

## RSC Amendment Summary

The following is summary of the proposed amendments of the Rent Stabilization Code (the full text of all the amendments is available on DHCR's website at <https://hcr.ny.gov/regulatory-information>):

1. 9 NYCRR § 2520.1 removes extraneous language.
2. 9 NYCRR § 2520.6 (c), (d), (f), and (p) amending definitions of the terms “Rent,” “Tenant,” and “Base date” and adds the definition of “common ownership”.
3. 9 NYCRR § 2520.7 adds “otherwise required by law”.
4. 9 NYCRR § 2520.8 adds language that DHCR shall follow the law in absence of regulation or where a conflicting code provision has not been amended or revoked.
5. 9 NYCRR § 2520.9 adds “publication of the notice of adoption in the State Register” and “or otherwise required by law”.
6. 9 NYCRR § 2520.11 (c) clarifies applicability of rent stabilization to housing accommodations for which rentals are fixed by DHCR and other agencies or public benefit corporations.
7. 9 NYCRR § 2520.11 (e) codifies and clarifies the requirements for establishing substantial rehabilitation of a building. For example, requires a minimum of seventy-five percent of the buildings' systems be replaced, not including systems that are not in need of replacement; repeals a presumption regarding the deteriorated condition of the premises due to being at least 80% vacant, broadens exception based on findings of harassment to include findings of other agencies or courts, provides that regulated tenants who remain in their apartments during rehabilitation shall be regulated until they vacate, provides that the burden of establishing substantial rehabilitation is on the owner, codifies the circumstances and procedures surrounding “dollar orders” where a tenant seeks to

- preserve their right of return where an apartment is destroyed by fire or similar circumstance.
8. 9 NYCRR § 2520.11 (f) and (j) provides for rent stabilization for supportive housing units to comply with the Housing Stability and Tenant Protection Act of 2019, Ch.36 of the Laws of 2019 (“HSTPA”).
  9. 9 NYCRR § 2520.11 (k) adds language regarding the determination of primary residency for domestic violence victims and tenants paying a nominal rent pursuant to Part 2520.11(e)(6).
  10. 9 NYCRR § 2520.11(l) adds language regarding the applicability of rent stabilization upon “deconversion” of cooperatives.
  11. 9 NYCRR 2520.11 (p) clarifies applicability of rent stabilization to housing accommodations in buildings subject to regulation solely as a condition of receiving tax benefits pursuant to 421-a of the Real Property Tax Law.
  12. 9 NYCRR § 2520.11 (r) and (u) repeal high rent vacancy deregulation to comply with HSTPA.
  13. 9 NYCRR § 2520.11(s), repeals high rent/high income deregulation to comply with HSTPA.
  14. 9 NYCRR § 2520.12 repeals extraneous language.
  15. 9 NYCRR § 2521.1 (b), (c), (d), (e), (g), (i), and (n) adds language regarding the determination of initial legal regulated rents to comply with HSTPA.
  16. 9 NYCRR § 2521.1 new subdivision (m) adds requirements pertaining to the combination of two or more vacant apartments or other apartment reconfigurations and the resulting legal regulated rent.

