



## Rent Stabilization and Rent Control

3 PAGES

### Introduction

A number of communities in New York State have rent regulation programs known as rent control and rent stabilization. Two aspects of rent regulation are to protect tenants in privately-owned buildings from illegal rent increases and to allow owners to maintain their buildings while realizing a reasonable profit.

Rent control is the older of the two systems of rent regulation. It dates back to the housing shortage immediately following World War II and generally applies to buildings constructed before 1947. Rent stabilization generally covers buildings built after 1947 and before 1974, and apartments removed from rent control. It also covers buildings that receive J-51, 421-a and 421-g tax benefits. These tax benefit programs have their own specific rules as to which apartments are covered. Outside New York City, rent stabilization is also known as ETPA, short for the Emergency Tenant Protection Act and is applicable in some localities in Nassau, Westchester and Rockland counties. With the enactment of the Housing Stability and Tenant Protection Act (HSTPA) on June 14, 2019, any locality in New York State can enact rent stabilization if “a declaration of emergency” regarding available apartments is made in the subject locality pursuant to the Emergency Tenant Protection Act (ETPA) of 1974. “A declaration of emergency” can be made if the vacancy rate for the housing accommodations or a class of housing accommodations within such municipality is less than five percent.

It is the responsibility of the locality to secure and

obtain a survey of the housing accommodations to determine the existence of an emergency.

Prior to June 14, 2019, the rent laws provided for the deregulation of apartments based on rents exceeding a certain threshold or based on the occupants’ income and rents exceeding certain thresholds. Pursuant to HSTPA, these forms of deregulation were repealed as of June 14, 2019.

### **RENT STABILIZATION**

Rent stabilization provides protections to tenants besides limitations on the amount of rent increases. Tenants are entitled to receive required services, to have their leases renewed, and may not be evicted except on grounds allowed by law. Leases may be renewed for a term of one or two years, at the tenant’s choice. Tenants can file relevant complaints on a variety of forms created by the Division of Housing and Community Renewal (DHCR). DHCR is required to serve the complaint on the owner, gather evidence and then issue a written order which is subject to appeal.

If a tenant’s rights are violated, DHCR can reduce rents and levy civil penalties against the owner. Rents may be reduced if services are not maintained. In cases of overcharge, DHCR may assess penalties of interest or treble damages payable to the tenant.

### **Rent Increases**

The Rent Guidelines Boards (one in New York City and one each in Nassau, Westchester, and Rockland counties) each set rates for

rent increases in stabilized apartments. These guideline rates are set once a year and are effective for renewal leases beginning on or after October 1st of each year. Effective June 14, 2019, there is no statutory vacancy rate and no rent guidelines board vacancy rate. However, if authorized by the rent guidelines board, a one or two-year lease guideline rate can also be applied to vacancy leases.

Both in New York City and the ETPA covered communities, rents can be increased during the lease period in any one of three ways, so long as the lease provides for the collection of an increase during the lease term:

1. with the written consent of the tenant in occupancy, if the owner increases services or equipment, or makes improvements to an apartment;
2. with DHCR approval, if the owner installs a building-wide major capital improvement; or
3. in cases of hardship with DHCR approval.

### **Rent Overcharges**

For rent stabilized apartments, owners may be ordered to refund excess rent collected based upon a finding of a rent overcharge. A finding by DHCR of a willful rent overcharge by the owner may result in the assessment of treble (triple) damages payable to the tenant. With the passing of the HSTPA, the collectability of overcharges has been increased from four to six years and the general period of rent history review (subject to exceptions) has been increased from four years to six years. Pre-HSTPA filed complaints will be reviewed in accordance with the laws in effect at the time of the filing, which limited the rental review to four years.

### **Rent Reductions for Decreases in Services**

Rents may be reduced if the owner fails to provide required services, or fails to make necessary repairs for an individual apartment or on a

building-wide basis. Examples of such conditions are lack of heat/ hot water, unsanitary common areas (halls, lobby), and broken door locks. If a tenant receives a rent reduction from DHCR, the owner cannot collect any rent increases until services are restored and DHCR restores the rent.

