

New York City Department of Finance

Notice of Adoption of Final Rule

Notice is hereby given pursuant to the authority vested in the Commissioner of Finance pursuant to sections 1043 and 1054 of the New York City Charter, that the Department of Finance (“DOF or Department”) promulgates and adopts the following amendments to Chapter 52 of Title 19 of the Rules of the City of New York, establishing requirements and processes related to the Senior Citizen rent Increase Exemption (“SCRIE”) and Disability Rent Increase Exemption (“DRIE”) rent freeze programs.

These amendments to Chapter 52 were first proposed and published on September 23, 2022. A public hearing was held on October 25, 2022. After receiving and reviewing public comments, DOF has adopted this final rule.

STATEMENT OF BASIS AND PURPOSE

DOF is amending the rules for the SCRIE and DRIE Programs. The 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 3 (Section 26-401 et seq.), Chapter 4 (Section 26-501 et seq.) and Chapter 7 (Section 26-601 et seq.) of Title 26 of the Administrative Code of the City of New York. These programs provide eligible senior citizens and persons with disabilities with exemptions from certain rent increases. Covered property owners receive a corresponding abatement of real property taxes. The rule amendment readjusts how tax abatement credits (“TAC”) are calculated for those recipients with a preferential rent clause in their lease, on or before June 14th, 2019 and were receiving SCRIE/DRIE benefits. A preferential rent is a rent that an owner agrees to charge that is lower than the legal regulated rent they could lawfully collect. This amendment aligns SCRIE/DRIE preferential rent treatment with the Housing Stability and Tenant Protection Act of 2019 (“HSTPA”), which states that tenants that were paying a preferential rent as of June 14, 2019 retain the preferential rent for the lifetime of the tenancy, aside from legal increases to the rent such as Rent Guidelines Board Increases. Any calculations that DOF was making on or before that date in determining the TAC for a preferential rent will remain the same, except for any legal increases to the rent. Since the TAC for SCRIE and DRIE purposes is calculated on the first of every month, the figure for recipients paying a preferential rent will be the rent paid as of June 1, 2019 plus any legal increase to the rent that took effect between June 1 and June 14, 2019. Thus, the rent paid by such recipients as of July 1, 2019, minus any rent increases that took effect between June 15, 2019 and June 30, 2019, will be dispositive for SCRIE and DRIE purposes.

An additional rule amendment is to correct a typographical citation error, which fixes an incorrect internal reference.

This final rule amends Chapter 52 of Title 19 of the Rules of the City of New York to:

- Correct a typographical error related to benefit takeovers
- Clarify treatment of preferential rent as a result of the HSTPA

New material is underlined

[Deleted material is bracketed]

“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.

Section 1. Section 52-07 of Title 19 of the rules of the city of New York is amended to read as follows:

(a) If a head of the household has died or permanently vacated the household, a tenant remaining in the eligible apartment will be deemed eligible to become the head of the household if such tenant receives approval from the Department for a benefit takeover as defined in 19 RCNY § [52-15] 52-14

§ 2. Section 52-12 of Title 19 of the rules of the city of New York is amended to read as follows:

(a) A preferential rent, which is lower than the legal regulated rent, will be established as the frozen rent except as set forth in [subdivisions (b), (c) and (d)] subdivision (b) of this section. The tax abatement credit for such preferential rent will be the difference between the frozen rent and the current preferential rent for all initial preferential rent increase exemption orders that are in effect as of July 1, 2019 or later.

(b) [The tax abatement credit for preferential rent renewals whose initial eligibility was June 1, 2019 or earlier shall be the difference between the preferential rent and the legal regulated rent for the period covered by the rent increase exemption approval-order.] Notwithstanding subdivision (a), the frozen rent for all program renewals whose initial eligibility was June 1, 2019 or earlier shall be the frozen rent in effect on July 1, 2019, except as otherwise adjusted by law.

(c) The tax abatement credit for preferential rent renewals whose initial eligibility was June 1, 2019 or earlier shall be the difference between the frozen rent in effect on July 1, 2019 and the Legal Regulated Rent for the period covered by the rent increase exemption approval order. The tax abatement credit for preferential rent whose initial eligibility was July 1, 2019 or later shall be the difference between the preferential rent in effect upon initial application and any lawful adjustments to the rent for the period covered by the rent increase exemption approval order.

(d) A preferential rent, which is lower than the legal regulated rent, will be established as the frozen rent if the tenant lives in a low income housing tax credit apartment in a low income tax credit building pursuant to section 42 of the Internal Revenue Code.

[(d)] (e) A preferential rent, which is lower than the legal regulated rent, may not be the frozen rent for buildings subject to paragraph 14 of subdivision c of section 26-511 of the administrative code of the city of New York.