

Highlights of Bill 109 *Residential Tenancies Act, 2006* (RTA)

<i>Tenant Protection Act, 1997</i> (TPA)	New Provisions and Amendments Under the RTA	Impact on York Region and Social Housing Providers
Renaming of the Ontario Rental Housing Tribunal		
The TPA created the Ontario Rental Housing Tribunal (ORHT) to act as one of Ontario's "quasi-judicial" tribunals. It's role is to: • Resolve disputes between landlords and tenants through either mediation or adjudication • Regulate rent increases in most residential rental dwellings, and • Educate landlords and tenants about the rights and obligations under the TPA.	ORHT is continued under the name Landlord and Tenant Board.	The role of the Board will be the same as the Ontario Rental Housing Tribunal with a few jurisdictional changes. The jurisdictional changes that will impact social housing providers are outlined in the table.
Social Housing Exemption		
The TPA did not specify the jurisdiction of the <i>Social Housing Reform Act, 2000</i> (SHRA) regarding the calculations of rent adjustments.	The RTA clarifies that the Board will not be permitted to adjudicate rent geared-to-income eligibility or subsidies or other forms of assistance that are calculated under the authority of the SHRA. The Ministry of Municipal Affairs and Housing has indicated that the social housing exemptions will include the units built under the New Affordable Housing Program. This exemption will be addressed in the RTA regulations which are in the process of being developed.	Under the TPA adjudicators could order rent adjustments completely at odds with the principles of rent geared-to-income. This new provision will benefit social housing landlords.

<i>Tenant Protection Act, 1997 (TPA)</i>	New Provisions and Amendments Under the RTA	Impact on York Region and Social Housing Providers
Tenant Issues in Application for Non-Payment of Rent		
Under the TPA tenant issues for non-payment of rent are identified in the application process.	The RTA added a new provision that allows tenants at a hearing to raise any issue, without notice to the landlord, as reason for non-payment.	The landlord will not receive advance notice of the tenant's issue and, therefore, will not have an opportunity to prepare in advance of the hearing. This provision is a critical change to the eviction process for social housing providers and will add to the complexity and length of hearings. It may also result in a significant number of adjournments, delays and administrative backlog.
Elimination of the Default Eviction Process		
The Tribunal could make an order without holding a hearing if the application (including applications for eviction orders, for arrears of rent and for payment of money collected illegally) is not disputed.	The RTA does not contain this provision and all applications will go to hearing.	The elimination of the default process will slow down the eviction application procedure.
Reduced Notice Period		
Excessive or Wilful Damage Under the TPA the eviction process for a tenant that had excessive or wilful damage to their unit would follow the same eviction process as other causes for termination and the notice of termination would be void if the tenant repaired the damages within seven days of receiving the notice. As well, the legislation was limited to tenants or a person whom the tenant permits in the	The eviction process will be accelerated by: • Shortening the notice period to the tenant to 10 days from 20 days. • The notice period to the tenant and the landlord application process will run at the same time. • The tenant <u>cannot</u> void the eviction application by repairing the damages. • The eviction order will include a request that the Sheriff expedite the enforcement	The intention of these provisions are to reduce the amount of time it takes to evict a difficult tenant however; the landlord will still need to wait three to four weeks for a hearing and maybe even longer due to the administrative complexities that may be caused by allowing the tenant to raise any issue at a hearing without notice to the landlord, and eliminating the default eviction process.

