

4106 CLAIMS OF EXEMPTION FROM RENT STABILIZATION PROGRAM

- 4106.1 A housing provider who claims that a rental unit is exempt from the Rent Stabilization Program shall file a Registration/Claim of Exemption Form with the Rent Administrator in accordance with § 4101. All rental units in the District of Columbia shall be covered by the Rent Stabilization Program unless a valid claim of exemption is filed in accordance with this section.
- 4106.2 Each Registration/Claim of Exemption Form shall contain a signed oath or affirmation by the housing provider that a claim of exemption is valid.
- 4106.3 A Registration/Claim of Exemption Form that is accepted for filing in accordance with § 4102.10 shall, after review, be issued an exemption number by the Rent Administrator if the claimed exemption appears valid.
- 4106.4 The Rent Administrator may initiate a review of a claim of exemption at any time to require a housing provider to show his or her entitlement to the exemption through a show cause proceeding, in accordance with § 3926.
- 4106.5 A housing provider who claims an exemption shall bear the burden, in all circumstances, of proving its entitlement to the exemption and that its claim was properly and timely filed.
- 4106.6 Failure to file or to later provide accurate information in accordance with the Act and this section may result in the rejection of the filing of the Registration/Claim of Exemption Form, a determination by the Rent Administrator that the registration is defective, a determination in any legal proceeding that the housing provider has failed to meet the registration requirements of this chapter, or the imposition of other penalties and sanctions, including rent refunds and civil fines under § 901 of the Act (D.C. Official Code § 42-3509.01) and § 4217 of this title.
- 4106.7 Claims of exemption found to contain defects may be corrected by the housing provider in accordance with § 4104.
- 4106.8 Prior to the execution of a lease or other rental agreement, a prospective tenant of any unit claimed to be exempt under § 205(a) of the Act (D.C. Official Code § 42-3502.05(a)) and this section shall receive from the housing provider a written notice, on a form published by the Rent Administrator in accordance with § 222(b)(1) of the Act (D.C. Official Code § 42-3502.22(b)(1)) and § 4111 of this chapter, advising the prospective tenant that rent increases for the housing accommodation are not regulated by the Rent Stabilization Program. As provided in §§ 4111.8-4111.10, for any rental unit that could otherwise be properly claimed as exempt but for which a tenant did not receive notice of the exempt status prior to execution of the rental agreement, the housing provider shall be deemed to

District of Columbia Municipal Regulations

have not met the registration requirements of this chapter until ninety (90) days after the tenant is provided with the required notice.

- 4106.9 Notwithstanding any other requirement of this chapter, a housing accommodation or rental unit that is owned by the federal or District of Columbia government or an instrumentality thereof shall be exempt from the Rent Stabilization Program under § 205(a)(1) of the Act (D.C. Official Code § 42-3502.05(a)(1)) without filing a Registration/Claim of Exemption Form.
- 4106.10 A rental unit may be exempt under § 205(a)(1) of the Act (D.C. Official Code § 42-3502.05(a)(1)) (the government subsidy exemption), as long as the rental unit is enrolled in a formal program of the federal or District of Columbia government under which the operating expenses or mortgage are subsidized.
- 4106.11 If any rental unit may be exempt under § 205(a)(1) of the Act (D.C. Official Code § 42-3502.05(a)(1)) solely because of a tenant-specific rent subsidy, such as the Housing Choice Voucher program, the unit shall be registered as if covered by the Rent Stabilization Program, and the housing provider shall file an Amended Registration Form, as published by the Rent Administrator, for the exempt unit stating the rent charged prior to the exempt tenancy, the identification of the subsidy program, and any supporting documentation as the Rent Administrator may require. The housing provider shall file an Amended Registration Form within 30 days after the termination of participation in the subsidy program or a change to a different subsidy program, which shall show the computation of the allowable rent in accordance with § 209 of the Act (D.C. Official Code § 42-3502.09) and § 4203 of this chapter and shall include any supporting documentation of that computation.
- 4106.12 A rental unit may be exempt under § 205(a)(2) of the Act (D.C. Official Code § 42-3502.05(a)(2)) (the new construction exemption), where:
- (a) The rental unit is:
 - (1) In a housing accommodation for which the building permit was issued after December 31, 1975; or
 - (2) Newly created in an addition to a housing accommodation or converted from non-residential space in a housing accommodation, where the addition or conversion was first covered by a Certificate of Occupancy for housing use issued after January 1, 1980; and
 - (b) If the construction of the new housing accommodation under subparagraph (a)(1) required the demolition of an existing housing accommodation that was covered by the Act, the Registration/Claim of Exemption Form is accompanied by a certification that the number of

