



2019 Annual Report

**New York State Standing Committee
on Housing, Construction and
Community Development**

Senator Brian Kavanaugh
Chairperson





BRIAN KAVANAGH
SENATOR, 26TH DISTRICT

THE SENATE
STATE OF NEW YORK

CHAIR
HOUSING, CONSTRUCTION &
COMMUNITY DEVELOPMENT

COMMITTEES
CITIES
CODES
CONSUMER PROTECTION
ELECTIONS
ENERGY & TELECOMMUNICATIONS
ENVIRONMENTAL CONSERVATION

January 24, 2020

The Honorable Andrea Stewart-Cousins
Temporary President and Majority Leader
New York State Senate
Albany, NY 12247

Dear Senator Stewart-Cousins:

I am pleased to transmit the Annual Report of the Senate Standing Committee on Housing, Construction, and Community Development for the 2019 legislative Session.

As detailed in this report, it has been a truly transformative year in legislation and policy related to housing, as it has in so many other areas. I am proud that we passed the statewide Housing Security and Tenant Protection Act of 2019, an expansion of our laws protecting tenants living in loft buildings, increased protections for homeowners facing foreclosure, and dozens of other bills.

In the Fiscal 2019-2020 budget, the Senate worked successfully to secure hundreds of millions of dollars in housing funding, including increased resources for administration and enforcement of the rent laws, renewed support for community-based programs serving distressed homeowners, and the Neighborhood and Rural Preservation Programs.

The Committee conducted seven public hearings, with most members of the Senate participating in one or more, on the rent laws and tenant protections, code enforcement, and the apparent violations of the fair housing laws reported by *Nesday* toward the end of the year.

Because of this work, millions of people will be more secure in their housing and will be able to live affordably in the communities that they have built together. I thank you for your steadfast commitment to ensuring that all New Yorkers have access to high-quality, safe, affordable housing and for the opportunity to lead the Senate's efforts to achieve that goal and the other important work of the Committee.

Sincerely,

Brian Kavanagh



**2019 LEGISLATIVE SESSION REPORT OF
THE NEW YORK STATE SENATE**

**COMMITTEE ON HOUSING, CONSTRUCTION
AND COMMUNITY DEVELOPMENT**

Senator Brian Kavanagh, Chair

Senator George A. Amedore, Jr., Ranking Minority Member

**Senator Phil Boyle
Senator Pamela Helming
Senator Robert Jackson
Senator Liz Krueger
Senator Betty Little
Senator Shelley B. Mayer
Senator Zellnor Myrie
Senator Gustavo Rivera
Senator Julia Salazar**

2019 STAFF

**Nadia Gareeb, Assistant Deputy Counsel
Nic Rangel, Senior Counsel
Amber Marshall, Associate Counsel
Allison Bradley, Deputy Secretary, Finance
Michael Szydlo, Principal Analyst, Finance
Jonathan Shapiro, Legislative Director to the Chair
Cleveland Stair, Committee Clerk**

COMMITTEE JURISDICTION

The New York State Senate Standing Committee on Housing, Construction and Community Development has legislative oversight responsibilities for issues concerning the development and preservation of safe, decent, and affordable housing; the improvement of communities across the State, rent regulation and tenant protections; and administration and enforcement of housing, building, and fire safety codes.

The committee considers proposed legislation related to these matters that amend various statutes, including the Emergency Housing Rent Control Law, the Emergency Tenant Protection Act, the Local Emergency Housing Rent Control Act, the Executive Law, the Multiple Dwelling Law, the Multiple Residence Law, the Private Housing Finance Law, the Public Housing Law, the Real Property Actions and Proceedings Law, the Real Property Law, the Real Property Tax Law, and the New York City Administrative Code.

OVERVIEW OF THE COMMITTEE'S ACTIVITIES IN 2019

The Committee held six meetings to consider and advance legislation, held seven public hearings (in two cases jointly with other committees), and participated in the joint hearing on the housing portions of the State budget, led by the Finance Committee.

Among the 184 bills referred to the Committee in 2019, the Committee approved 31. Of these, 10 passed both the Senate and the Assembly and were signed into law by the Governor; 10 passed the Senate but not the Assembly; 7 were reported to the Floor of the Senate but not passed; and 4 were reported by the Committee to the Finance Committee but were not reported to the Floor. A list of all bills that were reported from the Committee, along with their status as of the end of 2019, appears at the end of this report.

