

Why Hamptons Brokers Are Freaking Out Over The Summer Rental Season

A far-reaching state law could ding Hamptons landlords ahead of the most important season of the year

Heather Senison | March 11, 2020

Hamptons landlords are scrambling to protect themselves from the possible effects of New York state's rent law, which set New York City brokers into a tizzy ever since it passed in June 2019.

Dubbed the Housing Stability and Tenant Protection Act of 2019, the legislation prohibits landlords from collecting anything more than first month's rent and a security deposit before a lease begins. It also limits security deposits to the value of one month's rent. So long, pet deposits!



Additionally, landlords are required to provide an itemized list of security deposit deductions within 14 days of tenants vacating the property.

"I personally have rented my home, and there's no way I could have gotten an accounting within 14 days of terminating the lease to return the correct portion of the utility deposit," said Bridgehampton-based real estate attorney Adam Miller, whose firm primarily handles seasonal rentals.

The law was primarily enacted to address rent-stabilized housing in New York City, but most of its provisions apply to the entire state. It was met with immediate backlash from the industry in the boroughs and beyond. Landlord groups are filing lawsuits against the state.

In the city, the new security deposit mandates seem to be the least of landlord problems with the bill, as recently issued guidance on rental broker fees dictates that landlords pay that cost. It's a measure the industry is fighting with a flurry of legal action.

But the new law throws a wrench into the typical rental process for Hamptons vacation homes, which are typically leased for two to three months.

“The current procedures were an evolution of what didn’t work, and this doesn’t work,” Town & Country CEO Judi Desiderio said. “This law was really designed for New York City, and it’s going to blow up in everybody’s face as soon as next summer.”

And though Long Island legislators say they plan to change the law so it would no longer apply to seasonal rentals, fears are mounting about how it could affect landlords this coming summer.

The old school method

Over the years, it became customary for Hamptons tenants to pay the entire season’s worth of rent upfront before moving into a house, plus two separate security deposits for damages and utilities. This way, landlords were financially protected against tenants who decided to move out early because of bad weather, opted out of paying property maintenance bills or held destructive parties. Regardless of what happened, landlords had enough money in escrow to cover their properties, which are often worth millions of dollars.

“The landlord doesn’t want to go chasing tenants down for the rest of the rent,” Desiderio said.



“This law was really designed for New York City, and it’s going to blow up in everybody’s face as soon as next summer.”

JUDI DESIDERIO, TOWN & COUNTRY

The new rent law is just the latest inconvenience for landlords on the East End, she added. The town of East Hampton, for example, requires them to produce floor plans to prove their houses are up to building and zoning codes in order to be approved as rentals. Landlords must pay fees for rental permits. Meanwhile, they also compete with short-term lease sites like Airbnb, which make it easy to lease Hamptons houses for a weekend without committing to an entire season.

“So, these landlords are going to say, ‘You know what? I’ve made my money, I’m going to make a good amount of money selling,’ and they’re going to sell their houses and move to Florida where there are no [state income] taxes,” she said.

But financially delinquent tenants are the exception, noted Richard Stauffer, CEO of the Hamptons and North Fork Realtors Association, or HANFRA.

“Some of these rental deals are between individuals who have known each other for many years because the tenants come back to the same location,” he said. “I think the problem will occur when you’re a new client and you have no standing in the community, so to speak.”

Tweaking the law

Assemblyman Fred Thiele, who represents the South Fork and co-sponsored last summer’s rent law, is rushing to introduce a bill to amend the law so it would not apply to leases of fewer than 120 days. The amendment, co-sponsored by Sen. Kenneth LaValle, was being reviewed by the Senate and Assembly judiciary committees as of press time.

“Anyone you talk to in Albany, in the Senate, the Assembly, the Housing Committee, everybody acknowledges that this law was not intended to apply to seasonal and vacation rentals,” Thiele said.

Though he intends to push the bill through the legislature as quickly as possible this year, Thiele said securing Gov. Andrew Cuomo's signature could take a while. "Realistically, it's going to take a couple of months, and the rental season is rapidly approaching," he said.

Stauffer of HANFRA doubts Thiele's new bill will even reach the governor's desk, given the number of Democrats with constituents in New York City.

"The fear I think Democrats have is that if they open [the rent law] for an amendment then other parts of the law will come under scrutiny," he said. "I don't think it will pass."

In the meantime, Hamptons brokers are warning their clients about the implications of the law.

HANFRA sent a letter to its members asking them to urge their legislators to quickly pass Thiele's bill. Attorney Heather Wright, meanwhile, issued a memo to East End landlords explaining the measures enacted by the rent law. The letter warns that those caught charging tenants more than one month's rent as security deposit could be fined an amount equal to twice the deposit.

Miller is looking for legal loopholes that landlords can take advantage of when drafting their leases. The law does not specify how much a month's rent can be, nor does it require the amount for each month to be the same, he said. So, for example, if a lease is \$100,000 for Memorial Day to Labor Day, a landlord could feasibly charge \$50,000 for the first month and a smaller sum for the remaining months. That would allow the security deposit to be as high as \$50,000.

"There may be a creative way to say in the lease that if the rent for the second month is not paid by seven days prior to the start date, then the landlord has the right to apply a portion of the prepaid security toward that month," he said. "There may be some comfort in knowing that at least the money has been tendered in escrow."