

An Act to Amend Rent Control and Tenant Protections

An Act to Amend Rent Control and Tenant Protections maintains all tenant protections established in the existing Rent Control and Tenant Protections ordinance. The Act removes incentives for landlords to increase rents for existing tenants and discourages no-cause evictions by allowing for the establishment of new Base Rents at the time of a new tenancy, but only in instances when the prior tenant moves out voluntarily.

BE IT ORDAINED:

That Chapter 6, Sections 6-233 and 6-234 of the Portland City Code are hereby amended to read as follows:

Sec. 6-233. Establishment of base rent.

(a) Base Rent for Current Covered Units. Beginning on January 1, 2021, each Covered Unit shall be registered with the City in accordance with Section 6-151. Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of June 1, 2020 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance, except as otherwise provided within this section.

(b) Base rent for Discontinued Covered Units. (i) If a Covered Unit was not required to be registered with the City as of April 1, 2021, but is required to be registered with the City after such date, the Base Rent shall be the amount of Rent charged 120 days prior to the date when the Covered Unit became required to be registered, or if no Rent was charged at such time, the first Rent charged by the Landlord any time thereafter. The Base Rent for any new Covered Unit entering the rental housing market for the first time shall be the City of Portland Buildings and Building Regulations Code of Ordinances Chapter 6 Sec. 6-233 Rev. 11-8-2022 6-84 Rent charged to the first Tenant, as set by the Landlord. (ii) If a Covered Unit was required to be registered with the City as of April 1, 2021, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the time the Covered Unit was removed from the rental housing market. (iii) If a Covered Unit was required to be registered with the City as of January 1, 2021, but is subsequently removed from the rental housing market for a period of at least sixty (60) months, the Base Rent for such a Covered Unit shall be the Rent charged to the first Tenant upon reentry into the rental housing market, as set by the Landlord.

(c) Base rent upon new tenancy following voluntary termination. If the Tenancy of a Covered Unit is terminated voluntarily by a tenant, the landlord may establish a new Base Rent at their discretion. Voluntary termination occurs when a tenant decides to return the leased premises to the landlord before the expiration of the lease or determines not to renew a lease. The Housing Safety Office shall investigate any report that a tenancy was not terminated voluntarily by the tenant, or that the tenant was coerced or unreasonably influenced by the landlord to terminate the tenancy. Any tenancy in which the property owner served the tenant with a notice to quit or summons and complaint for forcible entry and detainer shall not be deemed to be a situation in which the tenant voluntarily terminated the tenancy.

(~~d~~e) Base rent following major renovation or reconfiguration of Covered Units. Upon a major renovation or reconfiguration of a Covered Unit, the Landlord may charge no more than the Banked Rent for that unit, or may apply to the Rent Board for determination of the appropriate increased Base Rent. When determining the appropriate increased Base Rent, the Rent Board may consider factors including the increase in floor area, the addition or upgrade of amenities, the amount necessary to ensure a fair return on investment, and any other factor determined relevant in the opinion of the Rent Board; the Rent Board may consider any amount of Banked Rent accrued for that unit, but after determining the appropriate Base Rent, all previously accrued Banked Rent shall be forfeited.

(d) Base rent following consolidation of Covered Units. When two (2) or more Covered Units are consolidated to create a single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit.

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2021, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage for the following calendar year, and shall announce City of Portland Buildings and Building Regulations Code of Ordinances Chapter 6 Sec. 6-234 Rev. 11-8-2022 6-85 and explain the methodology for calculating the Allowable Increase Percentage at the first meeting of the Rent Board following such publication. The Rent Board shall hear public comment after such announcement.

(b) A Landlord may not increase the rent charged for a Covered Unit within twelve (12) months following a previous Rent increase. After twelve (12) months, the Landlord may only increase the rent charged for a Covered Unit by an amount that conforms to the following specifications:

1. Annual Increase Percentage. Unless a Landlord qualifies for an additional increase as further described below, rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.