The enacted budget for Fiscal 2019-2020 included hundreds of millions of dollars in operating and capital expenditures to support the work of State agencies responsible for housing, to fund grants to community organizations providing housing and related services, and to invest in preservation of existing affordable housing and creation of new housing opportunities.

In addition, some 55 of the bills referred to the Housing Committee, but not reported individually, related to the rent regulation laws; the provisions of many of these bills were the subject of testimony at public hearings, advocacy, and internal deliberations that culminated in the drafting and enactment of the Housing Stability and Tenant Protection Act.

HIGHLIGHTS

Housing Stability and Tenant Protection Act (S6458)

With the existing rent regulation laws set to expire on June 15, 2019, renewing and expanding tenant protections was a major focus of the Committee throughout the session. As the Senate worked toward the provisions that were ultimately incorporated into the Housing Stability and Tenant Protection Act (HSTPA) and enacted in June, the Committee held a series of public hearings across the state to shed light on the issues and to identify solutions. All members of the Committee and a majority of all Senators attended one or more of these hearings, which were held in Syracuse in Onondaga County, Newburgh in Orange County, Greenburg in Westchester County, Albany, and Brooklyn in New York City. The Committee heard from scores of witnesses.

In crafting the HSTPA, Housing Committee members and staff worked closely with Senate Majority Leader Andrea Stewart-Cousins who sponsored the final bill (S6458), counterparts from other committees, especially the Judiciary and Finance Committees, and many other Senators. The HSTPA strengthened the State's laws protecting tenants and promoting affordability in rent regulated housing, provided new protections for all tenants throughout the State, and created a new system of protections for residents of mobile and manufactured home parks.

HSTPA: Promoting Affordability and Protecting Tenants in Rent Regulated Housing

The HSTPA strengthens and expands the system of rent regulated housing in numerous ways. The new law repeals deregulation provisions that had allowed landlords to eliminate protections on hundreds of thousands of apartments and displace tenants, limits landlords' ability to remove tenants to take apartments for themselves or their family members, eliminates rent increases of 20% or more that had been permitted when apartments turned over, restricts increases for "major capital improvements" and "individual apartment improvements," restricts landlords who have offered tenants a "preferential rent" below the legal maximum from reverting to the full legal rent during the current tenant's occupancy, and shields rent-controlled tenants from big rent increases.

The HSTPA also makes the State rent regulation laws permanent, so they won't need to be renewed every few years as had been required for decades, and removes geographical restrictions on the applicability of rent stabilization, allowing any municipality that otherwise meets the statutory requirements to opt in.

Finally, HSTPA requires NYS Homes and Community Renewal to report annually on the programs and activities undertaken to implement, administer, and enforce the rent regulation system. The Fiscal 2019-2020 budget included \$64 million for administration and enforcement, including funding for an additional 94 staff positions.

HSTPA: Additional Protections For All Residential Tenants

The HSTPA also included multiple new protections for all tenants, including those whose apartment are not rent-regulated. The new law prevents landlords from charging application fees, restricts credit check fees to \$20, limits security deposits to one month's rent, and requires landlords to promptly return any security deposit at the end of the tenancy or justify any amount withheld. The HSTPA also requires more notice before landlords increase rents more than 5% or decline to renew a lease, protects tenants in proposed co-op and condo conversions, protects tenants against discrimination based on previous court cases, provides for a fairer process in eviction cases, and prohibits retaliatory evictions against tenants who complain about the condition of their apartment or otherwise enforce their rights.

HSTPA: Residents of Mobile and Manufactured Homes

The HSTPA creates a new system of comprehensive protections for those living in mobile and manufactured home (MMH) parks: limiting rent increases to 3% unless the park owner can offer a specific justification for a larger increase of up to 6%, establishing new rent-to-own protections for MMH tenants attempting to purchase a home from a park owner or operator, strengthening protections against evictions from parks, and providing new protections for MMH owners if a park owner or operator decides to change the use of the park.

The enacted budget also included \$5 million for the Manufactured Home Advantage Program, which will continue funding low-interest loans and grants for the acquisition and rehabilitation of manufactured homes and manufactured home parks around the State. Loans under this program can be used to make capital improvements, purchase new properties, or refinance debt to help keep parks affordable for residents.

