

FACT SHEET



Andrew M. Cuomo, Governor

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DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

#23 Fuel Cost Adjustment *Questions and Answers for Owners*

What is a Fuel Cost Adjustment?

New York City Local Law 20 of 1980 amended the New York City Rent Control Law to permit rent adjustments based on the changes, up or down, in the prices of heating fuels. Beginning in 1981, and for subsequent years, the rent adjustment is based on fuel price changes between the beginning and end of the prior year.

Who is covered by the Fuel Cost Adjustment law?

Only owners and tenants of rent controlled apartments located in New York City are covered by this law.

What are the Fuel Cost Adjustment filing requirements?

Building owners must certify that they are maintaining essential services and that it has been at least 12 months prior to filing that DHCR ordered a rent restoration for any reduction in rent for failure to provide heat and hot water or other essential services. Buildings that have not qualified for Maximum Base Rent increases may be eligible for fuel cost adjustments.

To obtain the adjustment, the owner must complete, certify and serve upon each eligible tenant, a copy of DHCR's *Owner's Report, Certification, and Notice of Fuel Cost Adjustment Eligibility* (DHCR Form RA-33.10). The owner must file with DHCR a master copy of the Report, together with Schedule A or B where applicable, and a schedule of monthly rent increases for all the rent controlled tenants who were served with copies of the Report. The rent adjustment is collectible when the tenant and DHCR are served with the completed Report forms and schedules. No order from the Rent Administrator is required.

May the owner collect the Fuel Cost Adjustment from a tenant whose Maximum Collectible Rent (MCR) equals or exceeds the Maximum Base Rent (MBR) for the apartment?

Yes, however, the owner must certify that the property will not be yielding an 8 1/2% return on the equalized assessed value after receiving rent increases for the fuel cost adjustment.

How is the Fuel Cost Adjustment computed?

The quantity of fuel delivered during the previous year is divided by the number of rooms in the building, not to exceed the annual maximum consumption standard per room for the type of fuel used. This figure is then multiplied by the price change, divided by 12 months and multiplied by 75%. Seventy-five percent (75%) of the annual fuel cost per room is passed along to the tenant.

May an owner who failed to file for Fuel Cost Adjustments for past years, file for future adjustments?

Yes, an owner may file for future fuel cost adjustments; however, the past fuel cost adjustments are forfeited.

May an owner who failed to file in 1989 for a Fuel Cost Adjustment, file in 1990 for the 1989 adjustment?

No. To get a rent increase based upon price changes that occurred in 1988, the owner had to file in 1989. If the owner did not file in 1989, the fuel cost adjustment for 1989 is forfeited.

Do Fuel Cost Adjustments granted in 1989 terminate at the end of 1989?

No. These increases continue to be collectible, unless modified or revoked by order of the Rent Administrator. Any fuel cost adjustment for 1989 must be added to or subtracted from the 1980 through 1988 adjustments, known as the cumulative fuel cost adjustment.

Is the Fuel Cost Adjustment retroactive?

Fuel cost adjustments are retroactive to January 1st of each year provided the owner files the Report within 60 days after the fuel consumption and price change standards are released. For reports filed with DHCR after the 60 day period, the increase is prospective. Where an owner has obtained one or more fuel cost increases previously and the cost of fuel decreases in a subsequent year, the owner must file a timely Report and decrease the tenant's fuel cost adjustment or the entire fuel cost adjustment will be suspended for that 12 month period.

Is there a penalty if an owner does not file a Fuel Cost Adjustment Report when the cost of fuel decreases?

Yes. When the cost of fuel decreases, the owner must file a timely Report and pass the decrease on to the tenants. Failure to serve the tenants and DHCR within 60 days after the fuel consumption and price change standards are released will result in the suspension and revocation of all previous fuel increases for a period of 12 months.

Is the Fuel Cost Adjustment incorporated in the rent for an apartment?

No. The law states that the fuel cost adjustment is not to be incorporated in the rent on which Maximum Base Rent increases are computed.

Can the Report be challenged if a tenant has reason to believe that the Report is not accurate?

Yes, a tenant has the right to challenge, based on any known error, omission, or misrepresentation on the Report or any attachments. The tenant should first contact the owner and attempt to resolve the disagreement. If differences remain, the tenant has 33 days after receipt of the Report to file the *Tenant's Challenge to Landlord's Report and Certification of Fuel Cost Adjustment and Eligibility* (DHCR Form RAC-2202.13).

What is the penalty if DHCR finds that an owner falsified a Fuel Cost Adjustment Report?

The law prescribes the following penalty for false certification: **a refund of fuel cost increases collected in 2 prior years, plus ineligibility for future cost adjustments for 2 succeeding years from the date of the determination that a false certification was made. Other penalties and sanctions of the law may also be imposed.**

For more information or assistance, call the DHCR Rent InfoLine, or visit your Borough or County Rent Office.

Queens

92-31 Union Hall Street
6th Floor
Jamaica, NY 11433
(718) 739-6400

Lower Manhattan

25 Beaver Street
5th Floor
New York, NY 10004
South side of 110th St. and below

Brooklyn

55 Hanson Place
7th Floor
Brooklyn, NY 11217

Bronx

2400 Halsey Street
Bronx, NY 10461

Upper Manhattan

163 W. 125th Street
5th Floor
New York, NY 10027
North side of 110th St. and above

Westchester County

75 South Broadway
2nd Floor
White Plains, NY 10601
(914) 948-4434