

New York City Law Requires Landlords to Tell New Tenants About Bedbug Infestations

Noeleen G. Walder

A new law in New York City aimed at helping prospective tenants combat the raging bedbug epidemic was signed into law Monday by Gov. David A. Paterson.

Dubbed the Bedbug Disclosure Act, the measure requires owners and lessors to notify new rental tenants of bedbug infestations that have plagued the building and the tenant's individual unit during the previous year.

The law, [A10356B/S8130](#), which takes effect immediately, comes amid a rash of complaints about bedbugs in New York City and other major cities across the nation. The measure applies only to the city.

In 2009, the city's 311 hotline received some 11,000 calls about bedbugs, compared with 537 in 2004, according to statistics provided by Assemblywoman Linda B. Rosenthal, D-Manhattan, who co-sponsored the bedbug disclosure law, along with Sen. José Peralta, D-Queens.

The bedbug epidemic has not been limited to residential buildings either.

Two weeks ago, the *New York Daily News* reported that the blood-sucking bugs, known as *Cimex lectularius*, had invaded the Brooklyn District Attorney's Office.

The small, reddish-brown, wingless insects, which can survive for several months without food or water, also have been spotted in the basement of the Empire State Building, a Victoria's Secret outlet, Bill Clinton's office in Harlem, the Time Warner Center, a Times Square movie theater and clothing retailer Abercrombie & Fitch.

The city has announced that it would spend \$500,000 to raise awareness about the blood-sucking pests, which do not carry disease but are difficult to eradicate.

Under the Bedbug Disclosure Act, which adds a new §27-2018.1 to the New York City Administrative Code, owners of housing accommodations subject to the code, "shall furnish to each tenant signing a vacancy lease, a notice in a form promulgated or approved by the state division of housing and community renewal [DHCR] that sets forth the property's bedbug infestation history for the previous year regarding the premises rented by the tenant and the building in which the premises are located.

"Upon written complaint ... by the tenant that he or she was not furnished with a copy of the notice" DHCR has the authority to make the owner disclose the infestation history.

The law, which [was supported by both the Legal Aid Society](#) and [Legal Services NYC](#), does not set forth any financial or legal penalties for landlords who fail to furnish the notice.

Rosenthal said in a statement that she was excited to offer a new protection to New York City tenants who "have been living in fear of bedbugs."

"Nothing is more horrifying than signing a lease after a lengthy apartment search only to discover that your new apartment is bedbug-infested," she said. "By requiring landlords to disclose infestations before the lease is signed, people will have a means of guarding themselves against exposure to this

plague."

Previously, prospective tenants only had access to information about infestations when a violation had been issued by the Department of Housing Preservation Development, according to a memorandum submitted by Legal Services NYC in support of the bill.

"For the majority of bedbug infestations, DHPD is never called to make an inspection and no violation is recorded," the memorandum in support of the legislation said.

'Unfair Burden on Landlords'

The legislation, according to the memorandum, will help curb the bedbug epidemic by giving "landlords an incentive to comply with their legal obligations to eradicate" infestations.

However, Mitchell Posilkin, general counsel of the Rent Stabilization Association of New York, said the new law, which applies to both rent-stabilized and market-rate units, places an unfair burden on landlords.

"Bedbugs are brought into a building by tenants ... Where is the tenant's responsibility in all of this and why does the legislation seem to ignore that part of the equation?" Posilkin asked in an interview.

He also said the bill could stigmatize landlords who have to notify tenants about an infestation that already has been eradicated.

He said it is easier to enact a bill that places a burden on the "backs of landlords than it is to enact legislation and develop programs which really go to the heart" of solving the problem.

That sentiment was echoed by Jeffrey Turkel of [Rosenberg & Estis](#) who said the irony of the bill is that an apartment's bedbug history is not necessarily a function of how the owner keeps the building. It "causes owners to suffer the actions of their former tenants," he said.

But Steven Banks, attorney-in-chief of the Legal Aid Society, disagreed.

It "hardly seems burdensome" to require a landlord to disclose information to a prospective tenant, who would otherwise be left in the dark, Banks said in an interview.

"The problem of bedbugs is not about any one particular tenant...but is an overall problem confronting the city, and all the legislation does is give a prospective tenant the right to know information which only the landlord possesses," he said.

Meanwhile, a number of other legislative measures have been introduced to address the bedbug problem.

On Monday, Paterson also approved legislation that would require parents to be notified when bedbugs are found in New York City schools, [A05434/S4472](#).

"If bedbugs are widespread in a school, we will work to make sure the affected parents and students are fully notified," said Marge Feinberg, a spokeswoman for the Department of Education.

A companion bill to the Bedbug Disclosure Act, which would give individuals a tax credit of up to \$750 to replace belongings discarded as a result of infestations, is pending in the Assembly, [A10081/S7065](#).

Earlier this year, the governor vetoed a measure, [A07691/S7316-B](#), that would have required all used mattresses sold in the state to be sanitized.

Last year, a Civil Court of the City of New York judge awarded damages to a tenant who had to discard nearly \$4,000 in property as a result of a bedbug infestation in [Zayas v. Franklin Plaza](#), 3316/08 ([NYLJ, April 8, 2009](#)).