



Air Conditioners

2 PAGES

SURCHARGES

Electrical Exclusion Buildings (Tenant Pays For Electricity)

Prior to the rent laws being updated by Chapter 619 of the Laws of 2022, a five dollar (\$5.00) per air conditioner per month surcharge was lawful. Effective November 21, 2022, in rent stabilized and rent controlled apartments, owners are prohibited from the continued collection and from the prospective imposition of a surcharge on a tenant for the use of a tenant-installed air conditioning unit if the tenant pays for the electric utility service. For rent controlled apartments, the five dollar (\$5.00) per month surcharge previously collected can no longer be included in the Maximum Collectible Rent (MCR).

Electrical Inclusion Buildings (Owner Pays For Electricity)

For rent controlled and rent stabilized apartments, where the rent includes the use of electricity, an owner may charge a tenant a surcharge for the use of electricity for each air conditioner that has been installed.

On October 1st of each year after the air conditioner has been installed the surcharge will be adjusted upward or downward for rent stabilized and rent controlled apartments with electricity included in the rent. Each annual adjustment of this electrical surcharge will be based on the increase or decrease in electrical cost stated in the Price Index of Operating Costs

for Rent Stabilized Apartment Houses in New York City. The Price Index is prepared by the New York City Rent Guidelines Board, or an independent company chosen by the Board. This annual adjustment applies to air conditioners installed after October 1, 1985. If an owner collected a rent increase for the electricity consumed by an air conditioner installed in a rent stabilized apartment before October 1, 1985, that rent increase remains in effect and is not affected by this annual adjustment, because that rent increase is already part of the rent and subject to guidelines increases applicable to rent stabilized leases. For more information, please see applicable Annual Update of Section B of Supplement No. 1 to Operational Bulletin 84-4.

Collection of Surcharges

For both rent stabilized and rent controlled apartments, the electrical inclusion surcharge is payable by the tenant each month of the year.

For rent stabilized apartments the monthly electrical inclusion surcharge does not become part of the legal rent for the purpose of calculating rent stabilized rent increases. An owner may collect from a rent stabilized tenant the surcharge for an air conditioner without obtaining a DHCR order.

For rent controlled apartments, the monthly electrical inclusion surcharge becomes part of the Maximum Collectible Rent (MCR), but does not affect the compounding of the Maximum Base Rent (MBR). However, before collecting the

monthly electrical inclusion surcharge from rent controlled tenants, the owner must apply to DHCR for permission to collect the surcharge by filing the DHCR Form RN-79b. The surcharge may not be collected until DHCR issues an order authorizing the surcharge.

RENT INCREASES

When the owner purchases and installs a new air conditioner in a rent controlled or rent stabilized apartment, the owner may be allowed to collect an Individual Apartment Improvement (IAI) rent increase. The rent increase due to an IAI is equal to 1/180th of the cost in buildings containing more than 35 apartments or 1/168th of the cost in buildings containing 35 apartments or less, including the installation cost, but excluding the finance charges. This rent increase becomes part of the MCR and the MBR of a rent controlled apartment or the legal regulated rent of a rent stabilized apartment. For more information about IAI, please see DHCR Operational Bulletin 2016-1.

When the owner purchases and installs a new air conditioner in a vacant apartment, the Housing Stability and Tenant Protection Act (HSTPA) of 2019 requires that the owner file the IAI Notification Form and the related before and after photographs with DHCR. Tenant consent is not required for the owner to collect the rent increase from the next tenant and a DHCR order of approval is not needed.

When the owner purchases and installs a new air conditioner in an occupied rent controlled or rent stabilized apartment, the owner is required by the HSTPA to file the IAI Notification Form, the related before and after photographs and the Tenant's Informed Consent Form with DHCR. For rent stabilized apartments, the owner is then lawfully allowed to collect the IAI rent increase from the tenant without a DHCR Order. For rent controlled apartments, the owner may not collect the IAI rent increase from the tenant until DHCR issues an order authorizing the rent increase.



➤ **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