

PAMPHLET

WHAT YOU SHOULD KNOW ABOUT RENT CONTROL IN THE DISTRICT OF COLUMBIA

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Table of Contents

Introduction	3
Key Divisions	3
Rental Accommodations Division	3
Office of Administrative Hearings	3
Rental Housing Commission	3
Rent Control Terms	3
Applicability	3
Registration	4
Increases in Rent	4
Allowable Rent Increases Based on CPI-W.....	4
Rent Increases When a Unit Becomes Vacant or “Vacancy Increase”	5
Other Allowable Rent Increases	5
Hardship	5
Capital Improvements	5
Services And Facilities	6
Substantial Rehabilitation	7
70 Percent Voluntary Agreement	7
Tenant Petition	7
Protections for Elderly and Disabled Persons	8
Act and Regulations	8
Where to Get Help	9
Technical Assistance and Resource Support for Housing Providers and Tenants	10

Introduction

This pamphlet will help you understand rent control laws and regulations. The rent control law is the Rental Housing Act of 1985 (D.C. Law 6-10) as amended (the Act), which is codified as D.C. Official Code §42-3501.01 et seq., as well as the corresponding D.C. Municipal Regulations, Title 14, Chapter 4200 et seq. You can find the complete law in most District of Columbia public libraries or online at:

<https://code.dccouncil.us/dc/council/code/titles/42/chapters/35/subchapters/11/>.

Key Divisions

Rental Accommodations Division

The Rental Accommodations Division (RAD), which is part of the Department of Housing and Community Development's (DHCD) Housing Regulation Administration (HRA), is responsible for administering the Act. The head of RAD is the Rent Administrator. HRA was transferred from the Department of Consumer and Regulatory Affairs (DCRA) to DHCD effective October 1, 2007.

Office of Administrative Hearings

The Office of Administrative Hearings (OAH) conducts hearings on RAD petitions.

Rental Housing Commission

A separate, three-member Rental Housing Commission (RHC) is the first level of appeal of the decisions made on RAD petitions. The RHC also writes regulations under the Act.

Rent Control Terms

Under the Act, an apartment building, apartment complex or house is called a *housing accommodation*, and a single apartment or room is called a *rental unit*. A tenant is a *tenant*, but a landlord is referred to as a *housing provider*.

Applicability

The Act applies to all housing accommodations and rental units in the District of Columbia. The rent adjustment section of the Act does not apply to rental units that are specifically exempted by the Act. The most common exemptions are rental units in these categories:

- federally or District-subsidized rental units;
- rental units built after 1975;
- rental units (including condominium or cooperative units) owned by a natural person who owns no more than four rental units;
- rental units that were vacant when the Act took effect; and

- Housing accommodations under a building improvement plan and receiving rehabilitation assistance through DCHD.

Registration

Every housing accommodation or rental unit must be registered with RAD by filing a RAD Registration and Claim of Exemption form. Once registered, the housing accommodation or rental unit is assigned a registration number. If the housing accommodation or rental unit is subject to an exemption, it is assigned an exemption number. If a housing accommodation or rental unit was initially exempt from the Act but later becomes subject to the Act, the housing provider must amend the RAD Registration and Claim of Exemption form at that time. Changes in ownership or management must be filed with RAD within 30 days of the event.

Increases in Rent

Under the Act, any increase in rent for a rental unit that is not subject to an exemption must meet these conditions:

1. The new rent charged may not be more than the prior rent plus an allowable increase, as described below.
2. The increase in rent charged cannot be more than the increase allowed under any single section of the Act.
3. The last increase in rent must have been at least 12 months ago (unless the unit is vacant).
4. The increase must not violate the terms of the lease.
5. The housing accommodation must be properly registered with the RAD.
6. The rental unit and the housing accommodation's common elements must be in substantial compliance with housing condition regulations.
7. The housing provider must give a tenant a 30-day notice of any increase in rent.

Allowable Rent Increases Based on CPI-W

The most common allowable increase in rent is an annual adjustment, based on the increase in the Consumer Price Index (CPI-W). For most tenants, the most that their rent can increase is the CPI-W percentage plus 2 percent, but not more than 10 percent. For tenants who are elderly or disabled, the maximum increase in rent charged is the only the CPI percentage or the Social Security Act Cost of Living Adjustment (COLA), whichever is less, but not more than 5 percent.

Allowable increases based on CPI or COLA are sometimes called *automatic* – because no petition or other special steps are required.

