

# FACT SHEET



Andrew M. Cuomo, Governor

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DIVISION OF HOUSING AND COMMUNITY RENEWAL  
OFFICE OF RENT ADMINISTRATION

## #40 Preferential Rents

A preferential rent is a rent which an owner agrees to charge that is lower than the legal regulated rent that the owner could lawfully collect.

Pursuant to the Housing Stability & Tenant Protection Act (HSTPA) of 2019, tenants that were paying a preferential rent as of June 14, 2019, retain the preferential rent for the life of the tenancy. Rent Guidelines Board increases and other increases allowed by the Rent Stabilization Law or Emergency Tenant Protection Act are to be applied to the preferential rent. A tenant who believes that they are entitled to a renewal lease with a preferential rent but is being charged more than that amount may file a rent overcharge or lease violation complaint with DHCR or a court of competent jurisdiction. (See **Examples below.**) Please note that certain government regulatory agreement/financed affordable housing programs may not be bound by this limitation; please contact the supervising government agency for more information.

Owners may terminate the preferential rent and charge the higher legal regulated rent (with applicable increases) only when the tenant permanently vacates the apartment. In addition, the legal regulated rent upon which these increases are based must be written in the vacancy or renewal lease in which the preferential rent was first charged and in all subsequent renewal leases in order for the owner to charge the prior legal rent upon a vacancy. Registration with DHCR of the legal regulated rent by itself will not establish the legal rent for future usage.

An owner cannot use or enforce a clause in a rent-stabilized lease that provides that the owner may end a preferential or a discounted rent where the tenant fails to pay the preferential or discounted rent on time or by a certain day of the month.

An owner cannot use or enforce any other lease clause that conditions the payment of a discounted rent on the performance of an act by the tenant, such as the tenant's payment of the rent electronically. Such lease clauses may be challenged by the tenant in a rent overcharge or lease violation complaint with DHCR or can be reviewed by a court of competent jurisdiction.

### **Example 1:**

Mr. Jones signed a one year lease, effective October 1, 2018. The lease cited a legal regulated rent of \$1,200 and a preferential rent of \$1,000.

1. On October 1, 2019, when Mr. Jones' one year lease renewal begins, the legal regulated rent increases by 1.5% to \$1,218 due to the annual rent guidelines board increase, and the preferential rent increases by 1.5% to \$1,015. Mr. Jones will pay the \$1,015 rent.

2. Owners can no longer terminate the collection of the preferential rent at the time of lease renewal pursuant to the HSTPA of 2019 since the tenant's lease in effect on or after June 14, 2019 has a preferential rent.

**Example 2:**

Ms. Sanchez has a lease with a preferential rent of \$1,000, set to expire on 6/30/19. Ms. Sanchez signed a one year renewal lease on 4/30/2019 and returned it the same day. The renewal lease was effective 7/1/19. The renewal lease cited a legal regulated rent of \$1,218 but ended the preferential rent which was \$1,000.

1. On July 1, 2019, when Ms. Sanchez's one year renewal lease begins, the legal regulated rent will increase by 1.5% From \$1,200 to \$1,218 due to the annual rent guidelines board increase. However, the preferential rent will also increase by 1.5% to \$1,015. **Ms. Sanchez will pay the \$1,015 preferential rent.**
2. Although the renewal lease was signed before the effective date of the HSTPA, it did not become effective until July 1, 2019. As the prior lease in effect on June 14, 2019 had a preferential rent, pursuant to the HSTPA of 2019, the tenant's renewal lease must be based on that preferential rent.

**Sources:**

Housing Stability & Tenant Protection Act (HSTPA) of 2019

*For more information or assistance, you may visit your Borough Rent Office.*

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