<i>Tenant Protection Act, 1997 (TPA)</i>	New Provisions and Amendments Under the RTA	Impact on York Region and Social Housing Providers
residential complex wilfully or negligently causes undue damage.	of the eviction. Under the TPA this provision did not require the tenant to be responsible for damage caused to their unit by another occupant of the building.	The new eviction process provisions introduced in the RTA counteract each other and it will be difficult to achieve the intent of the legislation.
Illegal Acts A provision expedited evictions due to illegal acts did not exist under the TPA.	The RTA also requires the Board to request the sheriff to expedite the enforcement of an eviction order if the order is based on the production or trafficking of an illegal drug, the possession of an illegal drug for the purpose of trafficking, or an act or omission that seriously impairs the safety of any person.	
Monetary Jurisdiction of the Landlord and Tenant Board		
Under the TPA there was no minimum amount for ordering a tenant to pay the landlord.	A new provision under the RTA prevents the Landlord and Tenant Board from ordering a tenant to pay the landlord if the amount owing is less than a prescribed amount.	The prescribed amount, which has not been identified in RTA, may prevent social housing landlords from obtaining termination of tenancy based on several months of arrears when the amount is low in comparison to private market levels.
Payment of Arrears to Board		
A tenant can pay the rent arrears and avoid eviction, in most cases, up until 10 days after the eviction order is issued. There is no limit on the number of times this can happen during a tenancy.	A tenant who is making an application based on maintenance issues to avoid an eviction can pay rent to the Board until serious maintenance issues are resolved. In addition to current provision, tenants will be allowed to pay outstanding rent and related landlord costs to the Board up until the Sheriff enforces the eviction. This provision will be allowed one time during a tenancy.	The RTA lacks clear timelines for the Board to transfer the money to the landlord. This can impact the cash flow and predictability of rent payments for landlords.

<i>Tenant Protection Act, 1997 (TPA)</i>	New Provisions and Amendments Under the RTA	Impact on York Region and Social Housing Providers
Order, Repair, Comply with Standards		
Under the TPA a tenant could request the landlord to pay the replacement cost of property that was damaged, destroyed or disposed of as a result of the landlord's breach.	This provision has been amended so that the landlord will only be required to pay the replacement costs when repairing of the property is not reasonable.	This may potentially save the landlord money as the price to repair property is often less costly than it is to replace it.
Amendment to 24 hour notice period		
The TPA provides that a landlord may enter a rental unit in accordance with written notice given to the tenant at least 24 hours before the time of entry under the following circumstances: • To carry out a repair or do work in the rental unit. • To allow a potential mortgagee or insurer of the residential complex to view the rental unit. • To allow a potential purchaser to view the rental unit. • To allow a professional engineer or licensed architect or another qualified person to make a physical inspection of the rental unit to satisfy a requirement imposed under the Condominium Act. • For any other reasonable reason for entry specified in the tenancy agreement.	The RTA amends this provision to allow the landlord to give notice to carry out an inspection of the rental unit to determine whether or not the rental unit is in a state of repair and fit for habitation and complies with health, safety, housing and maintenance standards.	This amendment helps the landlord monitor their units and potentially fix maintenance issues before they become serious. On the other hand the tenants may perceive this as harassment by the landlord.
Tenant Education		
The Ontario Rental Housing Tribunal has a number of brochures on tenant and landlord rights that a tenant can request or find on their web site.	The RTA will require landlords to provide a brochure with information on the responsibilities of landlords and tenants, the role of the Board and the Board's contact	The intent of this provision is to increase tenant awareness of their rights.

<i>Tenant Protection Act, 1997 (TPA)</i>	New Provisions and Amendments Under the RTA	Impact on York Region and Social Housing Providers
	information. This information will be shared with all tenants at the start of their tenancies. The Board, when possible, will send an information notice about the eviction hearing process to a tenant upon a filing of an eviction application. Landlords will still be responsible for serving a formal “Notice of Hearing” to their tenants.	
Automated Debiting of Tenant’s Bank Account		
There was no provision regarding automated debiting under the TPA.	A new provision prohibits a landlord from requiring a tenant to permit automatic debiting of the tenant’s bank account or any other form of automatic payment for the payment of rent.	This may impact the collection of rent and require more administration by the property managers.
Smart Meters		
There was not a provision in the TPA addressing Smart Meters.	The RTA has a number of provisions regarding the use of smart meters by landlords and tenants to encourage energy conservation and transfer real costs of utilities to the tenant.	There are several financial and physical limitations to installing smart meters in social housing units.