

4215 PROHIBITED RENT ADJUSTMENTS FOR ELDERLY TENANTS AND TENANTS WITH A DISABILITY

- 4215.1 An approved rent surcharge for which petition was approved after October 1, 2018, shall not be implemented on and shall be removed from a rental unit while the unit is occupied by an elderly tenant or a tenant with a disability with a qualifying income, as published annually by the Commission (“protected tenant”).
- 4215.2 For the purposes of this section, any part of the rent charged for a rental unit shall be deemed a rent surcharge if the unit is or becomes occupied by a protected tenant and the rent adjustment corresponding to that part of the rent charged was approved or implemented pursuant to:
- (a) A related services or facilities petition under § 211 of the Act (D.C. Official Code § 42-3502.11) and § 4211 of this chapter that is approved after October 1, 2018; or
 - (b) A voluntary agreement under § 215 of the Act (D.C. Official Code § 42-3502.15) and § 4213 of this chapter approved after April 7, 2017.
- 4215.3 A rent surcharge listed in § 4215.2 may be implemented for a rental unit occupied by a protected tenant if the protected tenant waives his or her rights under that subsection in a written document that states that the waiver is made voluntarily, without coercion, and with full knowledge of the ramifications of a waiver of their rights. A copy of the written waiver shall be filed with the Rental Accommodations Division simultaneously with the Certificate of Rent Adjustment that shows the implementation of the rent surcharge.
- 4215.4 Notwithstanding § 4215.1, a rent surcharge, not including a rent surcharge based on a voluntary agreement, may be implemented for a rental unit occupied by a protected tenant if the Chief Financial Officer of the District of Columbia determines and notifies the Rent Administrator in writing that funds are not available for the housing provider to receive the tax credit established by § 224(g) of the Act (D.C. Official Code § 42-3502.24(g)). The Rent Administrator shall notify any affected housing provider in writing, by U.S. mail or email, if funds are not available and shall include a copy of the Chief Financial Officer’s written determination.
- 4215.5 A rent surcharge authorized under § 4215.4 may be implemented by filing and serving a notice of rent adjustment in accordance with §§ 4204 and 4205, which shall include a copy of the Chief Financial Officer’s written determination on the availability of funds.
- 4215.6 Authorization to implement a rent surcharge under § 4215.4 shall not permit a housing provider to increase any rent less than twelve (12) months after any prior increase in the rent charged for the rental unit, as provided by § 4204.1, or during

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the term of a valid, written lease that establishes the rent charged, as provided by § 4204.12.

- 4215.7 Authorization to implement a rent surcharge under § 4215.4 shall not permit a housing provider to implement more than one (1) rent adjustment at a time, as provided by § 4204.1, except for any approved and previously implemented rent surcharges for which tax credits have become unavailable.
- 4215.8 Notwithstanding § 4204.1, after a protected tenant vacates a rental unit, if the unit has become entirely vacant, a housing provider may re-implement any approved and previously implemented rent surcharges for the rental unit in addition to implementing a vacancy adjustment under § 4207.
- 4215.9 The Commission shall publish before March 1 of each year, in addition to the certifications required by § 4206.3, the maximum annual household income that qualifies for status as a protected tenant. The revised income qualification shall take effect on the same day the annual adjustment of general applicability for the year.
- 4215.10 A tenant may apply for protected tenant status, for the purposes of this section or for the purposes of § 4206.7 without regard to income, by completing a registration form published by the Rent Administrator and filing it with the Rental Accommodations Division, along with the necessary documentation, as determined by the Mayor in accordance with § 224(d) of the Act (D.C. Official Code § 42-3502.24(d)), to support the claim.
- 4215.11 The Rent Administrator shall immediately send notice, by U.S. mail or email, to the housing provider of a tenant who files a completed application in accordance with § 4215.10, stating the date of the filing and whether the tenant claims to be an elderly tenant, tenant with a disability, or to have a qualifying income.
- 4215.12 A tenant's protected status shall be effective on the first day of the first month that begins at least five (5) days after the filing of a completed application in accordance with § 4215.10. The protected status shall be and shall remain effective unless and until:
- (a) The Rent Administrator issues an order determining that the tenant failed to demonstrate that he or she is an elderly tenant, is a tenant with a disability, or, if required, has a qualifying income; or
 - (b) The term of the tenant's certification expires as may be determined by the Mayor pursuant to § 224(j) of the Act (D.C. Official Code § 42-3502.24(j)).
- 4215.13 The housing provider of tenant claiming protected status may file a request that the Rent Administrator deny the tenant's application if:

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- (a) Thirty (30) days or less has elapsed since the completed application was filed;
- (b) The housing provider has substantial grounds to believe that the tenant does not qualify for protected status or that relevant documentation is fraudulent or has been falsified;
- (c) The housing provider has contacted and conferred with the tenant in a good faith effort to resolve the dispute; and
- (d) The housing provider serves a copy of the request on the tenant prior to or simultaneously with filing the request with the Rent Administrator.

4215.14 The Rent Administrator shall issue an order denying a tenant's completed application for protected status only if:

- (a) Thirty (30) days or less has elapsed since the completed application was filed;
- (b) The tenant has been given notice that the Rent Administrator has substantial grounds to believe that the tenant does not qualify for protected status and that relevant documentation is fraudulent or has been falsified, and the tenant has been given an opportunity to respond; and
- (c) The Rent Administrator finds clear and convincing evidence of error, fraud, falsification, or misrepresentation in the completed application or relevant documentation.

4215.15 If the Rent Administrator finds that an application for protected status should be denied with regard to income but does not find clear and convincing evidence of error, fraud, falsification, or misrepresentation with regard to age or disability, the Rent Administrator shall issue an order denying the application for protected status only for the purposes of rent surcharges as provided in this section but not for the purposes of adjustments of general applicability as provided in § 4206.7.

4215.16 By the effective date of a tenant's protected status without regard to income, a housing provider shall implement a rent rollback as required by § 4206.8.

4215.17 If a housing provider has implemented a rent rollback in accordance with § 4215.16 by the effective date of a tenant's protected status, and the Rent Administrator has subsequently denied the tenant's application, and if the Rent Administrator finds that the tenant acted in bad faith, as defined in § 4217.7, then within twenty-one (21) days of the denial, the Rent Administrator may order the tenant to pay to the housing provider double the difference between the amount of the rolled-back rent and the otherwise-lawful rent for the rental unit.

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- 4215.18 By the effective date of a tenant's protected status with regard to income, a housing provider shall implement a rent rollback of all surcharges prohibited by this section.
- 4215.19 In any administrative proceeding on a housing provider's petition or an application for approval of a voluntary agreement in which a tenant's protected status is a relevant issue to the approval or denial, in whole or in part, of the petition or application, the Rent Administrator, on his or her own initiative or at the request of the Office of Administrative Hearings, shall transmit a copy of each completed application for protected status, whether or not a claim of qualifying income has been made, that has been filed and not administratively denied, for any current tenant of the housing accommodation. The Rent Administrator or Office of Administrative Hearings, in their discretion, may stay a proceeding on a petition or application for a reasonable time to allow for the filing, review, and contest of any application(s) for protected status in accordance with this section.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1409 (March 7, 1986); as amended by Notice of Final Rulemaking published at 33 DCR 2656, 2669 (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).