Rent Stabilization and Rent Control

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 Pursuant to HSTPA, these forms of deregulation were repealed as of June 14, 2019.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

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

**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

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

**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

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