Rent Increases When a Unit Becomes Vacant or ‘Vacancy Increase’

The only exception to the limit of one rent increase per year is when a rental unit becomes vacant. The housing provider can raise the rent charged upon a vacancy to:

1. 10 percent more than was charged to the former tenant; or
2. rent for a comparable rental unit, but not more than 30 percent.

Comparable rental units have essentially the same square footage and floor plan; comparable amenities and equipment; comparable locations with respect to exposure and height (if exposure and height have previously been factors in the amount of rent charged) and comparable physical condition.

Once there has been a vacancy increase in rent, the housing provider cannot make another increase in rent of any type for 12 months, even if another vacancy occurs.

Other Allowable Rent Increases

A housing provider may choose to seek larger allowable increases under other provisions of the Act, including hardship, capital improvements, services and facilities or substantial rehabilitation, or agreement with 70 percent of the tenants. The other allowable increases, described in more detail below, are not automatic. The housing provider must petition or otherwise seek the consent of the Rent Administrator, and tenants may choose to participate in the process, often at hearings before an administrative hearing judge.

Hardship

Under the Act, housing providers are allowed to raise rents enough to earn a 12 percent rate-of-return on the housing provider’s rental property investment.

To apply for this increase, the housing provider must document operating expenses for 12 of the last 15 months preceding the filing of the hardship petition. RAD will notify the tenants that a hardship petition has been filed and allow the tenants to designate a representative to support or oppose it.

RAD performs an audit of the hardship petition and supporting documents. The Rent Administrator issues an order granting or denying the hardship petition. The housing provider and tenants may each submit exceptions and objections to the Rent Administrator’s order. If exceptions and objections are submitted, a hearing will be held with OAH to resolve the disputed matters. OAH then issues an order setting the rent increase.

Capital Improvements

A housing provider can petition to increase rents by an amount enough to cover the cost of capital improvements. This type of increase in rent is called a *surcharge*. A capital improvement is an improvement or renovation other than ordinary repair, repair or maintenance if the improvement or renovation is deemed depreciable under the Internal Revenue Code. A housing provider files a

petition, serves copies to the tenants, and presents the case to OAH. For non-emergency improvements, the capital improvement petition must be filed before the work begins. For emergency improvements, the capital improvement petition must be filed no later than 10 calendar days after the installation of the emergency improvement. Tenants may support or oppose the petition. If OAH does not approve or deny the surcharge within 60 days after the petition is filed, the housing provider may begin to perform the work pending OAH approval. If OAH approves the surcharge, the housing provider completes the work and may then raise rents.

OAH makes a ruling on the petition, based on whether:

- the improvement will protect or enhance the health, safety and security of the tenants or the habitability of the housing accommodation;
- the improvement will be depreciable under the Internal Revenue Code;
- required governmental permits and approvals have been secured; and
- the design and cost of the work are sufficiently documented.

In addition to the work's cost, the housing provider can include financing costs, including interest and service charges. The housing provider must spread the costs of a building-wide improvement project over 96 months. For an improvement to one or more but not all rental units, the costs must be spread over 64 months. Only units affected by the capital improvements are subject to rent increases.

The surcharge may be no more than 20 percent of the prior rent charged for a building-wide capital improvement and no more than 15 percent for an improvement that does not affect all rental units.

The Act allows a housing provider to continue the surcharge until the housing provider has recovered all costs, including interest and service charges, of the capital improvement. Certain low-income elderly and disabled tenants can be exempted from a capital improvement surcharge.

The surcharge is terminated once the housing provider recovers all costs of the capital improvements.

Services and Facilities

The Act allows an adjustment in rents when related services or facilities supplied by a housing provider or a housing accommodation or for any rental unit in the housing accommodation are increased or decreased.

A housing provider files a petition, serves copies to the tenants, and presents the case for the change at an OAH hearing. Tenants may support or oppose the petition. OAH makes a ruling on the petition, based on:

- the cost to the tenant of buying alternate related services or facilities comparable;
- the operating cost to the housing provider of the related services or facilities; or
- the fair market value of comparable related services or facilities.

Substantial Rehabilitation

The housing provider may submit a petition to raise rents for a substantial rehabilitation of the housing accommodation. A substantial rehabilitation petition is filed only when proposed rehabilitation cost equals or is more than 50 percent of the real property tax assessment of the rental unit or housing accommodation. The petition must include detailed plans, specifications and projected costs. The tenants are notified, a hearing is conducted, and OAH issues a decision before the work starts. The maximum allowed rent increase is 125 percent.