17. 9 NYCRR § 2521.1 new subdivision (n) added to provide for the determination of the initial rent upon the vacatur of a not for profit and affiliated subtenant.
18. 9 NYCRR § 2521.2 (a), (c) and new subdivisions (d) and (e) provide the requirements for “preferential rents” to comply with HSTPA.
19. 9 NYCRR § 2522.2 clarifies the effective date of adjustment of legal regulated rent;
20. 9 NYCRR § 2522.3 (a), (c), (e) and (f) amends time limits for Fair Market Rent Appeals, to six years to comply with HSTPA.
21. 9 NYCRR § 2522.4 amendments largely mandated by HSTPA for Individual Apartment Improvements (“IAI”) and Major Capital Improvements (“MCI”). For IAIs the amendments include: requiring written tenant consent from tenant for IAIs; requiring filings with DHCR supported by before and after photographs; an itemized list of work performed and the reason for such work; limiting the amount the rent can be increased to 1/168<sup>th</sup> or 1/180<sup>th</sup> of the cost of the improvement depending on the number of building units; allows no more than three separate IAI increases collected over a 15-year period and the total cost of eligible improvements cannot exceed \$15,000; with limited exception, all work must be done by a licensed contractor with no common ownership between the contractor and the owner; prohibition on increases based upon the installation of similar equipment or furnishings within the useful life of such new equipment or furnishings; prohibitions on increases where there are any outstanding hazardous and immediately hazardous violations at the time of installation that pertain to the subject apartment and; new IAI increases collected for the first time after June 14, 2019, are temporary and will be removed from the rent in thirty years. For MCIs, the amendments include: definition which incorporates new “green” installation; removal of

MCI increases after thirty years; amortization of costs over twelve or twelve and a half years depending on the number of building units, modification of the annual cap on collectability to two percent per year; a reasonable cost schedule; prohibition of rent increases due to immediately hazardous violations and hazardous violations; MCIs are no longer allowed for work done in individual apartments that is not otherwise an improvement to the entire building; and prohibition of MCIs in buildings with 35 percent or fewer rent regulated units.

22. 9 NYCRR § 2522.4 (e) updates contact information and changes “shall” to “may” in several instances.
23. 9 NYCRR § 2522.5 (d)(3) and (d)(4) provides a correct cross reference.
24. 9 NYCRR § 2522.5 (f) and (g) clarification regarding the requirement that lease agreements have the same terms and conditions as an expired lease and regarding leases for housing accommodations in cooperative or condominium-owned buildings.
25. 9 NYCRR § 2522.6 (b) amendment regarding determinations of the legal regulated rent.
26. 9 NYCRR § 2522.7 language added that DHCR’s consideration of equities includes the creation of undue hardship or prejudice in determining the retroactive application of orders which create rent arrears.
27. 9 NYCRR § 2522.8 modifies the rent adjustments allowable on vacancy to comply with HSTPA.
28. 9 NYCRR § 2522.9(b)(3) revokes the inclusion of the surcharge for washing machine/dryer/dishwasher in the legal regulated rent.
29. 9 NYCRR § 2523.1 adds that for notice of the initial legal regulated rent, compliance with § 2528.2 shall be considered compliance with this section.

30. 9 NYCRR § 2523.4 (a) adds clarifying language regarding rent reduction orders and the collection of MCI rent increases, (b) clarifies the effective date for complaints regarding provision of hotel services, (g) clarifies the use of affidavits in complaints relating to maintenance of services.
31. 9 NYCRR § 2523.5 (b), (f) modification and clarification of requirements for establishing succession rights.
32. 9 NYCRR § 2523.7 (b), (c) rental records retention requirements.
33. 9 NYCRR § 2523.8 amended to include the requirement that the owner provide DHCR with an actual physical, street address for service.
34. 9 NYCRR § 2524.2(e) clarifies that the notices referenced in the section relate to an application for demolition.
35. 9 NYCRR § 2524.4 (a), (b), (c) requirements for recovery of a rent stabilized unit for owner occupancy to comply with HSTPA; amendments regarding requirements of primary residency.
36. 9 NYCRR § 2524.5 (a),(b) amendments of the requirements for demolition including: a “good faith” requirement, that the applicant at the time of the application submit proof of financial ability to complete the proposed work, along with proof that the Department of Buildings (“DOB”) has already approved demolition plans, requires that the entire building be removed, including the foundation, increases the stipends given to residents displaced by demolition by calculating it based on the average rent for non-regulated vacant apartments multiplied by six years, allows DHCR to revoke a demolition order if the owner fails to act in good faith or fails to undertake construction within a reasonable time, permits DHCR to initiate enforcement proceedings *sua sponte* for failure

