

Legal Alert: NYS Legislature Passes Two Destructive Bills

June 21, 2023

On June 20, 2023, the State Assembly passed two (2) destructive bills (S2980c/A6216b and S2943/A4047b) (“the Bills”) that will drastically impact rent regulated housing. The Bills were previously passed by the Senate before it adjourned. Now that the Bills have passed the Assembly, they will be delivered back to the Senate. The Senate will then coordinate with Governor Hochul as to when the Bills will be delivered to her, which must occur before the next session convenes in January 2024.

As of today, these remain Bills. Once the Bills are delivered to the Governor, the Governor can sign the Bills into law; take no action for 10-days (excluding Sundays) after which the Bills become law; or, veto the Bills. We are hopeful that with the pushback from industry organizations, lobbyists and owners, that the Governor will elect to veto the Bills.

If enacted into law, Bill S2943/A4047b, will alter the Rent Stabilization Law and permit for the HSTPA to have retroactive effect. This is an arguably unconstitutional legislative attack on the judicial branch, which specifically targets the Court of Appeals’ decision in *Matter of Regina Metropolitan Co., LLC v New York State Div. of Hous. & Cmty. Renewal*, 35 N.Y.3d 332 (2020) (“*Regina*”) and its progeny.

If enacted into law, Bill S2980C/A6216B, will effectively:

1. Alter the methodology of setting a first rent for combined and/or substantially altered apartments;
2. Will allow occupants to obtain succession rights, even in those instances where the occupant, along with the tenant of record, have perpetrated a fraud by knowingly and intentionally executing renewal leases and/or paying the rent in the name of the tenant of record after the tenant of record’s permanent vacatur;
3. Establishes a statute of limitations of 6-months from which an owner claiming exemption from rent regulation due to substantial rehabilitation must seek approval from DHCR;
4. Unconstitutionally redefines fraud in an attempt to legislatively reverse *Regina*; and,
5. Subjects an owner to a fine of \$500 per apartment per month for the late filing of registrations.

We will continue to keep you updated as the Bills progress.