

## LANDLORD-TENANT LAW

# Understanding Good Cause Eviction: The Basics

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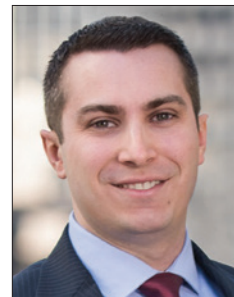
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**A**s most New Yorkers now know, on April 20, 2024 the Good Cause Eviction Law (GCE) was signed into law as part of the 2024-2025 New York State budget legislation. GCE is codified in the new Article 6-A of the New York State Real Property Law ("RPL") and took effect immediately.

At its core, GCE limits unreasonable rent increases for units that are not already subject to rent regulation, ensures that existing tenants of unregulated apartments are offered renewal leases, and curbs the eviction of free-market tenants except if the owner has "good cause." This article will explore the origins of GCE and explain its key components.

## The Backdrop for GCE

The concept of good cause eviction is not new. In fact, New Jersey adopted a form of good cause eviction in 1974 with the passage of the Anti-Eviction Act (N.J.S.A. 2A:18-61.1). The New Jersey Anti-Eviction Act limits rent increases



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for residential units and sets forth 17 distinct grounds as good cause for the eviction of a residential tenant.

In 2019, both Oregon and California passed similar statutes to address what the legislatures in those States believed was a housing crisis. Oregon's Statewide Rent Control Law (Oregon Senate Bill 608) limits rent increases in any 12-month rolling period to 7% plus the Consumer Price Index (CPI), and places restrictions on the termination of both month-to-month and fixed-term tenancies. California's Tenant Protection Act (Civil Code §§ 1946.2 and 1947.12), which was recently amended in April 2024, prohibits rent increases of more than 5% plus the change in CPI or a total of 10%, whichever is lower, in

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any 12-month period, and provides that tenants can only be evicted for “just cause” in specific circumstances. GCE was clearly inspired by these regulations.

The notion of good cause eviction made its debut in New York in January 2019 with Senate Bill S2982 (“S2982”). That bill stalled. In February 2021, Senate Bill S3082 (“S3082”) was introduced. The sponsors of S3082 explained in the bill’s justification section that good cause eviction is necessary in New York because “[l]andlord’s across the state displace tenants in order to gain higher profits,” and that “de facto evictions happen, among other ways, via non-renewal of their leases.”

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The sponsors also believed that the “bill would set a precedent of placing the lives, health, safety, and well-being of tenants first, and before the profits of landlords.”

S3082, like S2982 before it, proposed the creation of a new Article 6-A in the RPL, four limited exemptions to the law’s applicability, eight grounds as good cause for the eviction of an unregulated tenant, and limits on unreasonable rent increases, defined as a rent increase in any calendar year that exceeds either 3% of the previous rent or 1.5% of CPI, whichever is higher.

Although S3082 did not become law, GCE adopted many of the concepts contained in the bill, as well as the overall premise that unregulated tenants need protection from rent increases and “no cause” evictions.

However, as demonstrated below, GCE is not as restrictive as S3082. Specifically, GCE provides for 15 exemptions to applicability, 10 grounds for good cause eviction, and limits on unreasonable rent increases in any calendar year, defined as the lower of either 5% plus the change in CPI, or 10% of the previous rent.

### **Applicability to Existing Residential Units**

Except where an exception applies, GCE covers all existing residential units located within New York City (RPL §212), as well as to those in any village, town, or city in the State that adopts the provisions of GCE through a local law (RPL §213).

The following are the 15 exceptions where GCE does not apply in New York City (RPL §214): (1) where the building in which the unit is located is owned by an owner that owns no more than 10 units in the State and/or has a beneficial interest in entities owning no more than 10 units in the State; (2) a unit in an owner occupied building with no more than 10 units; (3) units that are sublet where the sublessor seeks to recover the unit for personal use and occupancy; (4) units where the occupant’s occupancy is incident to the occupant’s employment and that employment was or will be lawfully terminated; (5) units already subject to rent regulation or eviction protection under any local, state, or federal law; (6) units subject to affordability requirements pursuant to statute, regulation, restrictive declaration or regulatory agreement; (7) units within a building that is owned as a cooperative or condominium, or that is subject

to an offering plan submitted to the Attorney General; (8) units or buildings for which a temporary or permanent certificate of occupancy was issued on or after January 1, 2009 for a period of 30 years following issuance of such certificate; (9) units used as seasonal use dwelling units; (10) units located in a hospital, continuing care retirement community, assisted living facility, adult care facility, senior residential community, and not-for-profit independent retirement communities; (11) manufactured homes on or in a manufactured home park; (12) hotel rooms or other transient use covered by the definition of a class B multiple dwelling; (13) school dormitories; (14) units or buildings that are used as

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a religious facility or institution; and (15) units for which the monthly rent is greater than 245% of the fair market rent (“FMR”) for the county in which the unit is located, as published by the New York State Division of Housing and Community Renewal (DHCR).

