

# FACT SHEET



Andrew M. Cuomo, Governor

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DIVISION OF HOUSING AND COMMUNITY RENEWAL  
OFFICE OF RENT ADMINISTRATION

## #27 Air Conditioners

### Electrical Inclusion Buildings

For rent controlled and rent stabilized apartments, where the rent includes the use of electricity, an owner may charge a tenant a surcharge for the use of electricity for each air conditioner that has been installed.

On October 1st of each year after the air conditioner has been installed the surcharge will be adjusted upward or downward for rent stabilized and rent controlled apartments with electricity included in the rent. Each annual adjustment of this electrical surcharge will be based on the increase or decrease in electrical cost stated in the Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City. The Price Index is prepared by the New York City Rent Guidelines Board, or an independent company chosen by the Board. This annual adjustment applies to air conditioners installed after October 1, 1985. If an owner collected a rent increase for the electricity consumed by an air conditioner installed in a rent stabilized apartment before October 1, 1985, that rent increase remains in effect and is not affected by this annual adjustment, because that rent increase is already part of the rent and subject to guidelines increases applicable to rent stabilized leases.

### Electrical Exclusion Buildings - Tenant Provides New Air Conditioner

When the tenant in a rent controlled or rent stabilized apartment in an electrical exclusion building, which is a building in which the tenant pays a public utility for electricity, purchases and installs an air conditioner unit that protrudes beyond the window line, the owner may collect a five dollar (\$5.00) per-month surcharge for each unit installed. The window line is the outer edge of the window sill. Once installed and after the \$5.00 surcharge has been collected, the tenant may not, without the owner's permission remove the air conditioner and demand that the surcharge be dropped. The surcharge does not apply to air conditioners installed in sleeves.

### Owner Provides New Air Conditioner

When the owner purchases and installs a new air conditioner in an occupied rent controlled or rent stabilized apartment, after having obtained the written consent from the tenant, the owner may charge the tenant an Individual Apartment Improvement (IAI) rent increase. It is equal to 1/60th of the cost in buildings containing more than 35 apartments or 1/40th of the cost in buildings containing 35 apartments or less, including the installation cost, but excluding the finance charges. When the owner purchases and installs a new air conditioner in a vacant apartment, tenant consent is not required for the owner to collect the increase from the next tenant. This charge becomes part of the Maximum Base Rent (MBR) of a rent controlled apartment or the legal regulated rent of a rent stabilized apartment.

### Adjustments To Rent

For rent stabilized apartments, where the air conditioner was installed on or after October 1, 1985, the five dollar (\$5.00) per-month surcharge and the monthly surcharge for electrical inclusion buildings, do not become part of the legal regulated rent for the purpose of computing other rent stabilized increases. Only the IAI charge for a new air conditioner purchased and installed by an owner becomes part of the legal regulated rent.

For rent controlled apartments, the five dollar (\$5.00) per-month surcharge and the monthly electrical inclusion surcharge become part of the Maximum Collectible Rent (MCR), but they do not affect the compounding of the Maximum Base Rent (MBR). Only the IAI charge for a new air conditioner purchased and installed by an owner becomes part of the MBR.

## Collection Procedure For Rent Stabilized Apartments

An owner may collect from a rent stabilized tenant any of the charges for an air conditioner without obtaining a DHCR order. An owner must charge a tenant for an air conditioner at the time the units are initially installed, or within a reasonable period of time after its installation. If the owner fails to charge the tenant within a reasonable period of time after the installation, the owner waives the right to collect the charge. It remains permanently non-collectible whether there is a transfer of ownership or the tenant replaces the air conditioner in the same location.

## Collection Procedure For Rent Controlled Apartments

Where an owner purchases and installs a new air conditioner in a rent controlled apartment, the owner is not required to obtain a DHCR order allowing the owner to collect the IAI charge. However, before the owner may collect this charge, the owner must file with DHCR an *"Owner's Notice of a Rent Increase Based on Increased Services/New Furnishings/Equipment/Painting; and Tenant's Statement of Consent,"* (DHCR Form RN-79b, Part A).

Before collecting either the five dollar (\$5.00) per-month surcharge or the monthly electrical inclusion surcharge from rent controlled tenants, the owner must apply to DHCR for permission to collect the surcharge by filing the *"Owner's Application for Air Conditioner Charges,"* (DHCR Form RN-79b, Part B). Either surcharge may not be collected until DHCR issues an order authorizing the surcharge.

For both rent controlled and rent stabilized apartments, the five dollar (\$5.00) per-month surcharge and the electrical inclusion surcharge are payable by the tenant each month of the year.

The permissible surcharges for air conditioners that were installed before October 1, 1985 will be determined by the rules in effect before October 1, 1985.

*For more information or assistance, call the DHCR Rent InfoLine, or visit your Borough or County Rent Office.*

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92-31 Union Hall Street  
6th Floor  
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South side of 110th St. and below

**Brooklyn**  
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7th Floor  
Brooklyn, NY 11217

**Bronx**  
1 Fordham Plaza  
4th Floor  
Bronx, NY 10458

**Upper Manhattan**  
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North side of 110th St. and above

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