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The New York SAFE Hotels Act Faces First Legal Challenge

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Key Take: *The pending Article 78 proceeding has the potential to force legislative or administrative restructuring of how New York City regulates hotel operations and employee protections.*

In our January 2025 issue of Leisure Law Insider, we provided a summary of the final version of what is now New York City Local Law § 20-565 (the SAFE Hotels Act or Act). The Act took effect on May 3, 2025, and was enacted to strengthen safety standards and accountability in New York’s hospitality sector. Now, the Act is being challenged by a coalition of hotel owners and trade associations called Hotel Owners of New York, Inc. (HONY), established in July 2024 to address the potential impacts of the (then pending) legislation.

According to New York City Councilmember Julie Menin, who introduced the legislation, the core objective of the SAFE Hotels Act is to ensure that hotels maintain secure environments for guests and employees. However, the Act generated considerable

controversy, with critics arguing that the Act would do significant damage to the businesses and tax revenue that hotels generate for the city's economy and would result in higher costs for travelers. Critics also argued that by requiring all hotels in New York City with 100 rooms or more to directly employ all front desk and housekeeping employees, the Act not only burdens those hotels with added costs and reduces the market value of that hotel, but also makes it easier for the Hotel and Gaming Trades Council, the New York City hotel workers' union, to organize non-union hotels.

The Act puts forth a new licensing scheme for the city's hotels and includes new and stronger standards regarding safety, staffing, and cleaning of the hotels. The Act also includes provisions that require daily housekeeping, installation of panic buttons, and training protocols aimed at preventing human trafficking, ongoing front-desk and/or security coverage, secured entry points, and guest record protocols.

Since the Safe Hotels Act took effect in May 2025, its impact on the hospitality industry has been swift in some areas, with many operators already facing increased operational costs in order to comply with the Act, increased liability with respect to underwriting and renewing loans, and an increased interest in unionizing workspaces (as hotels with collective bargaining agreements meeting certain requirements receive partial regulatory relief under the Act).

While the Act came into effect less than six months ago, it already faces scrutiny through a pending Article 78 proceeding, *Hotel Owners of New York, Inc. v. New York City Department of Consumer and Worker Protection et al.*, Index No. 161832/2025, that challenges portions of its enforcement framework. An Article 78 proceeding is a New York State legal procedure used to challenge the actions (or inactions) of a state or local government agency or

official. It is a way to seek judicial review of a final administrative decision.

In the petition, filed on September 3, 2025, HONY argues that the New York City Department of Consumer and Worker Protection (the DCWP), the agency that oversees and enforces the Act, has promulgated rules that are arbitrary and capricious, unconstitutionally vague, and outside the scope of their putative authorizing statute. In essence, HONY contends that the rules enacted by the DCWP in its role as both regulator and enforcer of worker safety mandates violate principles of administrative law and due process. HONY claims “DCWP’s imposition of improper requirements are impermissibly punitive and impose undue burden on hotel owners and operators, the backbone of New York City’s tourism industry.”

HONY alleges that the DCWP’s final rules, which are supposed to enforce the Act, exceed the DCWP’s statutory authority and are inconsistent with the terms of the Act in several ways. HONY claims some of the mandates imposed by the state agencies implementing the Act, particularly those regarding broad records retention requirements and monetary penalties, are vague, place an undue burden on hotel operators, and are unsupported by a rational basis.

Specifically, HONY alleges that nothing in the Act permits the DCWP to (i) promulgate rules related to records retention; (2) impose an adverse inference on an applicant for allegedly failing to maintain such records; and (3) promulgate rules under the Act to enforce other laws such as through the imposition of monetary penalties for alleged violations of New York City’s 2020 Hotel Services Disruption law.^[1] HONY also claims that while the DCWP requires documents and information to be furnished by hotels, that rule lacks clarity, fails to provide fair notice of the conduct it regulates, fails to provide clear standards, and invites arbitrary and discriminatory enforcement. HONY further alleges that the DCWP’s license application is inconsistent

with the Act because, despite the Act's provision that a collective bargaining agreement will satisfy the requirements for applicants to provide information to ensure compliance, DCWP has been requiring applicants with collective bargaining agreements to still provide reporting information.

HONY seeks (i) a judgment vacating the DCWP regulations at issue as arbitrary and capricious; and (ii) a declaratory judgment that the regulations at issue are invalid and therefore unenforceable. DCWP has not yet filed a response to the petition. As of now, the outcome of this case remains pending before the New York Supreme Court, New York County.

A ruling in HONY's favor could mean that the licensing and compliance certification system administered by the DCWP may be suspended and existing fines or penalties issued under the Act might be vacated or require review. This could result in the DCWP's enforcement role being curtailed pending new legislation or amendments clarifying its authority.

As more updates develop, Leisure Law Insider will cover the advancements.