NEW YORK STATE OF OPPORTUNITY. | Homes and Community Renewal

ANDREW M. CUOMO
Governor

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THIRTY FIRST (31st) ANNUAL UPDATE OF SECTION B OF SUPPLEMENT NO. 1 TO OPERATIONAL BULLETIN 84-4:

B. Permissible Charges for the Use and/or Initial Installation of an Air Conditioner for Both Rent Controlled and Rent Stabilized Housing Accommodations in New York City.

This Annual Update reflects the amendments enacted by the Rent Regulation Reform Act of 1993, and is issued pursuant to Section 2527.11 of the Rent Stabilization Code, and Section 2209.8 of the New York City Rent and Eviction Regulations.

ELECTRICAL INCLUSION BUILDINGS

An owner may charge a tenant $319.79* per annum per air conditioner ($26.65 per month) for the use of air conditioners in rent stabilized and rent controlled accommodations which were initially installed between October 1, 2016 and September 30, 2017 if electricity costs are **included** in the rent.

For **RENT STABILIZED APARTMENTS**, this electrical inclusion charge shall take effect on October 1, 2016 and will thereafter be annually adjusted upward or downward depending upon whether the "Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City", prepared by the New York City Rent Guidelines Board (or such research company as the Rent Guidelines Board may choose), shows an increase or decrease in the cost of electricity for electrical inclusion buildings.

For air conditioners in rent stabilized accommodations in electrical inclusion buildings previously installed between October 1, 1985 and September 30, 2017, the allowable charge per annum is hereby decreased to $319.79 per air conditioner ($26.65 per month), effective October 1, 2016.

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* The 2015 charge (estimated average operating cost) per air conditioner of $347.30 per annum ($28.94 per month) decreased to reflect a 7.92% decrease in the price of electricity for electrical inclusion buildings. See Rent Guidelines Board 2016 Price Index of Operating Costs, Report to the Board, New York City Rent Guidelines Board, Page 17, April 14, 2016 (Rev. April 19, 2016).

BUILDING OWNER PROVIDED NEW AIR CONDITIONER

Where a brand new air conditioner is purchased and installed by the owner with the rent controlled or rent stabilized tenant's written consent to pay for it, one-fortieth (1/40th) of the cost of the new air conditioner in buildings that contain 35 or fewer housing accommodations or one-sixtieth (1/60th) of the cost in buildings that contain more than 35 housing accommodations, including any cost of installation, but excluding finance charges, if any, may be included in the base rent. In the case of a rent controlled apartment, the owner must notify DHCR of the rent increase and the increase shall be effective as of the first rent payment date following such notification. In the case of a rent stabilized apartment, separate notification to DHCR is not required, but should be included in the next annual rent registration statement, and the increase is effective on the first rent payment date following installation.

ELECTRICAL EXCLUSION BUILDINGS

Where the rent controlled or rent stabilized tenant pays for his or her own electricity and purchases and installs his or her own air conditioner between October 1, 2016 and September 30, 2017, a $5.00 per month per air conditioner charge will be payable to the owner only if the air conditioner protrudes beyond the window line.

TERMS AND CONDITIONS

For **RENT STABILIZED APARTMENTS**, these charges, with the exception of the one-fortieth (1/40th) charge in buildings that contain 35 or fewer housing accommodations or one-sixtieth (1/60th) of the cost in buildings that contain more than 35 housing accommodations for the owner-purchased and installed brand new air conditioner, do not become part of the base rent for the purpose of computing any guidelines or other increases under the Rent Stabilization Law or Code. For air conditioners initially installed prior to October 1, 1985, the permissible charge is dependent upon the lawful practice then in effect.

Owners can collect the charges from rent stabilized tenants without an order from DHCR. However, an owner cannot collect the charges now for an air conditioner if the owner did not begin charging for the air conditioner at the time it was installed or within a reasonable period of time thereafter. A reasonable period is generally considered to be that amount of time in which an owner would be expected to learn that the air conditioner was installed.

These monthly charges remain collectible throughout the year even if the air conditioner is removed, i.e., during the winter months.

For **RENT CONTROLLED APARTMENTS**, with the exception of the one-fortieth (1/40th) charge in buildings that contain 35 or fewer housing accommodations or one-sixtieth (1/60th) of the cost in buildings that contain more than 35 housing accommodations for the owner-purchased and installed brand new air conditioner, the owner must apply to DHCR before collecting any of these charges. An owner may apply to DHCR by submitting the "Owner's Application for a Rent Increase Based on Increased Services, New Furnishing/Equipment/ Painting; and Tenant's Statement of Consent, Owner's Application for Air Conditioner Charges or For an Increase in Maximum Rent for Painting" (DHCR Form RN-79b). The increase or decrease is not collectible until an order to increase

or decrease the rent is issued by DHCR. Where prior to October 1, 2016, collection of an air conditioner charge was ordered and approved in a specified dollar amount, that charge remains in effect for the current year.

The electrical inclusion charge and the $5.00 per month charge for a tenant purchased and installed air conditioner in an electrical exclusion rent controlled apartment become part of the maximum collectible rent, but they do not affect the compounding of the maximum base rent.

For both **RENT STABILIZED and RENT CONTROLLED APARTMENTS**, for air conditioners initially installed prior to October 1, 1985, the permissible charge is dependent upon the lawful practice then in effect.

Woody Pascal
Deputy Commissioner
for Rent Administration

Dated: September 21, 2016