### **Harassment**

The law prohibits harassment of rent regulated tenants. Owners found guilty of intentional actions to force a tenant to vacate an apartment can be denied lawful rent increases and may be subject to both civil and criminal penalties. Owners found guilty of tenant harassment are subject to fines.

### **Rent Registration**

Within 90 days after an apartment first becomes subject to rent stabilization, an owner is required to file an initial registration. After the initial registration, owners must file an annual registration statement giving the April 1st rent for each unit and provide tenants with a copy of their respective apartment's registration form.

### **RENT CONTROL**

Rent control limits the rent an owner may charge for an apartment and restricts the right of any owner to evict tenants. Tenants are also entitled to receive essential services. Owners are not required to offer renewal leases, as tenants are considered "statutory" tenants. Tenants may file relevant complaints on a variety of forms created by DHCR. DHCR is required to serve the complaint on the owner, gather evidence and then can issue a written order which is subject to appeal.

If a tenant's rights are violated, DHCR can reduce rents and levy civil penalties against the owner. Rents may be reduced if services are not maintained. In cases of overcharge, DHCR may establish the lawful collectible rent.

### **Rent Increases**

In New York City, rent control operates under the

Maximum Base Rent (MBR) system. A maximum base rent is established for each apartment and adjusted every two years to reflect changes in operating costs. Owners, who certify that they are providing essential services and have removed violations, are entitled to raise rents the lesser of either the average of the five most recent Rent Guidelines Board annual rent increases for one-year renewal leases or 7.5 percent each year until they reach the MBR. Tenants may challenge the proposed increase on the grounds that the building has violations or that the owner's expenses do not warrant an increase.

Outside New York City, the New York State Division of Housing and Community Renewal (DHCR) determines maximum allowable rates of rent increases under rent control subject to the limitations of the annual rent guideline board increases. Owners may apply for these increases periodically.

Rents can also be increased in any one of three ways, both inside and outside of New York City:

1. with the written informed consent of the tenant in occupancy, if the owner increases services or equipment, or makes improvements to an apartment;

2. with DHCR approval, if the owner installs a building-wide major capital improvement; or
3. in cases of hardship with DHCR approval.

### Rent Overcharges

For rent controlled apartments, complaints submitted by tenants will result in an order by DHCR that establishes the Maximum Collectible Rent and directs that any overcharge be refunded for a period of no greater than two years before the filing of the complaint. If the refund is not made, the tenant can proceed to court to calculate the overcharge and enforce the order.

### Rent Reductions for Decreases in Services

Please refer to the section above under Rent Stabilization.

### Harassment

Please refer to the section above under Rent Stabilization.

### Rent Registration

Apartments subject to Rent Control are not required to be registered annually with DHCR.

## SOURCES:

New York City Rent Stabilization Code  
 Tenant Protection Regulations  
 New York City Rent and Eviction Regulations  
 New York State Rent and Eviction Regulations



➤ **Rent Connect:**  
rent.hcr.ny.gov

✉ **Ask a question:**  
portal.hcr.ny.gov/app/ask

🗣️ **For translation help:**  
hcr.ny.gov/language-accessibility

➤ **Our website:**  
hcr.ny.gov/rent

**To visit a Borough Rent Office, by appointment only, please contact:**

#### QUEENS

92-31 Union Hall Street  
6th Floor  
Jamaica, NY 11433  
718-482-4041

#### BROOKLYN

55 Hanson Place  
6th Floor  
Brooklyn, NY 11217  
718-722-4778

#### UPPER MANHATTAN

163 W. 125th Street  
5th Floor  
New York, NY 10027  
212-961-8930

#### LOWER MANHATTAN

25 Beaver Street  
New York, NY 10004  
212-480-6238

#### BRONX

1 Fordham Plaza  
4th Floor  
Bronx, NY 10458  
718-430-0880

#### WESTCHESTER

75 South Broadway  
3rd Floor  
White Plains, NY 10601  
914-948-4434