

# Properly Calculate Interest on Rent Overcharge Amount to Avoid Triple Damages

You probably know that if you promptly refund an overcharge to a tenant who has filed a rent overcharge complaint against you, the Division of Housing and Community Renewal (DHCR) shouldn't hit you with triple damages for the amount of the overcharge. But to avoid that penalty, your refund must also include interest (currently set at 9 percent per year) on the overcharge amount, warns Steven Sidrane, of counsel to the Hewlett, N.Y., law firm of Sidrane & Schwartz-Sidrane, LLP.

Calculating the exact amount of interest to refund to the tenant can get confusing, he says. That's because the 9 percent interest is based on a per year amount, while most overcharge awards don't cover exactly one year. To help you, we spoke with David Cabrera, DHCR's former deputy counsel. We've also given you a rent overcharge interest calculator you can use. **ALWAYS**

## Four Steps to Take

According to Cabrera, you should take the following steps to calculate the interest amount.

**Step #1:** Start with the first month that you collected a rent overcharge. Multiply the rent overcharge amount you collected that month by .0075 (this is the 9 percent annual interest rate, divided by 12).

**Step #2:** Multiply the number you get in Step #1 by the number of months from the date you first collected the overcharge for that month until the date you refunded the overcharge amount. This number is the interest you must pay for that month's overcharge.

**Step #3:** For each subsequent month during which you collected a rent overcharge, repeat the same method of calculation set out in Steps #1 and #2. That is, multiply the rent overcharge amount you collected in the particular month by .0075 and then multiply that result by the number of months from the date you first collected the overcharge for that month until the date you refunded the overcharge amount.

**Step #4:** Add up the interest amounts you calculated using Steps #1, #2, and #3 for each month you collected an overcharge. This total is the interest amount you must refund to the tenant.

*Example:* On Jan. 21, 2004, you get a rent overcharge complaint that one of your tenants filed with the DHCR. After reviewing the apartment's rent history, you discover that, starting on Sept. 1, 2002, you collected a rent overcharge of \$54 a month and continued to collect this rent overcharge for the next 12 months. On Sept. 1, 2003, you renewed the tenant's lease and the rent overcharge you collected from

the tenant increased to \$60 per month. You continued collecting this monthly \$60 rent overcharge for five months. On Feb. 1, 2004, you reduced the tenant's rent to the legal regulated rent, stopped collecting any rent overcharge, and returned the entire overcharge amount, plus interest, to the tenant.

Following the above steps, here's how you would figure out the amount of interest you must give the tenant in addition to your refund of the actual overcharge amount:

**Step #1:** Start with September 2002 (the first month you collected a rent overcharge). Multiply the rent overcharge amount for that month (\$54) by .0075. You get \$0.405—that is, 40½ cents.

**Step #2:** Multiply \$0.405 by 17, which is the number of months from the date you first collected the overcharge for that month (Sept. 1, 2002) until the date that you refunded the overcharge amount (Feb. 1, 2004). You get \$6.89 (rounded up from \$6.885).

*(continued on p. 8)*

## ► Monthly Rent Overcharge Interest Calculator

Here's a calculator you can use to determine the amount of interest you owe a tenant for each month that you collected a rent overcharge from him. Add up the amounts you get for each month (line 3) to calculate the total interest you must return to the tenant.

- 1. Enter monthly rent overcharge amount . . . . . \_\_\_\_\_
- 2. Multiply line 1 by .0075 . . . . . \_\_\_\_\_
- 3. Multiply line 2 by the number of months between the date you first collected the overcharge for that month until the date that you refunded the overcharge amount . . . . . \_\_\_\_\_

*(Line 3 is the interest amount you must return to the tenant for that month of rent overcharge.)*

**CALCULATE INTEREST** (continued from p. 7)

**Step #3:** For each subsequent month during which you collected a rent overcharge, repeat the same method of calculation set out in Steps #1 and #2:

Oct. 2002:	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 16 = \$6.48.$
Nov. 2002	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 15 = \$6.08$ (rounded up from \$6.075).
Dec. 2002	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 14 = \$5.67.$
Jan. 2003	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 13 = \$5.27$ (rounded up from \$5.265).
Feb. 2003	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 12 = \$4.86.$
March 2003	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 11 = \$4.46$ (rounded up from \$4.455).
April 2003	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 10 = \$4.05.$
May 2003	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 9 = \$3.65$ (rounded up from \$3.645).
June 2003	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 8 = \$3.24.$
July 2003	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 7 = \$2.84$ (rounded up from \$2.835).
Aug. 2003	$\$54 \times .0075 = \$0.405;$ $\$0.405 \times 6 = \$2.43.$
Sept. 2003	$\$60 \times .0075 = \$0.45;$ $\$0.45 \times 5 = \$2.25.$
Oct. 2003	$\$60 \times .0075 = \$0.45;$ $\$0.45 \times 4 = \$1.80.$
Nov. 2003	$\$60 \times .0075 = \$0.45;$ $\$0.45 \times 3 = \$1.35.$
Dec. 2003	$\$60 \times .0075 = \$0.45;$ $\$0.45 \times 2 = \$ .90.$
Jan. 2004	$\$60 \times .0075 = \$0.45$ $\$0.45 \times 1 = \$0.45.$

**Step #4:** Add up the interest amounts you calculated for each month you collected a rent overcharge. You get a total of \$55.78. ■

**UPDATE**

### ► *Have Employees Take HPD Lead Paint Course Now to Avoid Violating New Law*

When the city's new lead-based paint law takes effect on Aug. 2, 2004, your employees will no longer legally be able to do certain routine maintenance tasks that may disturb lead-based paint in apartments where a child under age 7 lives or in common areas—such as correcting peeling paint or fixing a leaky pipe behind a wall—unless they've taken a course on lead safe work practices. This course must be given or authorized by the Department of Housing Preservation and Development (HPD), the federal Environmental Protection Agency (EPA), or the federal Department of Housing and Urban Development (HUD). The new law requires employees to take such a course before doing work that will disturb two to 100 square feet of lead-based paint or paint of unknown lead content in buildings covered by the new law.

If an employee who hasn't taken the course disturbs lead-based paint or paint of an unknown lead content while doing maintenance work, you'll be violating the city's new lead-based paint law. The law doesn't specify what penalties apply in this situation. But if a tenant sues you for a child's lead-poisoning, he may point to this violation of the law to help buttress his case against you.

HPD is now offering a free course that your employees can take so they can do this work, says HPD spokesperson Carol Abrams. This course is offered at various locations around the city. Here's what you should know.

#### **What Course to Take**

The eight-hour course is called "lead safe work practices (Course 600)."

#### **What Course Covers**

The course covers the procedures your employees should use to reduce the risks associated with lead-based paint while performing routine maintenance and repairs.

#### **How Course Helps Prepare for New Law**

Employees who take this course can perform work that will disturb two to 100 square feet of lead-based paint or paint of unknown lead content. For more information, see "Follow New Work Practices When Doing Work that Will Disturb Lead-Based Paint," *ALI*, April 2004, p. 6.

**PRACTICAL POINTER:** If work in your building will disturb more than 100 square feet of lead-based paint or paint of an unknown lead content, the new law requires that this work be done by a lead-paint abatement firm certified by the EPA. HPD also offers courses that allow employees of these firms to become EPA-certified.

#### **How to Register**

To register for the HPD course and to find the location nearest you, call HPD at (212) 863-8830 or register online at its Web site, [www.nyc.gov/hpd](http://www.nyc.gov/hpd).

**PRACTICAL POINTER:** HPD is also offering a free course for owners and managers on the new law's requirements. HPD recommends that you take this course. It's called "Local Law 1 of 2004 Owner compliance (Course 305)" and is a three-hour course. ■