On May 3, 2024, DHCR issued the first “Good Cause Eviction Law Required DHCR Notice” (the “DHCR Notice”), setting forth the 245% FMR for the City’s five boroughs (the numbers are the same for all the boroughs). 245% FMR is \$5,846 for a studio apartment, \$6,005 for a 1-bedroom apartment, \$6,742 for a 2-bedroom apartment, \$8,413 for a 3-bedroom apartment, and \$9,065 for a 4-bedroom apartment.

#### **Good Cause Defined**

As the name implies, GCE requires landlords to have good cause to evict a tenant and prohibits

landlords from recovering possession or excluding tenants from possession, regardless of whether the tenant has a valid lease, unless good cause is shown (RPL §215).

There are 10 grounds for a good cause eviction (RPL §216): (1) the failure to pay rent provided that the failure did not result from an unreasonable rent increase (which is explained in more detail below); (2) breach of a substantial obligation of tenancy after the expiration of a 10-day written notice and an opportunity to cure; (3) nuisance conduct that interferes with the comfort or safety of the landlord or other tenants in the same or adjacent buildings or where the tenant is maliciously or by gross negligence damaging the unit, the building, or the real property; (4) occupancy that is in violation of or causes a violation of law and the landlord is subject to civil or criminal penalties, provided that an agency of the municipality or State issues a vacate order and the Court finds that the violation cannot be cured unless the tenant vacates and the landlord did not create the condition necessitating the vacate order by neglect, intentional act, or failure to act; (5) the tenant is using the unit, building or other part of the real property for an illegal purpose, (6) failure to provide access for necessary repairs or improvements required by law or to show the unit to prospective purchasers, mortgagees or others having a legitimate interest therein; (7) recovery for landlord’s personal use as its principal residence or for the use of landlord’s family members as defined in the statute, provided that the landlord can prove by clear and convincing evidence its good faith intention to do so and the tenant in possession is not 65 or older or a disable person; (8) the landlord has a good

faith intention to demolish and proves it by clear and convincing evidence; (9) the landlord has a good faith intention to withdraw the “housing accommodation” from the rental market, and proves it by clear and convincing evidence; and (10) Tenant’s refusal to agree to reasonable changes to a renewal lease, including, but not limited to, a reasonable rent increase, provided that the proposed changes were sent to the tenant no more than 90 and no less than 30 days prior to the expiration of the lease term.

GCE provides that there is a rebuttable presumption that a rent increase is unreasonable if the rent has been increased in any calendar year by more than 5% plus the change in CPI, as published by DHCR, or 10%, whichever is lower (the “Local Rent Standard”) (RPL §216).

The DHCR Notice provides that CPI for New York City is 3.82% for this year. Therefore, there is a rebuttable presumption that a rent increase is unreasonable if the rent is increased by more than 8.82% this year.

The court may consider all relevant facts to determine if the rent increase is reasonable, including, but not limited to, fuel and other utility costs, insurance, maintenance, increases in property tax expenses and significant repairs.

Significant repairs include structural repairs, electrical, plumbing, or mechanical repairs requiring a permit, abatement of hazardous materials, such as lead paint, asbestos or mold, but excluding cosmetic repairs such as painting and decorating.

### **New GCE Notice Requirements**

Simultaneously with the passage of GCE, the Governor also signed into law the new

RPL §231-c, which requires landlords to send or incorporate a “Good Cause Eviction Law Notice” (the “GCE Notice”) with every initial lease, renewal lease, notice of rent increase or nonrenewal pursuant to RPL §226-c(1), statutory 14-day rent demand pursuant to Real Actions and Proceeding Law (“RPAPL”) §711(2), and petition pursuant to RPAPL § 741. The GCE notice must advise the tenant, among other things, (i) whether the unit is exempt from GCE and the basis for exemption, (ii) if the unit is subject to GCE and the landlord intends to increase the rent above the Local Rent Standard, the justification for the increase, and (iii) if the unit is subject to GCE and landlord is electing not to renew the lease, the basis for such non-renewal.

The provisions of RPL §226 and RPAPL §§ 711(2) and 741 were also amended to require that the GCE Notice be appended to or incorporated into the RPL § 226-c notices, statutory rent demands, and petitions.

The requirement to send or incorporate the GCE notice does not take effect until August 18, 2024 (120 days from the effective date of the Act). All the new provisions relating to GCE outline above are set to expire on June 15, 2034, unless extended.

### **Conclusion**

For better or worse, GCE is now the law in New York City and landlords will have to learn to navigate the new requirements. As with all new areas of regulation, much of the uncertainty and/or ambiguities in the law will be clarified through the course of litigation over the next several years or when new legislation is introduced.