

1 Brianne K. Nadeau

2 Councilmember Brianne Nadeau

3 ANITA BONDS

4 Councilmember Anita Bonds

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6 A BILL

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10 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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14 To amend Tenant Opportunity to Purchase Act of 1980 to modernize references to tenants with  
15 disabilities; to amend the Rental Housing Act of 1985 to authorize the Rental Housing  
16 Commission to publish the most recent annual cost-of-living increase in benefits for  
17 social security recipients; to exempt low-income elderly and tenants with disabilities  
18 from rent adjustments approved pursuant to housing provider petitions; to raise the  
19 maximum annual income of an elderly or tenant with a disability who is exempt from  
20 housing provider petitions; to modernize references to tenants with disabilities; to  
21 prohibit rent increases where the housing provider has failed to provide proper notice  
22 regarding the eligibility of elderly and tenants with disabilities for the lower cap on an  
23 annual rent increase, or where a non-resident owner has failed to appoint and maintain a  
24 local registered agent; to lower the cap on the annual standard rent increase for a unit  
25 occupied by an elderly tenant or a tenant with a disability, to the least of 5 percent of the  
26 current rent, the Consumer Price Index (CPI-W), or the Social Security Cost of Living  
27 Adjustment (COLA); and to permit a tenant to establish elderly or disability status by  
28 presenting to a housing provider a completed government registration form, along with  
29 the minimum information necessary to demonstrate status qualification.

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31 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
32 act may be cited as the “Elderly and Tenants with Disabilities Protection Amendment Act of  
33 2015”.

34 Sec. 2. The Tenant Opportunity to Purchase Act of 1980, effective September 10, 1980  
35 (D.C. Law 3-86; D.C. Official Code § 42-3401.01 *et seq.*), is amended as follows:

36 (a) Section 101(4) (D.C. Official Code § 42-3401.01(4)) is amended by striking the  
37 phrase “disabled tenants” and inserting the phrase “tenants with a disability” in its place.

38 (b) Section 102 (D.C. Official Code § 42-3401.02) is amended as follows:

39 (1) Paragraph (3) is amended by striking the phrase “disabled tenants” and  
40 inserting the phrase “tenants with a disability” in its place.

41 (2) Paragraph (4) is amended by striking the phrase “non-disabled tenants” and  
42 inserting the phrase “tenants without a disability” in its place.

43 (c) Section 203(d)(4) (D.C. Official Code § 42-3402.03(d)(4)) is amended by striking the  
44 phrase “disabled tenant” and inserting the phrase “tenant with a disability” in its place.

45 (d) Section 208 (D.C. Official Code § 42-3402.08) is amended as follows:

46 (1) The section heading is amended by striking the phrase “disabled tenancy” and  
47 inserting the phrase “tenants with a disability tenancy” in its place.

48 (2) Subsection (b) is amended by striking the phrase “disabled tenant” and  
49 inserting the phrase “tenant with a disability” in its place.

50 (3) Subsection (c)(1) is amended by striking the phrase “disabled tenant”  
51 wherever it appears, and inserting the phrase “tenant with a disability” in its place.

52 (e) Section 210(b) (D.C. Official Code § 42-3402.410(b)) is amended by striking the  
53 phrase “disabled tenant” and inserting the phrase “tenant with a disability” in its place.

54 Sec. 3. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C.  
55 Official Code § 42-3401.01 *et seq.*), is amended as follows:

56 (a) Section 202(a)(3) (D.C. Official Code sec. 42-3502.02(a)(3)) is amended to read as  
57 follows:

58 “(3) Certify and publish within 30 days after July 17, 1985, and prior to March 1 of each  
59 subsequent year:

60 “(A) The annual adjustment of general applicability in the rent charged of a rental  
61 unit under § 42-3502.06;

62           “(B) The most recent annual cost-of-living increase in benefits for social security  
63 recipients established pursuant to section 415(i) of the Social Security Act, approved August 28,  
64 1950 (64 Stat. 506; 42 U.S.C. § 415(i)); and

65           “(C) The maximum rent adjustment that may be imposed on a unit occupied by an  
66 elderly tenant or tenant with a disability pursuant to section 208(h)(2) (D.C. Official Code § 42-  
67 3502.08(h)(2)).”.