This rent increase is not a temporary surcharge, but a permanent increase. When determining if a substantial rehabilitation is warranted, OAH considers:

- whether the substantial rehabilitation is in the interest of the tenants;
- the existing physical condition of the rental unit or housing accommodation as shown by reports or testimony of DC housing inspectors, licensed engineers, architects and contractors, or other qualified experts;
- whether the existing physical condition impairs or tends to impair the health, safety, or welfare of any tenant;
- whether the existing physical conditions can be corrected by improved maintenance, repair or capital improvement; and
- the impact of the proposed rehabilitation on the tenant or tenants in terms of proposed financial cost, inconvenience, or relocation.

70 Percent Voluntary Agreement

The Act allows tenants of a housing accommodation to enter into a Voluntary Agreement with the housing provider to establish the rent, capital improvements, services and facilities, or repairs and maintenance. If the housing provider initiates the Voluntary Agreement, the tenants must be given at least 14 days to review it following the filing of the Voluntary Agreement with RAD and service on the tenants.

The Rent Administrator must approve the Voluntary Agreement and any conditions in the Voluntary Agreement must be met before rents can be raised. If approved, the Voluntary Agreement will affect all tenants, including those tenants who did not sign the Voluntary Agreement.

Tenant Petition

A tenant who believes that a rent adjustment is incorrect may file a tenant petition with RAD. When a petition is filed:

1. RAD accepts the Petition;
2. RAD sends the Petition to OAH for a hearing;

3. OAH conducts a hearing;
4. the tenant and the housing provider each present their argument(s); and
5. OAH issues a decision and order.

A tenant petition may address any perceived violation(s) of the Act.

Protections for Elderly and Disabled Persons

Under the Act, elderly and disabled persons are exempt from specific rent adjustments.

To qualify:

- As elderly – a tenant must be at least 62.
- As disabled – a tenant must have a disability as defined by the Americans With Disabilities Act of 1990 (Title 42, Section 12102(2)(A) of the United States Code).

A tenant who believes he or she fits the definitions of elderly or disabled under the Act should contact the Rental Accommodations Division when receiving a rent increase to determine whether he or she qualifies for an exemption from the rent increase.

Act and Regulations

This pamphlet is intended to outline the Act but does not include every detail. Interested parties are encouraged to review the Act and its regulations, or to ask a lawyer or housing professional for more help.

When laws are enacted, they are called statutes. Later they become part of the DC Official Code; in that process section numbers are changed. The website shows the law in code form. The agency usually uses statute numbers.

The section numbers from the statute appear in the notes below the text of the law.

To find the Act online, go to

<https://code.dccouncil.us/dc/council/code/titles/42/chapters/35/subchapters/II/> and click on the section you want.

The Act can be printed from the site.

The regulations are part of Title 14 of the DC Municipal Regulations. The complete regulations run from Chapter 38-43, but Chapter 42 has most key provisions.

To find the regulations online, go to

<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=14-42&ChapterId=2275> and click on the section you want.

The regulations can be printed from the site.

Where to Get Help

For a list of organizations that provide help and support to housing providers and tenants, go to the end of this pamphlet.

At the time this pamphlet was prepared, the regulations had not been revised to correspond with the latest version of the law.

Notice of Non-Discrimination: In accordance with the DC Human Rights Act of 1977, as amended, DC Official Code Section 2-1401.01 et seq. (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

Technical Assistance and Resource Support for Housing Providers and Tenants

These groups and organizations provide technical assistance and resource support to housing providers and/or tenants under the Rental Housing Act of 1985 (“Act”), as amended, DC Law 6-10, DC Official Code §42-3501 et seq., pursuant to DC Official Code §42-3502.08(f) of the Act.

Archdiocesan Legal Network of Catholic Charities **

924 G Street NW
Washington, DC 20005
(202) 772-4300
<http://www.catholiccharitiesdc.org>

DC Bar Pro Bono Legal Advice and Referral Clinic/Bread for the City

1640 Good Hope Road SE
Washington, DC.20020
(202) 561-8587
www.breadforthecity.org

Apartment and Office Building Association of Metro Washington (AOBA)

1050 17th Street NW, Suite 300
Washington, DC 20036
(202) 296-3390
www.aoba-metro.org

