

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 amending a rule which allows Senior Citizen Rent Increase Exemption and Disability Rent Increase Exemption program participants to request additional time to meet administrative deadlines under certain circumstances.

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 June 12, 2017. The hearing will be in the Department of Finance hearing room at 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

This location has the following accessibility option available:

Wheelchair Accessible

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 comments to laroset@finance.nyc.gov.
- **Mail.** You can mail 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 comments to NYC Department of Finance, Attn: Timothy LaRose, at (718) 488-2491.
- **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 June 12, 2017. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline to submit written comments is June 12, 2017.

What if I need assistance to participate in the hearing? The meeting will be held at 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201. The back entrance is accessible to persons using wheelchairs and others with disabilities. Accessible restrooms are available. Materials in alternative formats, ASL interpreters, real-time captioning and other accommodations will be made available upon request. Please contact Joan Best; by telephone, by calling (718) 488-2007; TTY (212) 639-9675 or by e-mail at bestj@finance.nyc.gov to make your accommodation requests. Please provide at least 72 hours' notice prior to the hearing to ensure availability. In order to accommodate

persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are requested to refrain from using perfume, cologne, and other fragrances.

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/>. A few days after the hearing, copies of all comments concerning the proposed rule will be available to the at NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

What authorizes the 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. This proposed rule was not included in the Department of Finance’s regulatory agenda for this fiscal year because it was not anticipated when the agenda was developed.

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 of Proposed Rule

The New York City Department of Finance is proposing changes to the current rules for the Senior Citizen Rent Increase Exemption (“SCRIE”) and Disability Rent Increase Exemption (“DRIE”) Programs. The proposed rules reference the requirements of both the Americans with Disability Act and the New York City Human Rights Law as they relate to deadline extensions for submissions of SCRIE and DRIE renewal applications or other administrative deadlines related to these programs. These proposed changes concern the designation of representatives for tenants and the provision of medical documentation when applying for deadline extensions for these programs.

SCRIE and DRIE 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.

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

“Shall” 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.

Subdivisions (b), (d) and (e) of section 52-01 of Title 19 of the Rules of the City of New York are amended to read as follows:

(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] An application to renew a SCRIE or DRIE order must be submitted by or on behalf of the tenant and approved by the Department. 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] receive notices sent to the tenant and assist in the completion of 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 may [must specifically] do so in [the] a renewal application. A designation of a tenant representative submitted to the Department by a tenant will continue until the designation is withdrawn or the representative requests that the designation be removed. Any designation of a representative must include the mailing address of such representative.

(d) *Extension of Time to File Renewal and Other Tenant Applications and Appeals.* The time to file a renewal application provided in subdivision (c) of this section, as well as for any other tenant application or appeal relating to SCRIE or DRIE benefits that 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 or other 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 fire or flood or 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.
- (iii) The tenant demonstrates other exceptional circumstances.

(2) Upon a showing of need for more time as a reasonable accommodation for a tenant's disability consistent with the requirements of the Americans with Disability Act

(42 U.S.C §12101 et. seq.) (ADA) or the New York City Human Rights Law (§8-101 et. seq. of the Administrative Code of the City of New York (NYCHRL), the time to file a renewal or other application will be extended for an additional period of time to be determined by the agency, which may exceed six months if the agency determines more time would be a reasonable modification of its procedure necessary to avoid discrimination on the basis of disability. [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.] To obtain an extension of time as a reasonable accommodation, the tenant or a representative of the tenant must provide or assist with the provision of 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.)] ADA or the [New York City Human Rights Law (§8.101 et seq. of the Administrative Code of the City of New York)] NYCHRL, 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] because of this disability the tenant needed more time to file an application or appeal. For purposes of this paragraph, appropriate health care professionals include, but are not limited to, doctors (including psychiatrists), psychologists and licensed health professionals. If the tenant cannot secure medical documentation from an appropriate health care professional with reasonable efforts, an extension of time may be granted if other reliable documentation is provided as may be determined by the Department.

(e) [Expiration] Extension of rent increase exemption order when there is a showing of good cause or need for disability related reasonable accommodation. 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 and all supporting documents 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 time period of the extension. Upon approval of the extension of time to file and of the renewal application where seeking additional time to file a renewal application, such rent increase exemption order will be renewed retroactive to the date of expiration of the prior rent increase exemption.

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

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

RULE TITLE: Amendment of Rules Governing SCRIE and DRIE Programs

REFERENCE NUMBER: 2017 RG 031

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: April 28, 2017

**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: Amendment of Rules Governing SCRIE and DRIE Programs

REFERENCE NUMBER: DOF-30

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/ Francisco X. Navarro
Mayor's Office of Operations

April 27, 2017
Date