

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Department of Finance is considering adding a rule which would allow Senior Citizen Rent Increase Exemption and Disability Rent Increase Exemption program participants to file renewal applications past the specified deadline under certain conditions.

When and where is the hearing? The Department of Finance will hold a public hearing on the proposed rule. The public hearing will take place at 11:00am on September 21, 2015. The hearing will be in the Department of Finance hearing room at 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

How do I comment on the proposed rule? Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to the Department of Finance through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to laroset@finance.nyc.gov.
- **Mail.** You can mail written comments to NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201, Attn: Timothy LaRose.
- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Timothy LaRose, at (718) 403-3650.
- **Hearing.** You can speak at the public hearing. Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling Joan Best at (718) 488-2007, or you can sign up in the hearing room before the hearing begins on September 21, 2015, 2015. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline to submit written comments is September 21, 2015.

What if I need assistance to participate in the hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You may tell us by mail at the address given above, sent to the attention of Joan Best; by telephone, by calling Joan Best at (718) 488-2007; or by e-mail at bestj@finance.nyc.gov. You must tell us by September 7, 2015.

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website: <http://rules.cityofnewyork.us/>. In addition, copies of all submitted comments concerning the proposed rule and a summary of oral comments from the hearing will be available to

the public a few days after the hearing at NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

What authorizes Department of Finance to adopt this rule? New York State Real Property Tax Law sections 467-b and 467-c, Sections 26-405, 26-509 and 26-605 of the Administrative Code of the City of New York and New York City Charter (“Charter”) §§ 1043 and 1504 authorize the Department of Finance to adopt this proposed rule.

Where can I find the Department of Finance’s rules? The Department of Finance’s rules can be found in Title 19 of the Rules of the City of New York.

What laws govern the rulemaking process? The Department of Finance must meet the requirements of § 1043 of the Charter when creating or amending rules. This notice is made according to the requirements of § 1043 of the Charter.

STATEMENT OF BASIS AND PURPOSE

The Senior Citizen Rent Increase Exemption and Disability Rent Increase Exemption Programs are authorized by sections 467-b and 467-c of the New York State Real Property Tax Law and established by chapter 4 (section 26-405), chapter 5 (section 26-509) and chapter 7 (sections 26-601 et seq.) of Title 26 of the Administrative Code of the City of New York . These programs protect households headed by low-income tenants who are 62 years of age or older or persons with disabilities and who reside in rent regulated dwelling units from rent increases. For those who qualify, rent is frozen at the time of or prior to application approval, protecting participants from future increases. Participating landlords receive a property tax credit to cover the increase in rent.

Each tenant that qualifies for one of these programs receives a rent increase exemption order which lasts for a certain amount of time. When this order expires, the tenant must apply for a renewal order. However, due to medical or other problems, tenants are not always able to file their renewal applications within the required time period. This proposed rule will give program participants, upon a showing of good cause or extraordinary medical circumstances, additional time to file their renewal applications.

Matter underlined is new. Matter in brackets [] is to be deleted.

“Will” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Title 19 of the Rules of the City of New York is amended by adding a new chapter 52, to read as follows:

Chapter 52

RULES RELATING TO SENIOR CITIZEN RENT INCREASE EXEMPTION AND DISABILITY RENT INCREASE EXEMPTION PROGRAM

§ 52-01. **Rent Increase Exemption Orders.**

(a) *Effective Date and Duration.* (1) A rent increase exemption order will be issued to each tenant who applies to the Department and is found to be eligible for Senior Citizen Rent Increase Exemption (SCRIE) or Disability Rent Increase Exemption (DRIE) benefits. The effective date of a new rent increase exemption order for rent controlled and rent stabilized apartments is the first day of the first month after receipt of an initial application for SCRIE or DRIE benefits.

