



**Legislative Assembly  
of Ontario**

First Session, 40<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Première session, 40<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Monday 11 June 2012**

**Journal  
des débats  
(Hansard)**

**Lundi 11 juin 2012**

**Standing Committee on  
Justice Policy**

Residential Tenancies  
Amendment Act (Rent  
Increase Guideline), 2012

**Comité permanent  
de la justice**

Loi de 2012 modifiant  
la Loi sur la location  
à usage d'habitation  
(taux légal d'augmentation  
des loyers)

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Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE POLICY**

**COMITÉ PERMANENT  
DE LA JUSTICE**

Monday 11 June 2012

Lundi 11 juin 2012

*The committee met at 1403 in committee room 2.*

**RESIDENTIAL TENANCIES  
AMENDMENT ACT (RENT  
INCREASE GUIDELINE), 2012**

**LOI DE 2012 MODIFIANT  
LA LOI SUR LA LOCATION  
À USAGE D'HABITATION  
(TAUX LÉGAL D'AUGMENTATION  
DES LOYERS)**

Consideration of the following bill:

Bill 19, An Act to amend the Residential Tenancies Act, 2006 in respect of the rent increase guideline / Projet de loi 19, Loi modifiant la Loi de 2006 sur la location à usage d'habitation en ce qui concerne le taux légal d'augmentation des loyers.

**The Chair (Mrs. Laura Albanese):** Good afternoon, everyone. We're here for clause-by-clause consideration of Bill 19, An Act to amend the Residential Tenancies Act, 2006 in respect of the rent increase guideline. Any opening statements before we proceed to the clause-by-clause consideration? Yes?

**Ms. Cindy Forster:** I'd be happy to have some opening statements.

Last week, we heard from, I think, seven different agencies and groups that were supportive of us making more changes to the Residential Tenancies Act than just the one that's being proposed by the government. They were looking at proposals around the vacancy decontrol issue, around removing the 1991 date for exempting rent control buildings here in the city, which amounts to a lot, 55,000 units, that have an exemption. I think the expectation of the people who live in rental units across this province and who live in units that are in disrepair, of which we heard were many, is they're expecting more. They're expecting more from this government, they're expecting more from the opposition party, and they're expecting more from the NDP.

I'll be speaking to some of those amendments, hopefully, during this two-hour session.

**The Chair (Mrs. Laura Albanese):** Thank you, MPP Forster. Any further debate? MPP Sergio.

**Mr. Mario Sergio:** Madam Chair, before we delve into the contents of the meeting here, let me say that today we are dealing strictly with Bill 19, which deals

with rent guidelines, and we are not touching whatsoever the rental tenancy act. That's two completely different things. I say that now. This way, I won't have to repeat it later on in the meeting.

**The Chair (Mrs. Laura Albanese):** Thank you, MPP Sergio. Any further comments? Mr. Clark.

**Mr. Steve Clark:** I just want to chip in as well. We've been pretty consistent that there are some very substantive housing issues in this province. We've heard from a lot of groups over the last six, seven months. Again, we've been very clear on this act, that we don't feel this act is necessary. However, if the other parties want to engage in some of the more substantive housing issues in the province and deal with it on a basis between the three parties, we'd be more than happy to entertain those offers.

**The Chair (Mrs. Laura Albanese):** I believe MPP Miller would like to have a few words.

**Mr. Paul Miller:** Yes. I see that the government has set out their situation quite quickly. We certainly believe that some of these amendments are very useful. They are interconnected; we don't believe that it's a separate issue. We will be bringing them forward.

We would also like a recorded vote on every one of the amendments we bring forward, please.

**The Chair (Mrs. Laura Albanese):** A recorded vote on every NDP amendment.

**Mr. Paul Miller:** On every NDP motion, we want a recorded vote.

**The Chair (Mrs. Laura Albanese):** Thank you. That's very clear. Any further comments? Okay, we shall proceed.

We have a new section that is being proposed by the NDP, and I would ask MPP Forster to read that into the record.

**Ms. Cindy Forster:** I move that the bill be amended by adding the following section:

"0.1 Subsection 6(2) of the Residential Tenancies Act, 2006 is repealed."

