



Councilmember Jim Graham

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Rental Housing Act of 1985 to require the creation of a searchable online database for all rental housing documents filed with the Rent Administrator; to clarify that the abolition on rent ceilings applies to rent adjustments approved pursuant to housing provider petitions; to exempt low-income elderly tenants and tenants with disabilities from rent adjustments approved pursuant to housing provider petitions; to clarify that a housing provider may not continue to recover capital improvement costs through the selective implementation and non-implementation of approved surcharges on certain units; to modify the housing provider's guaranteed rate of return to 8 percent, and establish purchase price rather than current assessed value as the basis for calculating the housing provider's actual rate of return; to eliminate conditional hardship rent increases; to better ensure that 70 percent tenant approval of a Voluntary Agreement to increase the rent charged is free of coercive influences; to clarify that the Voluntary Agreement provision shall not be used to increase the rent charged absent an appropriate cost justification; to clarify that a Voluntary Agreement must treat current and future tenants equitably; to better ensure that the Voluntary Agreement does not conflict with the purposes of the Rental Housing Act of 1985; to ensure that an affected tenant has the opportunity to be heard before the approval or disapproval of a Voluntary Agreement; to ensure that the Rent Administrator has the opportunity to present grounds for disapproval of a Voluntary Agreement at a proceeding before the D.C. Office of Administrative Hearings; to require proactive rather than automatic or passive approval of a Voluntary Agreement; and to require proof that a reasonable replacement reserve fund is maintained for the accommodation as a part of the filing of a housing provider petition.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this act may be cited as the "Rent Control Hardship Petition Amendment Act of 2014".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

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(a) Section 103(13) (D.C. Official Code § 42-3501.03(13)) is amended by striking the phrase ““Equity” means the portion of the assessed value of a housing accommodation” and inserting the phrase ““Equity” means the portion of the purchase price for a housing accommodation” in its place.

(b) Section 204 (D.C. Official Code § 42-3502.04) is amended by adding a new subsection (m) to read as follows:

“(m) Within 9 months following the effective date of this act, the Rental Accommodations Division of the Department of Housing and Community Development (RAD) and the Office of the Chief Technology Officer (OCTO), in collaboration with the Office of the Tenant Advocate (OTA), shall establish an interactive, searchable online database for the submission and management of all documents that the Rental Housing Act of 1985 requires housing providers to provide to RAD. Within 12 months following the effective date of this act, all housing provider documents provided to RAD within the previous 10 years shall be made available on the online database.”.

(c) Section 206 (D.C. Official Code § 42-3502.06) is amended as follows:

(1) A new subsection (a1) is added to read as follows:

“(a1) For any petition or Voluntary Agreement filed and approved after August 5, 2006, the housing provider shall not preserve any portion of the approved rent increase for future implementation, except to the extent that the requirement of section 208(g) that 12 months shall elapse between rent increases, prevents the implementation of the approved rent increase. Unless and until the Rental Housing Commission promulgates rules and regulations for the granting and reporting of rent concessions based on demonstrable instances of tenant hardship, in no event

1 shall the housing provider report to RAD a rent charged amount that differs from the amount of
2 rent actually demanded from the current tenant. A violation of this section shall be deemed to be
3 a false statement under section 901(b)(2) of the Rental Housing Act of 1985.”.

4 (2) Section 206(f) (D.C. Official Code § 42-3502.06(f)) is amended as follows:

5 (A) Paragraph (1) is amended by striking the phrase “Unless permitted
6 under § 42-3502.10(j), a capital improvement increase in the rent charged as provided under §
7 42-3502.10” and inserting the phrase “Unless permitted under § 42-3502.06(f)(4), an increase in
8 the rent charged pursuant to section 210, 211, 212, 214, or 215 of the Rental Housing Act of
9 1985, housing provider petition” in its place.

10 (B) Paragraph (2) is amended by striking the phrase in subparagraph (A)
11 (ii) and the identical phrase in subparagraph (B), “income of not more than \$40,000 per year at
12 the time of approval by the Rent Administrator of a petition for capital improvements pursuant to
13 § 42-3502.10” and inserting in each subparagraph the phrase “income of not more than \$50,000
14 per year in 2015, adjusted annually for inflation based on the adjustment of general applicability
15 as set forth in section 206(b) of the Rental Housing Act of 1985” in its place.

16 (C) A new paragraph (4) is added to read as follows:

17 “(4) The housing provider may petition the Rent Administrator to assess an increase in
18 the rent charged pursuant to section 210, 211, 212, 214, or 215 of the Rental Housing Act of
19 1985 against elderly tenants and tenants with disabilities, and the Rent Administrator shall
20 approve the petition if the housing provider proves to the satisfaction of the Rent Administrator
21 that the amount which would be collectible from elderly tenants and tenants with disabilities at
22 the housing accommodation, but for the provisions of paragraphs (1) and (2) of this subsection

1 would exceed the amount of real property taxes that would be payable during the calendar year
2 with respect to the housing accommodation, but for the provisions of § 42-3502.06(g).”.