DC Law Students in Court Program George Washington University

4640 Connecticut Avenue NW, Suite 100
Washington, DC 20001
(202) 638-4798
www.dclawstudents.org

Columbus Community Legal Clinic Catholic University School of Law

3602 John McCormick Road NE
Washington, DC 20008 (No Walk-ins)
(202) 319-6788
www.law/cua/edi/clinics/clc

Department of Consumer and Regulatory Affairs (DCRA)

1100 4th Street SW
Washington, DC 20024
(202) 442-4400
www.dkra.dc.gov

DC Bar Association Referral Service

(202) 296-7845
www.badc.org/htm/lawref.htm

Department of Housing and Community Development (DHCD)

Housing Regulation Administration
Rental Accommodations Division
Housing Service Center
1800 Martin Luther King Jr. Avenue SE
Washington, DC 20020
(202) 442-9505
www.dhcd.dc.gov

DC Bar Pro Bono Legal Advice and Referral Clinic/Bread for the City

1525 7th Street NW
Washington, DC 20001
(202) 265-2400
www.breadforthecity.org

Department of Housing and Community Development (DHCD)

Housing Provider Ombudsman*
1800 Martin Luther King, Jr. Avenue SE
Washington, DC 20020
(202) 442-7214
<https://dhcd.dc.gov/service/housing-provider-ombudsman>

Department of Housing and Community Development (DHCD)

Rental Housing Commission
441 4th Street NW, Suite 1140B North
Washington, DC 20001
(202) 442-8949
<https://dhcd.dc.gov/service/rental-housing-commission>

**George Washington University
Community Legal Clinic**

2000 G Street NW
Washington, DC 20052 (No Walk-ins)
(202) 994-7463
www.law.gwu.edu/academics: click on
“Clinics”

Harrison Institute for Public Law **

111 F Street NW, Room 102
Washington, DC 20001
(202) 662-9600
www.law.georgetown.edu/clinics/hi

Housing Counseling Services

2410 17th Street NW, Suite 100
(Adams Alley Entrance)
Washington, DC 20009
(202) 667-7006
www.housingetc.org

Landlord/Tenant Resource Center

Superior Court Building B, Room 115
1050 17th Street NW, Suite 300
Washington, DC 20036
(202) 508-1710
<https://www.dccourts.gov/services/civil-matters/landlord-tenant>

Latino Economic Development Corporation

2316 18th Street NW
Washington, DC 20009
(202) 588-5102
<http://www.ledcdc.org/>

**Legal Aid Society of the District of Columbia
Main Office**

1331 H Street NW, Suite 350
Washington, DC 20005
(202) 628-1161
www.legalaiddc.org

**Legal Aid Society of the District of Columbia
in Southeast**

2041 Martin Luther King Jr. Avenue SE
Suite 400
Washington, DC 20020
(202) 628-1161
www.legalaiddc.org

Legal Aid Society of the District of Columbia

900 Delaware Avenue SW
Washington, DC 20024
(202) 628-1161
www.legalaiddc.org

Legal Counsel for the Elderly

601 E Street NW, Suite A4400
Washington, DC 20049
(202) 434-2170
www.aarp.org/lce

Lydia's House

4101 Martin Luther King Jr. Avenue SW
Washington, DC 20024
(202) 373-1050
<http://www.lydiashousedc.org/>

Marshall Heights Community Development Organization

3939 Benning Road, NE, 2nd Floor
Washington, DC 20019
(202) 396-1200
<http://www.mhcdo.org/>

Office of Administrative Hearings (OAH)

441 4th Street NW, Suite 450 N
Washington, DC 20001
(202) 442-9094
www.oah.dc.gov

Office of the Tenant Advocate (OTA) **

2000 14th Street NW, Suite 300N
Washington, DC 20009
(202) 719-6560
www.ota.dc.gov

University of the District of Columbia**David A. Clarke School of Law
Housing/Consumer Clinic ****

4200 Connecticut Avenue NW, Bldg. 38
Washington, DC 20008
(202) 274-5120
<https://www.law.udc.edu/page/HousingClinic>

University Legal Services, Inc. (Southeast)

1800 Martin Luther King Jr. Avenue SE
Washington, DC 20020
(202) 889-2196
<http://www.uls-dc.org/>

University Legal Services (Northeast)

201 I Street NE, Suite 130
Washington, DC 20002
(202) 547-4747
<http://www.uls-dc.org/>

University Legal Services (Far Northeast)

3939 Benning Road, NE
Washington DC 20019
(202) 527-7070
<http://www.uls-dc.org/>

* for landlords only

** for tenants only