District of Columbia Municipal Regulations

newly constructed rental units exceeds the number of demolished rental units.

4106.13 A rental unit may be exempt under § 205(a)(3) of the Act (D.C. Official Code § 42-3502.05(a)(3)) (the small landlord exemption) if:

- (a) The rental unit for which exemption is claimed meets the requirements of § 4107;
- (b) The Registration/Claim of Exemption Form includes the name and street address (not including mailbox services or post office box addresses) of each person having a direct or indirect interest in the rental unit, as defined under § 4107; and
- (c) The Registration/Claim of Exemption Form includes the addresses of all other housing accommodations or rental units located in the District of Columbia in which the owners, individually or collectively, have a direct or indirect interest, and the number of rental units in each listed housing accommodation.

4106.14 A rental unit may be exempt under § 205(a)(4) of the Act (D.C. Official Code § 42-3502.05(a)(4)) (the continuous vacancy exemption), where it meets the following requirements:

- (a) The housing accommodation was:
 - (1) Continuously vacant and not subject to a rental agreement during the period beginning on January 1, 1985 and ending on July 17, 1985 (the effective date of the Act); or
 - (2) Pursuant to § 206(a)(4) of the Rental Housing Act of 1980, continuously vacant and not subject to a rental agreement during the period beginning on January 1, 1980 and ending on March 4, 1981; and
- (b) The Registration/Claim of Exemption Form is filed prior to re-rental and includes a certification to the Rent Administrator that the housing accommodation fulfills the conditions set forth in subsection (a) and is in substantial compliance with the D.C. Housing Regulations when offered for rent.

4106.15 A rental unit may be exempt under § 205(a)(5) of the Act (D.C. Official Code § 42-3502.05(a)(5)) (the cooperative exemption) if:

- (a) The rental unit for which exemption is claimed meets the requirements of § 4108;

District of Columbia Municipal Regulations

- (b) The Registration/Claim of Exemption Form is filed in accordance with § 4107 (the small landlord exemption) and includes the name and street address (not including mailbox services or post office box addresses) of each person having a direct or indirect interest in the proprietary lease or occupancy agreement, as defined under § 4107; and
- (c) The Registration/Claim of Exemption Form includes the addresses of all other housing accommodations or rental units located in the District of Columbia in which the owners, individually or collectively, have a direct or indirect interest, and the number of rental units in each listed housing accommodation.

4106.16 A rental unit may be exempt under § 205(a)(7) of the Act (D.C. Official Code § 42-3502.05(a)(7)) if the housing accommodation of which the unit is a part:

- (a) Is subject to a building improvement plan under the Apartment Improvement Program administered with grant funds under the Housing and Community Development Act of 1974 (42 U.S.C. §§ 5301 *et seq.*); provided, that the building improvement plan, accompanied by a certification signed by the tenants of seventy percent (70%) of the occupied units of the housing accommodation, is or was filed with the Rent Administrator at the time of execution; or
- (b) Receives rehabilitation assistance under a multi-family assistance program of the Department of Housing and Community Development.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1380 (March 7, 1986); as amended by Notice of Final Rulemaking published at 33 DCR 2556, 2662 (May 2, 1986); as amended by Final Rulemaking published at 68 DCR 012634 (December 3, 2021); as amended by Final Rulemaking published at 70 DCR 001710 (February 3, 2023).