~~2. New Tenancy. A landlord may increase the rent on a Covered Unit by five percent (5%) of the base rent in addition to any other allowable increases when a new tenant occupies a unit, but only if the previous Tenancy was terminated voluntarily by the previous Tenant, without coercion or unreasonable influence from the Landlord. This increase may be applied at most once per twelve (12) months, regardless of the number of new tenancies. The Housing Safety Office shall investigate any report that the Tenancy was not terminated voluntarily by the Tenant, or that the Tenant was coerced or unreasonably influenced by the Landlord to terminate the Tenancy. Any tenancy in which the property owner served the tenant with a notice to quit or summons and complaint for forcible entry and detainer shall not be deemed to be a situation in which the previous tenant voluntarily terminated the tenancy.~~

~~23.~~ Banked Rent. If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.

~~43.~~ Additional Rent Board Approved Increases necessary to ensure a fair return on investment. In addition to the above rent adjustments, upon receipt of an application submitted by the Landlord, the Rent Board may approve additional rent increases necessary to ensure a fair return on investment. To

calculate what amount is necessary to ensure a fair return on investment, the Rent Board shall employ generally acceptable Maintenance of Net Operating Income methodology, and may not consider any valuation based or capitalization-based methodology or any calculation or methodology factoring market rent or market value of the Covered Unit. Rent board approval under this provision is intended to ensure a fair rate of return under abnormal, unexpected, or irregular circumstances, including, but not limited to, capital improvements and minor renovations, uninsured repairs, the provision of new housing services, revaluation for property tax assessment, or other unusual expenses. The Rent Board shall presume that the Allowable Increase Percentage will be sufficient to satisfy all regular increases in operating costs, routine maintenance expenses, and other normal or regular costs or expenses, allowing the Landlord to maintain a fair return on investment. The Landlord submitting an application for an additional rent increase bears the burden of proof, including the burden of providing all necessary documentation, to demonstrate that the increase is necessary to receive a fair return on investment. Such documentation shall include, but is not limited to: historical net operating income, revenue and expenses; the costs and expenses requiring Rent board approval of an additional increase; and what portion of shared costs and expenses can be fairly attributed to each individual covered unit.

(c) At no time may a Landlord raise the rent of a Covered Unit by more than ten (10) percent. Any rent increases available to a Landlord in excess of ten (10) percent must be banked for later use.

(d) Before increasing the rent of a Covered Unit, a Landlord must send a signed document to the Tenant(s) no fewer than ninety (90) days before the effective date of the rent increase. This document must include the date on which the Tenancy began, the date on which the rent will be increased, the amount of the increase, any remaining Banked Rent that has not been included in the Rent increase, and the appropriate justifications for such a rent increase as defined in Section 6-234(b) above. Failure to provide such documentation shall be considered a violation of this Article, and any notice not containing all such documentation shall be void.

(e) Tenants, individually or collectively, who receive notice of a rent increase that they believe does not conform with this Section may file a complaint with the Housing Safety office. The Housing Safety office shall promptly investigate such complaint and take appropriate action. If, within fourteen (14) days of filing such a complaint, the notice is not rescinded by the Landlord, an appeal of said rent increase may be filed with the Rent Board. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider de novo the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. An increase determined by the Board to be more than is allowed by this Article shall be considered a violation and the Board may determine the appropriate penalty for any such violation in a manner consistent with the provisions of this Code. Multiple tenants collectively alleging the same or similar violations against a single Landlord, including but not limited to a Tenants Union or members of or participants in a Tenants Union, may file their complaints or appeals collectively as a single document, and the Rent Board shall hear all such matters together as a single complaint or appeal; but notwithstanding such consolidated hearing the Rent Board may elect to issue separate decisions. f) A landlord who is not in substantial compliance with any provision of this chapter, including but not limited to the Rent Stabilization Ordinance, may not demand,

accept or retain any rent increase otherwise permitted by this section or any other provision of this Code or Maine statute.