Loft Law Expansion (S3655B)

Separately from the HSTPA, the Committee advanced a major expansion of legal protections available to New York City residents living in certain commercial buildings, permitting them to apply for coverage under the Loft Law, which includes provision regulating rents and a process for improving safety standards. Previously, Loft Law protections were only available to tenants who had been in residence before 2009. The new law, S3655B, sponsored by Senator Julia Salazar and enacted in July, permits residents who lived in lofts in 2015 and 2016 to apply for coverage.

Foreclosure, Distressed Homeowners, and Neighborhood Preservation

The financial distress experienced by many homeowners was also a significant focus of legislative activity in 2019. Members of the Committee and other Senators secured \$20 million in the Fiscal 2019-2020 budget to continue offering foreclosure prevention services through 89 non-profit counseling and legal services organizations in every county. Budget legislation also made permanent certain protections that had been adopted during the mortgage crisis, including a requirement that lenders alert homeowners when a mortgage default might pose a risk of losing their homes and

requiring mandatory settlement conferences before any foreclosure is completed; these requirements will now apply to all residential foreclosures. The Committee also advanced legislation, S5160 (Kavanagh), enacted in December, to allow homeowners facing foreclosure to raise the defense of standing at any point in the legal proceedings. Over the years, the waiver of this defense had led to entities sometimes foreclosing on properties where they had no legal right to do so.

Members of the Committee also advocated successfully of \$18 million to be included in the enacted budget for the Neighborhood Preservation Program and the Rural Preservation Program, which support 202 organizations that work to revitalize low-and moderate-income communities by preserving and increasing access to affordable housing.

Code Enforcement

In January 2019, Housing Committee Chair Brian Kavanagh and Investigations and Government Operations Committee Chair James Skoufis announced an investigation concerning localities' administration and enforcement of housing, building, and fire codes. The investigation included an in-depth review of code enforcement practices in the cities of Newburgh, Mount Vernon, and Albany, and the Town of Ramapo.

The Committees held a public hearing on the issues raised by the investigation in Newburgh in May, and published findings and recommendations in a report dated August 5, 2019. The Committees found that there was inadequate training for code enforcement personnel, inadequate record keeping for tracking code cases, insufficient penalties for violations, difficulties associated with properties owned by limited-liability companies whose beneficial owners are difficult to identify, persistent vacant and abandoned buildings, an upsurge in illegally converted properties, excessive delays and adjournments of judicial cases brought to adjudicate code violations, and an overall lack of resources and support available to assist code enforcement programs.

The results of these hearings and this investigation will inform the Housing Committee's legislative work in the 2020 session.

Fair Housing and Discrimination

The Fiscal 2019-2020 budget also included legislation that amends the Human Rights Law to prohibit landlords from discriminating against prospective tenants based on their source of income, such as federal Section 8 vouchers or disability benefits.

Notwithstanding this significant step forward, an investigative report published by *Newsday* in Fall 2019—documenting apparent overt discriminatory actions by real estate agents on Long Island—demonstrated that New York still has much work to do to ensure equal access to housing. In response, the Housing Committee, jointly with the Committee on Investigations & Government Operations and the Committee on Consumer Protection Committee, held a public hearing on housing discrimination on December 12, 2019 in Nassau County. Oversight and legislative work on this issue will continue in the 2020 session.

Looking Ahead

The Senate Committee on Housing, Construction, and Community Development is committed to building on the enormous successes of the 2019 legislative session and ensuring that the right to safe, decent, and affordable housing is extended to each and every New Yorker.

SUMMARY OF COMMITTEE ACTIVITY

Below is a summary of the bills that were signed into law, passed by the Senate, reported out of the Housing Committee to the Senate Floor, or reported and referred to another Senate committee.

