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WHAT RENTERS SHOULD KNOW ABOUT THE “ELDERLY TENANT AND TENANT WITH A DISABILITY PROTECTION AMENDMENT ACT OF 2016”

The “Elderly Tenant and Tenant with a Disability Protection Amendment Act of 2016” (DC Law 21-239, effective April 7, 2017) (the Act) enhances the affordability of rent-controlled units that are occupied by elderly tenants and tenants with disabilities. Here is what you need to know as a renter in the District of Columbia:

1. How does the Act enhance the affordability of a rent-controlled unit occupied by an elderly tenant or tenant with a disability?

The Act adds a further limit -- the Social Security Cost-of-Living Adjustment (SS COLA) -- on the amount of an annual standard rent increase for any qualified tenant, without regard to income. Thus, the cap is now *the least* of: (1) the Consumer Price Index (CPI-W); (2) 5 percent of the current rent charged; or (3) the SS COLA.

Example: A qualified tenant’s current rent is \$1,000. During rent control year 2017 (May 1, 2017 through April 30, 2018), the maximum standard rent increase for that unit based on the CPI-W (1.1%) would be \$11; one based on the 5 percent cap would be \$50; and one based on the SS COLA (0.3%) would be \$3. The SS COLA applies since it results in the lowest rent increase. Thus, the maximum standard rent increase for the unit during rent control year 2017 is \$3.

2. How is “elderly” defined?

An “elderly tenant” is defined as a tenant who is 62 years of age or older.

3. How is “tenant with a disability” defined?

This definition is based on the definition of “disability” in the federal Americans with Disabilities Act (“a physical or mental impairment that substantially limits one or more major life activities”) (42 U.S.C. § 12102(1)(A)).

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4. How do tenants qualify for the Act's protections?

To qualify, a tenant *must* register his or her elderly or disability status, along with the required proof of status, with the *Rental Accommodations Division (RAD)* of the Department of Housing and Community Development (DHCD). RAD is located at 1800 Martin Luther King Avenue SE, Washington, DC 20020, and can be contacted via phone at (202) 442-9505.

The Act makes it easier to register elderly or disability status with RAD by allowing registration via mail, fax (202-645-5884), email (Dhcd.rad@dc.gov), or in person.

5. If a tenant qualifies for elderly or disability status after an annual rent increase, does the tenant have to wait until the next annual rent increase to benefit from the law?

No. If a tenant qualifies as having elderly or disability status within 12 months of a rent increase, the housing provider must adjust the previous rent increase downward to reflect that status. The adjustment must be made effective as of the first month after the tenant has registered his or her status with RAD.

6. Does the Act offer any protection from rent increases other than the standard annual rent increase?

Yes, however, this portion of the law is subject to funding and as of October 1, 2017, is not yet in effect.

Currently, a qualified “low-income” tenant is exempt from any approved Capital Improvement surcharges. To qualify as low-income, the tenant’s income may not exceed \$40,000.

Once the Act is funded, this exemption will apply to rent increases approved pursuant to any type of housing provider petition. This includes Capital Improvements, Hardships, Services and Facilities, Substantial Rehabilitations, and Voluntary Agreements. The income threshold to qualify for the exemption will increase to 60 percent of the area median income.

A tax credit will be available to compensate the housing provider for rental revenue lost due to the exemption, as is already in place regarding Capital Improvement surcharges.

7. What penalties apply if the Act is violated?

A housing provider may not challenge an elderly or disability status application frivolously or in bad faith. If found to have done so, the housing provider is subject to a penalty of between 2 percent and 100 percent of the annual rent charged, or treble that amount.

Similarly, if an application is found to have been filed in bad faith, the tenant is subject to a penalty of double the difference between the lower and the higher rent charged amounts, plus interest.