**The Chair (Mrs. Laura Albanese):** Thank you, and—

**Ms. Cindy Forster:** We seek unanimous consent to amend a section of the act—

**The Chair (Mrs. Laura Albanese):** Sorry. I have to rule on it first.

**Mr. Paul Miller:** And then a further explanation, if needed.

**The Chair (Mrs. Laura Albanese):** Absolutely. I will have to rule that motion out of order, because that section of the bill is not open.

**Ms. Cindy Forster:** Our argument is that—

**The Chair (Mrs. Laura Albanese):** Unanimous consent first.

**Ms. Cindy Forster:** I ask for unanimous consent to actually deal with this issue.

**The Chair (Mrs. Laura Albanese):** Is there unanimous consent?

**Mr. Mario Sergio:** No.

**The Chair (Mrs. Laura Albanese):** There is no—

**Mr. Paul Miller:** With all due respect, is it my understanding that the government does not want to talk about it at all?

**Mr. Mario Sergio:** Madam Chair—

**Mr. Paul Miller:** I thought I had the floor.

**Mr. Mario Sergio:** There is no more debate?

**The Chair (Mrs. Laura Albanese):** There is no more debate, because it's ruled out of order.

**Mr. Paul Miller:** I would just like to have it on the record that the government does not want to discuss it; that's all. Thank you.

**The Chair (Mrs. Laura Albanese):** We're going to move now to section 1. This motion was ruled out of order. Therefore, we'll move to NDP motion number 2.

**Ms. Cindy Forster:** Point of clarification: So I have no opportunity to even argue the reasons why I wanted to amend this section of the bill?

**The Chair (Mrs. Laura Albanese):** At this point, that would be—for this motion, no, because the section is not open.

**Ms. Cindy Forster:** So once it's ruled out of order, there's no interest in even hearing what I actually have to say on this issue?

**The Chair (Mrs. Laura Albanese):** Unfortunately not.

We'll now move to section 1, NDP motion number 2.

**Mr. Paul Miller:** I move that section 1 of the bill be amended by adding the following subsection:

“(0.1) Section 120 of the Residential Tenancies Act, 2006 is amended by adding the following subsection:

“Guideline increase, new tenants

“(1.1) Despite anything in this Act, no landlord may charge a new tenant for the first rental period of a rental unit under a new tenancy agreement a rent which is greater than the lawful rent being charged to the former tenant of the rental unit plus the guideline.”

**The Chair (Mrs. Laura Albanese):** Thank you for that, MPP Miller. Unfortunately, I will have to rule this motion out of order, because it's out of the scope of the bill. It expands and broadens the bill that we are considering today.

**Mr. Paul Miller:** Question?

**The Chair (Mrs. Laura Albanese):** Yes, MPP Miller?

**Mr. Paul Miller:** I'd like to know from legislative counsel why it's out of the scope of the bill we're talking about. How did they arrive at that?

**The Chair (Mrs. Laura Albanese):** I would like to make clear that we can ask legislative counsel to speak, but it's the Chair who rules the motion out of order. Yes, you can still ask why.

**Mr. Paul Miller:** I think I just did.

**The Chair (Mrs. Laura Albanese):** Could legislative counsel please explain why it is out of the scope of the bill?

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**Ms. Marie-France Lemoine:** This is a decision for the Chair to make, but when we talk about scope, we look at what is the subject matter of the bill. In this case, we have to see what is the subject matter of the bill.

There are two ways of looking at it. We can say the subject matter of the bill is specifically the guideline—how do we calculate the guideline—and then a floor and a ceiling to the amount of the guideline, and then the publication of the guideline and then the review by the minister of section 20 on the operation of section 120. One could look at it as a very narrow, “This is the scope of the bill, and anything that would be outside would be outside the scope.”

Another view—

**Mr. Paul Miller:** With all due respect, who—

**The Chair (Mrs. Laura Albanese):** Can we let legislative counsel finish, please.

**Ms. Marie-France Lemoine:** Another way of looking at it—we could also look at the scope of the bill and say, “Well, the scope of the bill is to deal with not only the guideline, but do we expand it to say what does the guideline apply to?” In that case, the subject matter of the bill would be not only specifically matters relating to the guideline, but matters relating to the application of the guideline. In that case, extending the application to new tenants would be within the scope, if the subject matter of the bill was found to be this. But again, this is an issue to be decided by the Chair.

