

4107 SMALL LANDLORD EXEMPTION

- 4107.1 A rental unit may be exempt from the Rent Stabilization Program pursuant to § 205(a)(3) of the Act (D.C. Official Code § 42-3502.05(a)(3)) (the small landlord exemption) if:
- (a) A Registration/Claim of Exemption Form is filed with the Rental Accommodations Division in accordance with §§ 4101, 4102, and 4106 of this chapter; and
 - (b) The claim of exemption for the rental unit, as filed, meets each requirement of this section.
- 4107.2 A rental unit may be exempt under this section if the Registration/Claim of Exemption Form shows that:
- (a) A total of four (4) or fewer natural persons own or have an interest, directly or indirectly, in the rental unit; and
 - (b) The four (4) or fewer natural persons listed pursuant to paragraph (a) own or have an interest, directly or indirectly, in a collective total of four (4) or fewer rental units within the District of Columbia.
- 4107.3 A natural person does not include a partnership, corporation, limited liability company, an estate or revocable, irrevocable, or other trust except as provided by § 4107.4, or any other business association with a separate legal existence.
- 4107.4 A decedent's estate (or the personal representative thereof) or a testamentary trust that owns or has an interest in a rental unit may claim the small landlord exemption if the unit was validly claimed to be exempt under the decedent's ownership, at the time of his or her death.
- 4107.5 A housing provider who claims the small landlord exemption shall file a separate Registration/Claim of Exemption Form for each housing accommodation with a separate street address. Each Registration/Claim of Exemption Form on which the small landlord exemption is claimed shall list all rental units within the District of Columbia that are owned by the landlord or in which the landlord has an interest, directly or indirectly.
- 4107.6 All persons who own or have an interest, directly or indirectly, in each rental unit for which an exemption is claimed under this section shall be listed on the Registration/Claim of Exemption Form.
- 4107.7 All rental units within the District of Columbia that are owned by or in which each person listed in accordance with § 4107.6 has an interest, directly or indirectly, shall also be listed on the Registration/Claim of Exemption Form.

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- 4107.8 An interest, whether direct or indirect, in a rental unit shall mean ownership, in whole or in part, of the real property that constitutes or contains a rental unit. Membership in a cooperative housing association or ownership of a condominium unit shall not, on its own, be deemed to be an interest in any rental unit other than the unit that the member or owner is entitled to use and occupy.
- 4107.9 For the purposes of § 4107.8, an indirect interest in a rental unit shall be attributed to a person if:
- (a) The rental unit is owned, directly or indirectly by or for an individual's spouse, other than a spouse who is legally separated from the individual; or
 - (b) The rental unit is owned, directly or indirectly, by or for:
 - (1) A partnership, including a limited liability company or S corporation, or an unincorporated association, in which the person, directly or indirectly, has an interest of five percent (5%) or more in either the profits or capital of the partnership or association, whichever proportional interest is greater;
 - (2) An estate or trust of which the person is a beneficiary who has an actuarial interest of five percent (5%) or more, except as provided by § 4107.13, assuming the maximum exercise of discretion by the fiduciary in favor of the beneficiary, or a trust of which the person is considered the substantial owner under the Internal Revenue Code (26 U.S.C. §§ 671-679); or
 - (3) A corporation of which the person owns, directly or indirectly, more than five percent (5%) of the total value of the stock in the corporation.
- 4107.10 For the purposes of § 4107.9, if a person has an option to acquire an ownership or equity interest in a business entity, or an option to acquire an ownership or equity interest in a rental unit, not including an option to purchase pursuant to the Tenant Opportunity to Purchase Act of 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3404.01 et seq.), the interest shall be attributed to the person.
- 4107.11 For the purposes of § 4107.9(b), a business entity's ownership of a second business entity shall be attributed to an individual with an interest in the first business entity. Sequential attributions of ownership shall be in proportion to the percentage of the owner's interest; except, that any interest greater than fifty percent (50%) of the voting or managing rights in a partnership or corporation shall be attributed as one hundred percent (100%) ownership. For example, if Person A owns ten percent (10%) of the general stock in Corporation B, and

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Corporation B owns twenty five percent (25%) of the general stock in Corporation C, Person A shall be deemed to have a two and a half percent (2.5%) interest in Corporation C. For further example, if Person A owns 10% of the general stock in Corporation B, and Corporation B owns fifty one percent (51%) of “class A” voting shares of Corporation C, regardless of the total outstanding value of “class B” non-voting shares, Person A shall be deemed to have a ten percent (10%) interest in Corporation C.

- 4107.12 For the purposes of § 4107.9(b)(2), a beneficiary of an estate or trust who cannot under any circumstances receive any part of an interest held, directly or indirectly, by the estate or trust, including the proceeds from the disposition thereof, or the income therefrom, does not have an actuarial interest in the rental unit. Thus, where an interest held, directly or indirectly, by a decedent’s estate has been specifically bequeathed to certain beneficiaries and the remainder of the estate has been specifically bequeathed to other beneficiaries, the interest is attributable only to the beneficiaries to whom it is specifically bequeathed. Similarly, a remainderman of a trust who cannot under any circumstances receive any direct or indirect interest in the rental unit which is a part of the corpus of the trust (including any accumulated income therefrom or the proceeds from a disposition thereof) does not have an actuarial interest in the rental unit. However, an income beneficiary of a trust does have an actuarial interest in the rental unit if he or she has any right to the income from the rental unit, even though under the terms of the trust instrument the direct or indirect interest can never be distributed to him or her.
- 4107.13 Any rental units listed or required to be listed on a Registration/Claim of Exemption Form filed under this section that are part of a building, structure, or housing accommodation owned by a cooperative housing association shall be subject to § 4108.
- 4107.14 A rental unit shall not be omitted from a Registration/Claim of Exemption Form filed under this section by reason that it is vacant, unless the housing provider has permanently discontinued rental use of the unit, and, if applicable, the previous tenant of the unit was evicted in compliance with § 501 of the Act (D.C. Official Code § 42-3505.01).
- 4107.15 A Registration/Claim of Exemption Form filed pursuant to this section shall be amended or refiled whenever required by § 4103. If a change in ownership of any listed rental unit or in the interest(s) of any listed owner would invalidate the claimed exemption, a new Registration/Claim of Exemption Form shall be filed for each rental unit that was previously claimed as exempt within thirty (30) days of the change.
- 4107.16 A housing provider shall not claim the small landlord exemption for any rental unit or housing accommodation that was covered by the Rent Stabilization Program prior to the current landlord taking ownership, if the landlord took

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ownership by one of the means listed in § 402(c)(2) of the Tenant Opportunity to Purchase Act of 1980 (D.C. Official Code § 42-3404.02(c)(2)) (“grandfathered unit”). If a housing provider claims the small landlord exemption for any other rental units, any grandfathered units shall be counted towards the aggregate number of rental units in which any owner has an interest in accordance with § 4107.2, but the grandfathered unit shall be separately registered as covered by the Rent Stabilization Program.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1382 (March 7, 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).