68           (b) Section 206(f) (D.C. Official Code § 42-3502.06(f)) is amended as follows:

69           (1) Paragraph (1) is amended by striking the phrase “a capital improvement  
70 increase in the rent charged as provided under § 42-3502.10 shall not be assessed against any  
71 elderly tenant or tenant with a disability” and inserting the phrase “an increase in the rent  
72 charged pursuant to sections 210, 211, 212, 214, or 215 of the Rental Housing Act of 1985, shall  
73 not be assessed against any elderly tenant or tenant with a disability” in its place.

74           (2) Paragraph (2) is amended by striking the phrase in subparagraph (A)(ii) and  
75 the identical phrase in subparagraph (B), “income of not more than \$40,000 per year at the time  
76 of approval by the Rent Administrator of a petition for capital improvements pursuant to § 42-  
77 3502.10” and inserting in each subparagraph the phrase “income of not more than \$50,000 per  
78 year in 2015, adjusted annually for inflation based on the adjustment of general applicability as  
79 set forth in section 206(b) of the Rental Housing Act of 1985” in its place.

80           (c) Section 206(g) (D.C. Official Code § 42-3502.06(g)) is amended by striking the  
81 phrase “disabled tenant” wherever it appears, and inserting the phrase “tenant with a disability”  
82 in its place.

83           (d) Section 208 (D.C. Official Code § 42-3502.08) is amended as follows:

84           (1) Subsection (a)(1) is amended as follows:

85 (A) Subparagraph (D) is amended by striking the word “and”.

86 (B) Subparagraph (E) is amended by striking the period and inserting a  
87 semicolon in its place.

88 (C) New subparagraphs (F) and (G) are added to read as follows:

89 “(F) The housing provider, if a non-resident of the District of Columbia, has appointed  
90 and maintained a registered agent pursuant to 14 D.C.M.R. 203; and

91 “(G) The housing provider has provided the tenant with written notice of the maximum  
92 standard rent increase that applies to elderly tenants and tenants with disabilities and the means  
93 by which the tenant may establish elderly or disability status as set forth in this subsection (h) of  
94 this section, and has not required the tenant to provide more proof of age or disability than the  
95 minimum information necessary to establish such status.”.

96 (2) Subsection (h) is amended as follows:

97 (A) Paragraph (2) is amended by striking the phrase “elderly or disabled  
98 tenant without regard to income but otherwise as defined in section 206(f) shall not exceed the  
99 lesser of 5% or the adjustment of general applicability” and inserting the phrase “elderly tenant  
100 or tenant with a disability shall not exceed 5% of the current rent charged, the adjustment of  
101 general applicability, or the most recent annual cost-of-living increase in benefits for social  
102 security recipients established pursuant to section 415(i) of the Social Security Act, approved  
103 August 28, 1950 (64 Stat. 506; 42 U.S.C. § 415(i)), whichever is least” in its place.

104 (B) New paragraphs (3) through (11) are added to read as follows:

105 “(3) A notice of rent adjustment pursuant to paragraph (1) or (2) of this subsection shall  
106 set forth in bold lettering the maximum standard rent increase percentage that applies to elderly  
107 tenants and tenants with disabilities.

108           “(4) The housing provider shall, upon the tenant’s request, provide the tenant with a  
109 current copy of the application form issued by the Rent Administrator for purposes of  
110 establishing status as an elderly tenant or tenant with a disability.

111           “(5) For purposes of this section, a tenant may establish elderly status by presenting to the  
112 housing provider at the rental accommodation a completed “elderly or disability status”  
113 application form and the minimum documentation necessary to establish his or her age, including  
114 a passport, birth certificate, District-issued driver’s license or identification card, or such other  
115 documentation as the Rent Administrator may deem sufficient.

