict tenants without “good cause.” Although the statute lists over a dozen examples of “good cause,” the most important and interesting one refers to rent increases. If an owner wants to raise the rent beyond a formulaic amount and the tenant doesn’t want to pay the higher rent (which we can assume will always be the case), that’s presumptively not “good cause” to evict the tenant. The owner does have the theoretical option to try to convince a court that building expenses or other circumstances justify a higher rent increase, but few owners will go to the trouble or expense.

As a result, New York’s “good cause” eviction law really just amounts to a diluted form of rent regulation. By attaching the label of “good cause,” the legislators make it sound like it must be something really desirable and “fair” – a first cousin to Mom and apple pie. But it’s really just rent regulation. It applies in New York City and in any other New York jurisdiction that adopts it. Some have.

New York's "good cause" law allows owners to raise rents annually, without potentially creating a "good cause" problem, by no more than the lower of either (a) inflation (as measured by the consumer price index) plus five percentage points or (b) 10%. That cap gets redetermined annually. Right now it's 8.82%. That's a much higher percentage than the tiny increases typically permitted under New York's other rent regulation schemes, which are utterly punitive and unreasonable. The permitted "good cause" increase does give owners a reasonable (or at least more realistic) opportunity to keep their rents in line with expenses – if inflation stays under control. The annual "good cause" cap on rent increases gets determined technocratically, by applying a formula, rather than through a political circus such as the meetings of the New York City Rent Guidelines Board.

For those reasons, "good cause" eviction is not as lethal as New York's rent stabilization and rent control schemes, which prevent property owners from keeping up with rising expenses and instead steadily degrade the housing stock in New York City and a few other locales. Since the Legislature tightened those rent regulation laws in 2019, the values of affected apartment buildings have crashed – an obvious unconstitutional taking although the Supreme Court has repeatedly dodged the issue. Many investors and lenders have decided, for very good reason, to avoid New York multifamily real estate entirely.

In the real world, few owners would try to increase rents by anywhere close to 8.82% annually. Though the New York Legislature may not realize it, a marketplace exists for apartments. If an owner tries to charge significantly more than the market rate, tenants will leave. Every time a tenant leaves, the owner incurs significant costs and lost revenue. So owners like to keep their tenants. As a practical matter, owners do try to increase rents every year, but the market constrains them. They will typically keep rent increases well under 8.82%.

The "good cause" cap on rent increases may actually push property owners to try to raise rents more than they otherwise might. That's because owners know the rent increase cap applies to each year separately. If an owner increases rents by less than the cap one year, they can't carry forward the unused part of the cap to later years. It's another example of how well-meaning progressive legislation often ends up hurting the very people the legislators wanted to help.

If a careful owner fears future inflation or other increases in expenses, that owner should try to protectively raise rents each year to the full extent the market will allow, while staying just below the cap, to make up for future years when the cap might prevent the owner from raising rents as much as would otherwise make sense. That dynamic should drive owners to increase rents more than they otherwise would. The owners who might otherwise hold back on rent increases now have every reason not to do so, if they think they won't lose tenants. Thank you, Albany.

Perhaps counterintuitively, the “good cause” eviction law gives the legislature an opportunity to liberate the New York City rental apartment market from the burdens of the more stringent (and fundamentally insane) rent regulation that also applies to many rental units. The “good cause” eviction law creates a backup rent regulation system that would still “protect” tenants from huge rent increases if New York phased out its existing rent stabilization and rent control regimes. It allows a soft landing from the truly destructive rent regulation scheme that has burdened the New York City housing market for decades.

That is probably not what the progressive activists had in mind when they pushed for “good cause” eviction, but it does give the legislature an easy way to help restore a functioning rental housing market. It would eliminate the political setting of artificially low rents, perhaps improve landlord-tenant relationships in New York City and alleviate the self-inflicted “housing crisis,” while helping to preserve low-cost housing that would otherwise continue to deteriorate. Realistically, however, it is probably foolhardy to think for even a second that the New York Legislature might ever do anything to make any real estate market work better.

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