- to comply and make those penalties applicable to subsequent purchasers, and provides that no order may be issued less than 90 days from the date the last affected tenant's lease has expired.
37. 9 NYCRR § 2525.2(b) amends the requirements for rent receipts.
  38. 9 NYCRR § 2525.3(a) amended to remove conditional rental language regarding purchase of shares to an apartment.
  39. 9 NYCRR § 2525.5 amends the definition of owner harassment to include the illegal discontinuance of a current tenant's preferential rent.
  40. 9 NYCRR § 2525.6(e), (g) amended to remove language regarding collection of vacancy increases in a sublease to comply with HSTPA.
  41. 9 NYCRR § 2526.1 renames the section "Determination of legal regulated rents; penalties; fines; assessment of costs; attorney's fees; rent credits; where the proceeding is commenced prior to June 14, 2019" and adds section (i) to clarify that the section only applies to proceedings initiated prior to June 14, 2019.
  42. 9 NYCRR § 2526.2(c), amendment of the civil penalties for violation of DHCR orders to comply with HSTPA.
  43. 9 NYCRR § 2526.7 is added and named "Determination of legal regulated rents; penalties; fines; assessment of costs; attorney's fees; rent credits; where the proceeding is commenced on or after to June 14, 2019" and contains the HSTPA requirements including, for example: extension of a prior 4-year rule to a 6 or more year rule, use of the most "reliable" registration as a benchmark in certain overcharge processing, consideration of all available evidence reasonably necessary to make a determination of the legal rent, recognition of concurrent jurisdiction with respect to overcharge claims

- “subject to the tenant’s choice of forum, provides that tenants may file a claim “at any time,” provides that tenants can now receive up to six years of rent overcharges and six years of treble damages and reasonable costs and attorneys’ fees; provides a new rolling base date and grandfathering of all claims that reflect the review of time periods prior to the enactment of HSTPA.
44. 9 NYCRR § 2527.2 adds language to allow DHCR to reclassify or convert a proceeding on its own initiative.
  45. 9 NYCRR § 2527.3(a)(2) adds language to provide tenants, in a proceeding to increase the legal regulated rent, with sixty days from the date of DHCR’s mailing of the notice of the proceeding to answer or reply.
  46. 9 NYCRR § 2527.4 adds language to provide clarity regarding times to answer in other proceedings.
  47. 9 NYCRR § 2527.5 (j) and (k) contain typographical corrections. Addition of subdivisions (l) and (m) providing that DHCR may stay proceedings as appropriate and permit a tenant to withdraw a complaint.
  48. 9 NYCRR § 2527.7 adds “or by the RSL”.
  49. 9 NYCRR § 2527.9(a) removes a reference to a section being repealed; (e) added to allow DHCR to establish procedures for service and filing via electronic methods via operational bulletin.
  50. 9 NYCRR § 2528.2(a) adds the requirement of that owner’s provide an actual, physical street address in the initial registration.
  51. 9 NYCRR § 2528.4(a) deletes base date language to comply with HSTPA.

52. 9 NYCRR § 2529.6 adds language providing that proceedings remanded to DHCR following an Article 78 proceeding may be reconsidered without being remanded to the rent administrator.
53. 9 NYCRR § 2529.10 provides that where a code provision or applicable statute is enacted or amended during the pendency of a PAR, the determination shall be in accordance with the statute or code as it existed at the time the rent administrator's order was issued, unless the relevant law or regulation states otherwise.
54. 9 NYCRR § 2529.12, provides correction of cross-references.
55. 9 NYCRR § 2531.1, § 2531.2, § 2531.3, § 2531.4, § 2531.5, § 2531.6, § 2531.7, §2531.8, repeal of high rent/high income deregulation sections as of June 14, 2019, pursuant to HSTPA.
56. 9 NYCRR § 2531.9 is repealed as of June 14, 2019, pursuant to HSTPA and replaced with language providing that any apartment lawfully deregulated as of June 14, 2019, remains deregulated.