(2) A new rent increase exemption order for a rent controlled apartment will be for a term of two years. A new rent increase exemption order for a rent stabilized apartment will be for the duration of the lease in effect on the first day of the first month after receipt of the initial application. The effective date of a new DRIE rent increase exemption order for an apartment owned by a limited dividend housing company, a redevelopment company or a housing development fund company incorporated under the private housing finance law, a Cooperative Housing Company established under section 213 of the National Housing Act or a Mitchell Lama apartment or co-op, will be the date of the first increase in maximum rent that takes effect after the tenant is first determined to be eligible for DRIE benefits, and will be for a term of one year.

(b) *Renewals.* A renewal application must be submitted to, and approved by, the Department by or on behalf of the tenant in order to renew a SCRIE or DRIE order. If such tenant is found eligible, the renewal order will be deemed to have taken effect upon expiration of the prior rent increase exemption order. The tenant may designate a representative to file a renewal application on his or her behalf so that the renewal application is filed in a timely manner as provided in subdivisions (c) and (d) of this section. Unless otherwise stated on the renewal application, such a designation does not apply to any subsequent renewal applications. If a tenant desires to designate a representative for any subsequent renewal period, he or she must specifically do so in the renewal application. Any designation of a representative must include the mailing address of such representative.

(c) *Time to File Renewal Applications.* Except as provided in subdivision (d) and (e) of this section, renewal applications must be filed no later than six months after the expiration of a rent increase exemption order.

(d) *Extension of Time to File Renewal Applications.* The time to file a renewal application provided in subdivision (c) of this section, as well as for any other tenant application relating to SCRIE or DRIE benefits which contains a deadline for filing, will be extended under the following circumstances:

(1) Upon a showing of good cause, the time to file a renewal application will be extended for an additional period of six months. The tenant or his or her representative must submit sufficient documentary evidence acceptable to the Department demonstrating good cause. Upon approval of the extension of the time to file and of the renewal application, such rent increase exemption order will be renewed retroactive to the date of expiration of the prior rent increase exemption. For purposes of this paragraph, good cause exists when:

- (i) the tenant requires hospitalization for a documented illness or medical condition during the six-month period following expiration of the rent increase exemption order, which prevents the tenant from filing a timely renewal application; or
- (ii) the tenant's dwelling unit is damaged by a natural catastrophe during the six-month period following expiration of the rent increase exemption order, which prevents the tenant from filing a timely renewal application.

(2) Upon a showing of extraordinary medical circumstances affecting a tenant, the time to file a renewal application will be extended for an additional period of eighteen months. Upon approval of the extension of time to file and of the renewal application, such rent increase exemption order will be renewed retroactive to the date of expiration of the prior rent increase exemption. For purposes of this paragraph, extraordinary medical circumstances affecting a tenant exist when the tenant or the tenant's representative provides medical documentation from an appropriate health care professional satisfactory to the Department showing that the tenant had a disability as defined by the Americans with Disability Act (42 U.S.C. §12101 et seq.) or the New York City Human Rights Law (§8-101 et seq. of the Administrative Code of the City of New York), and that this disability prevented the tenant from filing a renewal application during the six month period following expiration of the rent increase exemption order. For purposes of this paragraph, appropriate health care professionals include, but are not limited to, doctors (including psychiatrists), psychologists and licensed mental health professionals.

(e) Expiration of rent increase exemption order based upon a showing of good cause or extraordinary medical circumstances. If a tenant is granted an extension of time to file pursuant to subdivision (d) of this section, the tenant or the tenant's representative must file a renewal application for the period commencing on the expiration of the prior rent increase exemption order as well as for any succeeding renewal period which commenced prior to the date such extension of time to file was granted within the applicable time period.

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Applications and Renewal Applications for Senior Citizen or Disabled Rent Increase Exemptions

REFERENCE NUMBER: 2015 RG 041

RULEMAKING AGENCY: Department of Finance

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: August 12, 2015

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Applications and Renewal Applications for Senior Citizens or Disabled Rent Increase Exemptions

REFERENCE NUMBER: 2015 RG 041

RULEMAKING AGENCY: Department of Finance

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Brady Hamed
Mayor's Office of Operations

8/12/2015
Date