

Legal Alert: Changes to HSTPA with respect to Coops

December 28, 2021

On December 22, 2021, Governor Hochul signed S5105C into law. The text of the new law can be found by clicking [here](#).

The law exempts most cooperatives (but not cooperatives formed under Articles 2, 4, 5, or 11 of the Public Housing Finance Law) from some of the more onerous provisions of the HSTPA.

A brief summary of the changes for the affected statutes follows.

- General Obligations Law §7-108 (dealing with security deposits) has been amended to permit cooperatives to demand more than one month's security for an apartment occupied by the shareholder.
- Real Property Law §226-c has been amended to exempt cooperatives from providing notice of non-renewal or maintenance increases of 5% or more.
- RPL §238-a paragraphs 1 and 2 have been amended to exclude cooperatives from the \$20.00 fee limitation for criminal background checks for prospective resident shareholders and for compensating a managing agent for services in connection with processing, reviewing, and approving an application to purchase shares by prospective resident shareholders. In addition, most cooperatives are permitted to charge a late fee of up to 8%, if permitted in the proprietary lease.
- RPL §235-e no longer requires cooperatives to send the notice of non-receipt of rent within five days of the due date by certified mail. Other service methods are now permitted if set forth in the proprietary lease.
- Real Property Actions and Proceedings Law §702, which defines rent, has been amended to permit cooperatives to seek fees, charges, penalties or assessments other than rent in a summary proceeding.
- RPL §234 has been amended to permit the prevailing party to obtain attorney's fees in connection with a default judgment, if permitted under the proprietary lease. The prior amendment to RPL §234, signed on 12/21/2021, would still seem to prohibit cooperatives from charging back their legal fees if those fees were not awarded to the cooperative in prior actions.