



Preferential Rents

3 PAGES

AT A GLANCE

This Fact Sheet explains the circumstances under which rent stabilized tenants may pay less than regulated rents.

SUMMARY AND HIGHLIGHTS

A preferential rent is a rent an owner agrees to charge that is lower than the legal regulated rent they could lawfully collect. The Housing Stability & Tenant Protection Act (HSTPA) of 2019 established that tenants paying a preferential rent on or after June 14, 2019, will retain it as long as they continue to rent the property.

DEFINITIONS

Emergency Tenant Protection Act (ETPA): Outside New York City, rent stabilization is also known as ETPA, short for the Emergency Tenant Protection Act, and is applicable in select counties and localities (see Fact Sheet #8).

Housing Stability and Tenant Protection Act (HSTPA) of 2019:

The act, which went into effect on June 14, 2019, made changes to how rents can be raised and changed formulas for vacancy leases, Major Capital Improvements (MCI) and Individual Apartment Improvements (IAI).

Owner Responsibilities & Tenant Rights

- Owners may charge the higher legal regulated rent only when the tenant permanently vacates the apartment.
- An owner cannot use or enforce any clause in a lease to end a preferential or discounted rent if the tenant fails to pay the preferential or discounted rent on time.
- An owner cannot use or enforce any lease clause that requires a discounted rent to be paid by a certain method, such as electronic payment.

FACT SHEET #40: IN DETAIL

A preferential rent is a rent which an owner agrees to charge that is lower than the legal regulated rent that the owner could lawfully collect.

Pursuant to the Housing Stability & Tenant Protection Act (HSTPA) of 2019, tenants that were paying a preferential rent as of June 14, 2019, retain the preferential rent for the life of the tenancy. Rent Guidelines Board increases and other increases allowed by the Rent Stabilization Law or Emergency Tenant Protection Act are to be applied to the preferential rent. A tenant who believes that they are entitled to a renewal lease with a preferential rent but is being charged more than that amount may file a rent overcharge or lease violation complaint with DHCR or a court of competent jurisdiction. **(See Examples below.)** Please note that certain government regulatory agreement/financed affordable housing programs may not be bound by this limitation; please contact the supervising government agency for more information.

Owners may terminate the preferential rent and charge the higher legal regulated rent (with applicable increases) only when the tenant permanently vacates the apartment. In addition, the legal regulated rent upon which these increases are based must be written in the vacancy or renewal lease in which the preferential rent was first charged and in all subsequent renewal leases in order for the owner to charge the prior legal rent upon a vacancy. Registration with DHCR of the legal regulated rent by itself will not establish the legal rent for future usage.

An owner cannot use or enforce a clause in a rent-stabilized lease that provides that the owner may end a preferential or a discounted rent where the tenant fails to pay the preferential or discounted rent on time or by a certain day of the month.

An owner cannot use or enforce any other lease clause that conditions the payment of a discounted rent on the performance of an act by

the tenant, such as the tenant's payment of the rent electronically. Such lease clauses may be challenged by the tenant in a rent overcharge or lease violation complaint with DHCR or can be reviewed by a court of competent jurisdiction.

Example 1:

Mr. Jones signed a one year lease, effective October 1, 2018. The lease cited a legal regulated rent of \$1,200 and a preferential rent of \$1,000.

1. On October 1, 2019, when Mr. Jones' one year lease renewal begins, the legal regulated rent increases by 1.5% to \$1,218 due to the annual rent guidelines board increase, and the preferential rent increases by 1.5% to \$1,015. Mr. Jones will pay the \$1,015 rent.
2. Owners can no longer terminate the collection of the preferential rent at the time of lease renewal pursuant to the HSTPA of 2019 since the tenant's lease in effect on or after June 14, 2019 has a preferential rent.

Example 2:

Ms. Sanchez has a lease with a preferential rent of \$1,000, set to expire on 6/30/19. Ms. Sanchez signed a one year renewal lease on 4/30/2019 and returned it the same day. The renewal lease was effective 7/1/19. The renewal lease cited a legal regulated rent of \$1,218 but ended the preferential rent which was \$1,000.

1. On July 1, 2019, when Ms. Sanchez's one year renewal lease begins, the legal regulated rent will increase by 1.5% From \$1,200 to \$1,218 due to the annual rent guidelines board increase. However, the preferential rent will also increase by 1.5% to \$1,015. **Ms. Sanchez will pay the \$1,015 preferential rent.**

2. Although the renewal lease was signed before the effective date of the HSTPA, it did not become effective until July 1, 2019. As the prior lease in effect on June 14, 2019 had a preferential rent, pursuant to the HSTPA of 2019, the tenant’s renewal lease must be based on that preferential rent.

SOURCES

Housing Stability & Tenant Protection Act (HSTPA) of 2019

	<p>➤ Rent Connect: rent.hcr.ny.gov</p>	<p>To visit a Borough Rent Office, <u>by appointment only</u>, please contact:</p>		
	<p>✉ Ask a question: portal.hcr.ny.gov/app/ask</p>	<p>QUEENS 92-31 Union Hall Street 6th Floor Jamaica, NY 11433 718-482-4041</p>	<p>UPPER MANHATTAN 163 W. 125th Street 5th Floor New York, NY 10027 212-961-8930</p>	<p>BRONX 1 Fordham Plaza 4th Floor Bronx, NY 10458 718-430-0880</p>
	<p>🗣️ For translation help: hcr.ny.gov/language-accessibility</p>	<p>BROOKLYN 55 Hanson Place 6th Floor Brooklyn, NY 11217 718-722-4778</p>	<p>LOWER MANHATTAN 25 Beaver Street New York, NY 10004 212-480-6238</p>	<p>WESTCHESTER 75 South Broadway 3rd Floor White Plains, NY 10601 914-948-4434</p>
	<p>➤ Our website: hcr.ny.gov/rent</p>			