116           “(6) For purposes of this section, a tenant may establish disability status by presenting to  
117 the housing provider at the rental accommodation a completed “elderly or disability status”  
118 application form and the minimum documentation necessary to establish his or her disability,  
119 including an award letter for disability benefits from the U.S. Social Security Administration, or  
120 a letter from a physician stating that the tenant has a disability as defined in 42 U.S.C.  
121 §12102(1), or such other documentation as the Rent Administrator may deem sufficient.

122           “(7) The housing provider shall maintain for at least 3 years copies of any completed  
123 application form and supporting documentation submitted by the tenant pursuant to paragraph  
124 (5) or (6) of this subsection, and shall provide the Rent Administrator with these documents at  
125 such time and in such place and manner as the Rent Administrator shall prescribe, but in no  
126 event later than the effective date of the first applicable rent adjustment following the tenant’s  
127 compliance with paragraph (5) or (6) of this subsection.

128           “(8) The tenant’s elderly or disability status shall be effective as of the first day of the  
129 first month following his or her compliance with paragraph (5) or (6) of this subsection, as  
130 applicable, and the housing provider shall adjust the rent charged accordingly by no more than

131 the amount allowed pursuant to paragraph (2) of this subsection. The housing provider shall not  
132 increase the amount of this rent adjustment unless and until the Rent Administrator or hearing  
133 officer has determined that the tenant has failed to qualify for elderly or disability status pursuant  
134 paragraphs (10) and (11) of this subsection. If the effective date of the tenant's elderly or  
135 disability status occurs less than 12 months after the effective date of a rent adjustment by 2%  
136 plus the adjustment of general applicability, the housing provider shall reduce the rent charged  
137 by 2% of the previous rent charged as of the effective date of the tenant's elderly or disability  
138 status.

139       “(9) If the housing provider has substantial grounds to believe that the tenant does not  
140 qualify for elderly or disability status, and that relevant documentation is fraudulent or has been  
141 falsified, and if efforts to resolve the dispute directly with the tenant are unavailing, then the  
142 housing provider may challenge the tenant's application by:

143               “(A) Notifying the tenant of the basis for the challenge; and

144               “(B) Filing a petition to deny the application with the Rent Administrator, within  
145 5 business days of the tenant's compliance with paragraph (5) or (6) of this subsection.

146       “(10) The Rent Administrator or hearing officer shall deny the tenant's application only  
147 upon clear and convincing evidence of fraud, falsification, or misrepresentation, and only if the  
148 tenant has been given the opportunity to respond to the housing provider's challenge to his or her  
149 application; provided further, that if the housing provider's challenge is determined to have been  
150 frivolous or made in bad faith, the housing provider shall be deemed to have made an unlawful  
151 demand for rent for no less than a 12-month period in an amount of no less than 2% of the  
152 current rent charged, and shall be liable for treble damages, pursuant to section 901(a) of (D.C.  
153 Official Code § 42-3509.01(a)).

154 “(11) For purposes of this section the term:

155 “(A) “Elderly tenant” means any tenant who is 62 years of age or older; and

156 “(B) “Tenant with a disability” means any tenant who has a disability as defined

157 in section 3(1) of the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat.

158 329; 42 U.S.C. § 12102(1)) and 29 CFR § 1630.2(g)(1).”.

159 (e) Section 223 (D.C. Official Code § 42-3502.23) is amended by striking the phrase

160 “disabled tenants” and inserting the phrase “tenants with a disability” in its place.

161 Sec. 4. Fiscal impact statement.

162 The Council adopts the fiscal impact statement in the committee report as the fiscal

163 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,

164 approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

165 Sec. 5. Effective date.

166 This act shall take effect following approval by the Mayor (or in the event of veto by the

167 Mayor, action by the Council to override the veto), a 30-day period of congressional review as

168 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

169 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of

170 Columbia Register.