**The Chair (Mrs. Laura Albanese):** I have ruled on it because it seems very clear to me that the intent of the bill is in regards to the rent increase guideline.

We will—

**Mr. Paul Miller:** With all due respect, Chair, our question that we were about to answer follows along the same lines as what legislative counsel had said, except the way someone interprets a certain paragraph could be different than another person, and it depends what it applies to. If you read our submission here—which apparently we're not allowed to do to ask a question—it certainly falls within those guidelines that legislative counsel just said. I don't understand how you can rule when you haven't read it—

**Mr. Mario Sergio:** Excuse me, Paul.

**Mr. Paul Miller:** I'm talking to the Chair. I'm not talking to you; I'm talking to the Chair.

*Interjections.*

**The Chair (Mrs. Laura Albanese):** One member at a time. One member at a time.

MPP Miller still has the floor, and then I will proceed to you, MPP Sergio.

Yes.

**Mr. Paul Miller:** Go ahead, read it. It's right along what she just said.

**Mr. Mario Sergio:** Point of order, Madam Chair.

**The Chair (Mrs. Laura Albanese):** Yes, point of order.

**Mr. Mario Sergio:** Even if I want to, I cannot raise my voice. You have already decided. The motion, on the unanimous call, lost already. There is no further debate.

**The Chair (Mrs. Laura Albanese):** Not on this one yet, but it's coming up.

**Mr. Mario Sergio:** Then before any debate, you should be calling for that, and if that loses, that's the end of the debate, Madam Chair.

**Mr. Paul Miller:** Point of order, Madam Chair: First of all, we dealt with one, if we had paid attention, and that was ruled out of order. That's fine; we've lost that one, unfortunately. This one, we're in discussion with legislative counsel, and you already want to rule it out of order when we haven't finished talking about it.

*Interjections.*

**Mr. Mario Sergio:** No.

**Mr. Paul Miller:** I did hear what she said.

**The Chair (Mrs. Laura Albanese):** MPP Miller, just to be clear, I have ruled on this motion. When the Chair rules on a motion, there is no further debate. However, because you did ask to have the opinion of legislative counsel, I have allowed that. Would you like unanimous consent—

**Mr. Paul Miller:** What's our status now? Are we allowed to further discuss it?

**The Chair (Mrs. Laura Albanese):** If you'll let me speak. What would you like? Would you like to ask for unanimous consent to further consider this and to have a debate on it?

**Ms. Cindy Forster:** Yes.

**The Chair (Mrs. Laura Albanese):** Okay. So I ask, is there unanimous consent to continue discussion?

**Mr. Mario Sergio:** No.

**The Chair (Mrs. Laura Albanese):** We don't have unanimous—

**Mr. Paul Miller:** Wait a minute. The Conservatives are nodding yes. We're nodding. Mr. Qaadri indicated—

**The Chair (Mrs. Laura Albanese):** This is everybody—

**Mr. Paul Miller:** —that it was okay for me to ask the question just a few minutes ago. Now all of a sudden, it's no good.

**The Chair (Mrs. Laura Albanese):** "Unanimous" means everyone.

**Mr. Paul Miller:** Well then, let's have a vote on it. Put hands up then. I can't tell by people nodding.

**Mr. Mario Sergio:** We just did.

**The Chair (Mrs. Laura Albanese):** We asked and there is no unanimous consent. We will proceed to the next motion.

We'll now consider NDP motion 3. If MPP Forster could read it into the record.

**Ms. Cindy Forster:** I move that subsection 120(2) of the Residential Tenancies Act, 2006, as set out in section 1 of the bill, be amended,

(a) by striking out "Subject to the limitations" at the beginning of paragraph 1 and substituting "Subject to the limitation"; and

(b) by striking out "not less than 1 per cent and" in paragraph 2.

**The Chair (Mrs. Laura Albanese):** Would you like to speak to this motion?

**Ms. Cindy Forster:** Yes, I would. We believe that this amendment is definitely in order. The deputants at the hearing—six of the seven groups that we heard from last week—called for an amendment that would remove the 1% floor in the rent guideline to protect affordability for tenants. In the unlikely event that inflation falls below 1%, over 200,000—I think they quoted a number like 228,000—tenants receive social assistance, and they would be unlikely to receive an increase in their shelter allowance. They shouldn't have to pay an additional 1% in rent if they're not getting an increase in their social assistance.