3 (3) Subsection (g) is amended to read as follows:

4 “(g)(1) Any housing provider who provides housing to an elderly tenant or a tenant with
5 a disability and is not permitted under § 42-3502.06(f) to implement, and does not implement, all
6 or any portion of any increase in rent charged pursuant to section 210, 211, 212, 214, or 215 of
7 the Rental Housing Act of 1985, shall receive a tax credit for each unit occupied by an elderly
8 tenant or a tenant with a disability in the amount of \$1 for each \$1 of the approved rent increase
9 that is not implemented. The credit shall be taken against the next installment or installments of
10 real property taxes payable to the District of Columbia coming due with respect to the housing
11 accommodation, inclusive of the land on which it is located.

12 “(2) If an elderly tenant or tenant with a disability exempted from the rent
13 adjustment pursuant to section 210, 211, 212, 214, or 215 of the Rental Housing Act of 1985
14 should cease to reside in a rental unit, the tax credit allowed to the housing provider for that
15 rental unit shall also cease. If another eligible elderly tenant or tenant with a disability becomes a
16 resident of the same rental unit, the housing provider shall provide the exemption to the new
17 tenant, and the tax credit shall continue to be effective.”.

18 (d) Section 210(c) (D.C. Official Code § 42-3502.10(c)) is amended as follows:

19 (1) Paragraph (2) is amended by striking the word “and”.

20 (2) Paragraph (3) is amended by striking the period and inserting a semicolon in
21 its place.

22 (3) A new paragraph (4) is added to read as follows:

1 “(4) In the event that the housing provider has not recovered all costs of the capital
2 improvement within the cost recovery period set forth in paragraphs (1) or (2) of this subsection,
3 and to the extent that this is due to the selective implementation and non-implementation of the
4 approved rent adjustments on certain units, the housing provider shall be deemed to have
5 recovered all costs and shall not continue to impose the rent adjustment under this section.”.

6 (e) Section 212 (D.C. Official Code § 42-3502.12) is amended as follows:

7 (1) Subsection (a) is amended by striking the phrase “allow additional increases
8 in rent which would generate no more than a 12% rate of return” and insert the phrase “allow
9 additional increases in rent which would generate no more than a 8% rate of return” in its place.

10 (2) Subsection (b)(2) is amended by striking the phrase “rate of return” and
11 inserting the phrase “rate of return, provided that, if an encumbrance has been temporarily
12 eliminated to coincide with the filing of a petition under this section, there shall be a rebuttable
13 presumption that the housing provider has filed the petition in bad faith. The petition shall be
14 disapproved if it is determined that the housing provider has acted in bad faith” in its place.

15 (3) Subsection (c) is repealed.

16 (4) A new subsection (d) is added to read as follows

17 “(d) A petition filed under this section shall be accorded an expedited review process and
18 a final decision shall be issued and published within 120 days after the petition has been filed.”.

19 (f) Section 215 (D.C. Official Code § 42-3502.15) is amended to read as follows:

20 “(a) Seventy percent or more of the heads of household, as defined in D.C.
21 Official Code § 42-3401.03(9), residing in each rental unit of a housing accommodation
22 may enter into a Voluntary Agreement with the housing provider to increase or decrease
23 the rent charged; provided, that:

1 “(1) The amount of a rent increase, if any, shall be no greater than the
2 amount the Rent Administrator determines is justified in accordance with section 102 of
3 the Rental Housing Act of 1985 based on the purpose of and the cost justification for the
4 Voluntary Agreement;

5 “(2) The housing provider shall not implement all or any portion of an
6 approved rent increase for any unit or units in a manner that is selective or unequal unless
7 the Rent Administrator determines that it is fair, equitable, and consistent with the
8 purposes of section 102 of the Rental Housing Act of 1985 and this subsection;

9 “(3) If applicable, the Voluntary Agreement shall include a timetable for
10 the commencement and the completion of any work to be done to the housing
11 accommodation;

12 “(4) The Rent Administrator may revoke or suspend the rent increase, and
13 order rent refunds, upon a showing that the housing provider has not commenced or
14 completed the work within a reasonable period of time, if applicable, or has violated any
15 other provision of this subsection.

16 “(b) The Voluntary Agreement must be filed with the Rent Administrator and
17 shall include the signature of each tenant eligible to sign the Agreement, the number of
18 each tenant’s rental unit or apartment, the specific amount of increased or decreased rent
19 each tenant will pay and a statement that the agreement was entered into voluntarily
20 without any form of coercion on the part of the housing provider. If approved by the Rent
21 Administrator, the agreement shall be binding on the housing provider and on all rental
22 units.

