

# Guidance for Real Estate Professionals Concerning the Statewide Housing Security & Tenant Protection Act of 2019

## INTRODUCTION TO THE STATEWIDE HOUSING SECURITY AND TENANT PROTECTION ACT OF 2019

On June 14, 2019, [Governor Andrew Cuomo](#) signed into law the Statewide Housing Security and Tenant Protection Act of 2019 (the Act).

The Act is a sweeping and comprehensive collection of new provisions that strengthen tenant protections for all New Yorkers. To help licensed real estate brokers, salespeople, and other interested parties understand the new law, the New York State Department of State (the Department) has prepared this guidance. Please visit our website at [www.dos.ny.gov](http://www.dos.ny.gov) periodically for important updates.

## WHAT DOES THE ACT PROTECT?

The Act broadly protects applicants seeking housing and tenants throughout the state. For specific information concerning rent regulated rentals and how the Act applies to those units please visit [Homes and Community Renewal](#) (HCR).

## DOES THE ACT RESTRICT APPLICATION FEES FOR RENTALS?

Yes, under the Act a “landlord, lessor, sub-lessor or grantor” is now prohibited from collecting an application fee greater than \$20.00. NY Real Property Law § 238-a(1)(b). Further, “if the potential tenant provides a copy of a background check or credit check conducted within the past thirty days” **the fee must be waived**. NY Real Property Law § 238-a(1)(b).

**The \$20.00 limitation applies to licensed real estate brokers and salespeople acting as an agent of the “landlord, lessor, sub-lessor or grantor”.**

A licensed agent that collects a fee greater than \$20.00 or fails to advise the landlord that such fees are prohibited may be subject to discipline by the Department pursuant to Section 441-c of the New York Real Property Law. Additionally, if a prohibited fee is collected and the property is subject to rent regulation, the tenant may also seek appropriate relief through HCR. The rule does not apply to licensed agents when the agent has been formally engaged to represent the interests of the prospective tenant.

The \$20.00 limit does not apply under the following circumstances:

- When a property is being sold including within a COOP or Condo;
- Application fees imposed by COOP/Condo board (i.e., fees charged by persons other than the unit owner);
- For additional property exclusions see list provided in [NY Real Property Law § 238-a\(1\)\(a\)](#).

Anyone seeking to file a complaint with the Department against a licensed real estate broker or salesperson may download a complaint form: [https://www.dos.ny.gov/licensing/complaint\\_links.html](https://www.dos.ny.gov/licensing/complaint_links.html)

Anyone seeking to file a complaint with HCR concerning a rent regulated apartment may download an overcharge complaint form from the Office of Rent Administration <https://hcr.ny.gov/overcharge>.

### **DOES THE ACT RESTRICT USE OF PRIOR DISPUTES?**

Yes, under the Act no landlord shall refuse to rent or offer a lease to a potential tenant on the basis that the potential tenant was involved in a past or pending landlord-tenant action. NY Real Property Law §227-f.

**This restriction applies to licensed real estate brokers and salespeople acting as an agent of the “landlord”.**

### **DOES THE ACT RESTRICT LATE RENT FEES?**

Yes, under the Act no “landlord, lessor, sub-lessor or grantor may demand any payment, fee, or charge for the late payment of rent unless the payment of rent has not been made within five days of the date it was due, and such payment, fee, or charge shall not exceed fifty dollars or five percent of the monthly rent, whichever is less.” NY Real Property Law § 238-a(2).

**This restriction applies to licensed real estate brokers and salespeople acting as an agent of the “landlord, lessor, sub-lessor or grantor”.**

### **WHEN DO SECURITY DEPOSITS HAVE TO BE RETURNED?**

Under the Act, a landlord must “[w]ithin fourteen days after the tenant has vacated the premises, ... provide the tenant with an itemized statement indicating the basis for the amount of the deposit retained, if any, **and shall return any remaining portion of the deposit to the tenant.** If a landlord fails to provide the tenant with the statement and deposit within fourteen days, the landlord shall forfeit any right to retain any portion of the deposit.” New York General Obligations Law § 7-108(1-a)(e).

An agent who is working for a landlord and is holding a security deposit is required to comply with this section.

### **IF I HAVE QUESTIONS WHERE CAN I GET HELP?**

Licensed brokers and agents with questions about the Act may contact the Department at: [licensing@dos.ny.gov](mailto:licensing@dos.ny.gov) or contact 518-474-4429. Call Center Representatives are available from 8:30am to 4:30pm Monday through Friday except on Legal Holidays.

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ALBANY OFFICE: One Commerce Plaza, 99 Washington Avenue, P.O. Box 22001, Albany, NY 12201-2001 •

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