This motion is also important because it sends a clear message out that this bill is about affordability for tenants, which is what our amendments are about. It's not about protecting landlords' rights to increase the rent. Landlords should not be entitled to an automatic increase at all times if inflation drops below 1%. Why should landlords be able to expect to automatically get a rent increase when social assistance recipients would not?

In addition, landlords already have the right to make application for above-the-rent guideline for unexpected tax increases, for major restorations to their buildings. I think this puts a level of affordability and fairness into the bill.

**The Chair (Mrs. Laura Albanese):** Any further debate? MPP Sergio.

**Mr. Mario Sergio:** Madam Chair, since the annual rent is based on the consumer price index, I think it's a fair motion to include as an amendment. We have no problem in supporting this amendment as, again, the rent guidelines are guided by the consumer price index of that particular year. We have no problem in supporting this motion.

**The Chair (Mrs. Laura Albanese):** Any other comments?

**Mr. Steve Clark:** I want to thank the other two parties for providing that compelling rationale, and we will be supporting the amendment, as well.

**The Chair (Mrs. Laura Albanese):** Any further debate?

**Mr. Paul Miller:** Recorded vote.

**Ayes**

Clark, Colle, Forster, Leone, MacLaren, Paul Miller, Qaadri, Sergio.

**The Chair (Mrs. Laura Albanese):** I will say none opposed. Carried.

We will now move to consider NDP motion number 4.

**Mr. Paul Miller:** I move that section 1 of the bill be amended by adding the following subsections to section 120 of the act:

“Guideline, outstanding work orders

“(5.1) Despite subsections (2) to (5), if a work order has been issued in respect of a rental unit and items in the work order are outstanding after the compliance period for their completion has expired, the guideline is deemed to be zero per cent for the purposes of the application of this section with respect to the rental unit until the landlord has completed all the items.

“Application of subs. (5.1)

“(5.2) Subsection (5.1) applies to a work order that is in effect on or after the commencement date, whether issued before, on or after that date.”

**The Chair (Mrs. Laura Albanese):** Thank you, MPP Miller. Would you like to speak to this motion?

**Ms. Cindy Forster:** We’ve heard from deputants that many tenants are living in substandard apartments because landlords are negligent in making the needed repairs. Meanwhile, the landlords continue to be free to raise the rent. Tenants should not have to pay increases in rent if they’re not receiving basic services and repairs to their units on an ongoing basis.

This motion would prevent landlords from imposing the guideline increases on tenants when there are outstanding work orders on their units. It will provide an incentive to landlords to get moving and get the repairs done in a timely way, and it would prevent the gouging of tenants for more money without providing the basic services. We believe that this particular amendment is directly related to the guideline amendment in 120(2).

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**The Chair (Mrs. Laura Albanese):** Any further debate? MPP Sergio.

**Mr. Mario Sergio:** Thank you, Madam Chair. I know the intent of the motion would be noble, if I may say, but I think this would be more of a detriment for the provision of new affordable units. I think this would have a totally adverse effect than the one proposed in the amendment, for a number of reasons.

Sometimes, we don’t even know who has caused those deficiencies—if it’s a normal break or something that has occurred in a particular unit. This would be a burden on local municipalities. Work orders have a life of their own, if I may say, Madam Chair. Not only are there the local agencies that oversee those repairs, that they are done, and done on a timely basis. The Residential Tenancies Act already makes provisions for that. They can apply quickly to the Landlord and Tenant Board for a quick fix, if you will. There are already measures available to both—I think it’s to both, but especially to tenants—to see that indeed those repairs are done.

Other than that, this would really be a negative way, perhaps even more towards the tenants, so we cannot support this motion, Chair.

**The Chair (Mrs. Laura Albanese):** Further debate? MPP Miller.

**Mr. Paul Miller:** I’d just ask Mr. Sergio—so what you’re saying is that you don’t feel—for instance, a city inspector has issued a work order to a tenant under the tenancy act or whatever, to repair whatever it might be—a toilet; they could have cockroaches; there could be things like this—to fix this up before he raises their rent. You feel that that would be detrimental—to who? The landowner? How is that a negative impact by the tenant? I’m just curious. Maybe you could further your explanation on that.