23 “(c) Repealed.

1 “(d) The Rent Administrator shall disapprove the Voluntary Agreement if:

2 “(1) All or part of the tenant approval has been induced by duress,
3 harassment, intimidation, coercion, fraud, deceit, mistake, omission or misrepresentation
4 of material facts, or the offer of any benefit that is not provided to all current and all
5 future tenants;

6 “(2) The Voluntary Agreement would result in the inequitable treatment of
7 any current or future tenant;

8 “(3) The Voluntary Agreement fails to include any term or condition
9 imposed on the housing provider or on any tenant, or fails to identify with sufficient
10 specificity the benefit to the tenants; or

11 “(4) The Voluntary Agreement contradicts any provision of section 102 of
12 the Rental Housing Act of 1985, or is used for a purpose other than one contemplated
13 within the Rental Housing Act of 1985, including, but not limited to, the removal of the
14 accommodation from the Rent Stabilization program.

15 “(e) The housing provider shall, by certified mail, return receipt requested, serve
16 an executed copy of the final Voluntary Agreement on all tenants residing in the housing
17 accommodation, and provide each tenant with written notice that he or she has the right
18 to file with the Rent Administrator written objections within 30 days of receipt of such
19 notice, or the housing provider’s submission of additional information to the Rent
20 Administrator. Within 5 business days of serving a copy of the Voluntary Agreement on
21 all such tenants, the housing provider shall submit to the Rent Administrator an affidavit
22 attesting that it has done so along with a copy of the Voluntary Agreement. The Rent
23 Administrator may request additional information from the housing provider. The

1 additional information shall be provided by the housing provider to tenants of the housing
2 accommodation with notice that they have the right to file additional objections with
3 respect to any such information.

4 “(f)(1) A tenant who pursuant to section 206(f) of the Rental Housing Act of 1985 is
5 exempt from paying the Voluntary Agreement rent adjustment shall not be counted towards the
6 70% of tenants necessary to approve the Voluntary Agreement, and shall not be counted in the
7 total number of tenants for purposes of calculating the number of tenants necessary for approval;
8 provided that, this paragraph shall not apply to a tenant who timely files with the Rent
9 Administrator a signed written waiver of the right to the exemption pursuant to section 206(f) of
10 the Rental Housing Act of 1985.

11 “(2) When a Voluntary Agreement has been approved by 70% of the tenants in a
12 housing accommodation and the housing provider, the Rent Administrator may approve the
13 voluntary agreement within 60 days of the housing provider's submission of the Voluntary
14 Agreement to the Rent Administrator, or submission of any additional information requested by
15 the Rent Administrator only if:

16 “(A) Tenants have been provided at least 21 days to submit objections in
17 writing;

18 “(B) No objection has been filed within the applicable time period that
19 raises an issue as to a genuinely disputed material fact.

20 “(3) The Rent Administrator shall transfer the matter to the D.C. Office of
21 Administrative Hearings for an adjudicatory hearing if:

22 “(A) A tenant has raised an objection to the Voluntary Agreement,
23 including any additional information, based on a genuinely disputed material fact; or

1 “(B) The Rent Administrator determines that substantial grounds
2 exist to disapprove the Voluntary Agreement, provided that, the grounds for disapproval
3 shall be included in the transfer order.

4 “(C) Upon the transfer of a Voluntary Agreement case from the
5 Rent Administrator, the D.C. Office of Administrative Hearings shall:

6 “(i) Name the Rent Administrator as a party to the action for the
7 purpose of explaining the grounds for disapproval; and

8 “(ii) Provide any tenant of the affected accommodation an
9 opportunity to participate at the hearing.

10 “(g) No Voluntary Agreement shall be approved except by affirmative action of the Rent
11 Administrator, the Office of Administrative Hearings, or the Rental Housing Commission.”.

12 (g) Section 216 (D.C. Official Code § 42-3502.16) is amended by adding a new
13 subsection (n) to read as follows:

14 “(n) As a part of any petition or Voluntary Agreement filed pursuant to section 210, 211,
15 212, 214, or 215, the housing provider for any multi-family dwelling shall offer proof that a
16 reasonable replacement reserve fund is maintained for the accommodation. The housing
17 provider’s failure to do so shall be a factor in determining whether the requested rent adjustments
18 should be disapproved or modified.”.

19 Sec. 3. Fiscal impact

20 The Council adopts the fiscal impact statement in the committee report as the
21 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home
22 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
23 206.02(c)(3)).

1 Sec. 4. Effective date.

2 This act shall take effect following approval by the Mayor (or in the event of veto
3 by the Mayor, action by the Council to override the veto), a 30-day period of
4 Congressional review as provided in section 602(c)(1) of the District of Columbia Home
5 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
6 206.02(c)(1)), and publication in the District of Columbia Register.