Bill	Sponsor	Summary	Action
BILLS SIGNED INTO LAW			
S2537A	Comrie	Relates to establishing an electronic automated system for applications and waiting lists and to develop a written procedure for applicant selection and rejection	Signed into law, Chapter 455 of 2019
S2576	Bailey	Relates to unlawful occupation; provides that if any dwelling or structure be occupied in violation of section three hundred two of the multiple residence law, no rent shall be recovered by the owner of such premises for said period, and no action for possession of said premises for nonpayment of such rent shall be maintained therefor.	Signed into law, Chapter 444 of 2019
S3655B	Salazar	Amends the definition of interim multiple dwelling units; authorizes claims originating in the loft board to be brought in civil court; amends how rents in interim dwelling units are controlled; subjects cooperative and condominium units to certain rent regulations; makes certain provisions relating to such permanent.	Signed into law, Chapter 41 of 2019
S4049	Parker	Relates to the performance of a study regarding homeless persons who are veterans in the state of New York.	Signed into law, Chapter 487 of 2019
S4131	Kavanagh	Permits tenants or residents of limited profit housing, or persons acting on their behalf, to copy financial documents pertaining to their projects, subject to a reasonable charge therefor, the maximum of which shall be prescribed by regulation.	Signed into law, Chapter 594 of 2019
S4133	Kavanagh	Relates to the aggregate annual income of low income persons or families eligible for accommodations in a company project.	Signed into law, Chapter 726 of 2019
S4182	Salazar	Requires a servicer in a mortgage foreclosure action of residential real property to pay homeowners' association or cooperative fees as needed to maintain the property.	Signed into law, Chapter 168 of 2019
S5160	Kavanagh	Provides that the defense, in a mortgage foreclosure action, of the plaintiff's lack of standing is not waived because of the defendant's failure to raise such defense in his or her responsive pleading.	Signed into law, Chapter 739 of 2019

Bill	Sponsor	Summary	Action
S5079A	Skoufis	Enacts the “zombie property remediation act of 2019”.	Signed into law, Chapter 682 of 2019
S6200	Persaud	Relates to additional information required in annual reports for limited-profit housing companies.	Signed into law, Chapter 539 of 2019
BILLS PASSED BY THE SENATE BUT NOT THE ASSEMBLY			
S4117A	Kaplan	Prohibits the eviction of tenants for using medical marihuana for a certified medical use	Passed Senate
S4742	Parker	Relates to prohibiting homeowners’ associations from restricting the installation or use of solar power systems	Passed Senate
S4683	Kavanagh	Directs the court to provide notice to the former owners of foreclosed property of the right to file a claim for the excess funds from the sale of the real property	Passed Senate
S3358	Jackson	Relates to prohibiting legal fees to be charged by a lessor or agent thereof	Passed Senate
S628	Boyle	Establishes the lease and landlord fraud public awareness program	Passed Senate
S2590	Stewart-Cousins	Establishes emergency evacuation plan for individuals with disabilities; and establishes \$500 fine for failure to comply	Passed Senate
S3224	Sanders	Provides retroactivity to the original date of eligibility in certain cases for the senior citizens rent increase exemption (SCRIE) and disability rent increase exemption (DRIE)	Passed Senate
S5357	Comrie	Expands the definition of “tenant” for the purposes of required notice during a mortgage foreclosure action	Passed Senate
S6156	Stewart-Cousins	Relates to the statewide or regional multi-state contract administration and support services for federal section eight project based housing assistance payments contracts	Passed Senate
S6199	Jackson	Relates to loans by the housing trust fund corporation	Passed Senate
BILLS REPORTED TO THE SENATE FLOOR BUT NOT PASSED			
S4190	Kennedy	Relates to including the name and telephone number of the mortgage servicer for a plaintiff in a mortgage foreclosure action on certain documents pertaining to such action	Reported from Committee

Bill	Sponsor	Summary	Action
S3320	Jackson	Establishes time restrictions for court issued consent orders for work performance to remove or remedy conditions in such petition	Reported from Committee
S3216	Comrie	Makes the affirmative allegation provisions for high-cost loans and subprime home loans, applicable to all mortgage foreclosures	Reported from Committee
S4526	Hoylman	Relates to summary judgment proceedings to recover possession of real property in non-payment proceedings in the city of New York; repealer	Reported from Committee
S5436	May	Relates to providing recourse for manufactured homeowners in manufactured home parks confronted with unjustifiable rent increases	Reported from Committee
S2700	Kennedy	Relates to increasing the maximum civil penalty	Reported from Committee
S4084A	Parker	Provides that records of eviction proceeding shall be sealed when the leased property was foreclosed upon	Reported from Committee
BILLS REPORTED TO THE FINANCE COMMITTEE BUT NOT TO THE FLOOR			
S3630	Ranzenhofer	Preferences under the affordable home ownership development program for service related disabled veterans	Referred to Finance
S1726	Skoufis	Prohibits the use of plywood, wood composite, wood veneer, or similar wood-based products to secure real property	Referred to Finance
S489	Rivera	Relates to the definition of income for the purposes of the private housing finance law	Referred to Finance
S4402	Savino	Relates to rental assistance for low income elderly families	Referred to Finance



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NEW YORK STATE SENATE STANDING COMMITTEE

ON HOUSING, CONSTRUCTION AND
COMMUNITY DEVELOPMENT