**Mr. Mario Sergio:** Just very quickly—I don’t want to dwell on it, Madam Chair—that could be one of the minor fixes, if you will. But again, the tenant has recourse with respect to that.

It is detrimental to freeze a landlord’s rent on that particular unit. It can go on for months and months and months. The tenant has legal rights to apply to the rent control board for the toilet or the water or whatever—a hole in the wall—to be fixed. This would be an extreme measure to impose on landlords, where a freeze on that particular rent may go on for months and months. I don’t think that this will have the desired effect. Therefore, we cannot support this motion.

**The Chair (Mrs. Laura Albanese):** Any further debate? MPP Miller.

**Mr. Paul Miller:** With all due respect, now they can pull the licensing for the building—inspectors can do that now—if they don’t do the repairs in a proper time limit. They certainly are fair, and the inspectors give them enough time to repair it. Sometimes, the building owners don’t want to do it. They want to raise the rent, and the people are still living in sub-conditions that are not even healthy in some aspects. So I have a real concern. That would give the owner a little incentive, if he wants to raise the rent, to at least fix up the building to a liveable condition. I don’t think it’s detrimental to the owners in any way, shape or form.

**The Chair (Mrs. Laura Albanese):** MPP Forster.

**Ms. Cindy Forster:** What the housing advocacy groups really wanted was an escrow account. They wanted to not pay any of their rent until their work orders were done, so that they would get their work repairs done in a timely way. But we thought that this was at least a small token to give them some relief when living in substandard units, living in units where they perhaps don’t have any heat, or the elevator has been broken in their building for three years. We thought that this at least gave them a little bit of relief, tenant by tenant, as opposed to putting forth the amendment—that would have been ruled out of order—to say, “Let’s open an escrow account that they can actually pay into until their repairs are done.”

On the issue of this being a deterrent to new development, in fact, in 1991, when they passed the vacancy de-control exemption, that was supposed to spur development but, in fact, it didn’t, and there have only been about 3,000 units per year built—only 55,000 over 21 years. So, apparently there’s no interest in developing rental units across the province to at least meet the needs of 10,000 people a year.

**The Chair (Mrs. Laura Albanese):** Any further comments? Are members ready to vote? So we shall proceed on a recorded vote.

**Ayes**

Forster, Paul Miller.

**Nays**

Clark, Colle, Leone, MacLaren, Qaadri, Sergio.

**The Chair (Mrs. Laura Albanese):** The motion is lost.

We'll proceed to consider NDP motion number 5.

**Ms. Cindy Forster:** We'll withdraw this motion at this time, as it was related to the first amendment.

**The Chair (Mrs. Laura Albanese):** Okay, so the motion is withdrawn.

We're now at the end of section 1. Shall section 1, as amended, carry? Carried.

We'll now consider—

*Interjection.*

**The Chair (Mrs. Laura Albanese):** There's a no? All those in favour? I thought I heard a no.

**Mr. Paul Miller:** You said you were carrying—it's section 1, right?

**The Chair (Mrs. Laura Albanese):** Section 1.

**Mr. Paul Miller:** As amended? We had an amendment in there.

**The Chair (Mrs. Laura Albanese):** As amended, yes.

**Mr. Paul Miller:** Yes, we support it.

**The Chair (Mrs. Laura Albanese):** Okay, so section 1 is amended and carried.

We'll now consider NDP motion number 6.

**Mr. Paul Miller:** Madam Chair, we're withdrawing 6, 7, 8 and 9, because they're all related to the initial ones we wanted.

**Ms. Cindy Forster:** To number 1.

**Mr. Paul Miller:** To number 1—they're all related to number 1, so we're going to withdraw them because we didn't even get to discuss it.

**The Chair (Mrs. Laura Albanese):** Okay, so you're withdrawing motions number 6, 7, 8 and 9.

That leads us to sections 2 and 3 together. Is there any debate on sections 2 and 3 of the bill? Shall sections 2 and 3 carry? Carried.

Shall the title of the bill carry? Carried.

Shall the bill, as amended, carry? Carried

Shall I report the bill, as amended, to the House? Carried.

Thank you. We're adjourned.

*The committee adjourned at 1428.*

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