

3673

2013-2014 Regular Sessions

I N S E N A T E

February 11, 2013

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to providing that vacancy leases and renewals thereof for rent regulated housing accommodations shall be for a term of one year

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions a and (a-1) of section 10 of section 4 of
2 chapter 576 of the laws of 1974, constituting the emergency tenant
3 protection act of nineteen seventy-four, subdivision a as amended by
4 chapter 234 of the laws of 1984 and subdivision (a-1) as amended by
5 section 8 of part B of chapter 97 of the laws of 2011, are amended to
6 read as follows:

7 a. For cities having a population of less than one million and towns
8 and villages, the state division of housing and community renewal shall
9 be empowered to implement this act by appropriate regulations. Such
10 regulations may encompass such speculative or manipulative practices or
11 renting or leasing practices as the state division of housing and commu-
12 nity renewal determines constitute or are likely to cause circumvention
13 of this act. Such regulations shall prohibit practices which are likely
14 to prevent any person from asserting any right or remedy granted by this
15 act, including but not limited to retaliatory termination of periodic
16 tenancies and shall require owners to grant a new one or two year vacan-
17 cy or renewal lease at the option of the tenant; PROVIDED, HOWEVER, THAT
18 FOR VACANCY AND RENEWAL LEASES WHICH TAKE EFFECT ON OR AFTER JANUARY
19 FIRST, TWO THOUSAND FOURTEEN, SUCH REGULATIONS SHALL REQUIRE OWNERS TO
20 GRANT A NEW ONE YEAR VACANCY OR RENEWAL LEASE, except where a mortgage
21 or mortgage commitment existing as of the local effective date of this
22 act provides that the owner shall not grant a one-year lease; and shall

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD07118-01-3

1 prescribe standards with respect to the terms and conditions of new and
2 renewal leases, additional rent and such related matters as security
3 deposits, advance rental payments, the use of escalator clauses in leas-
4 es and provision for increase in rentals for garages and other ancillary
5 facilities, so as to insure that the level of rent adjustments author-
6 ized under this law will not be subverted and made ineffective. Any
7 provision of the regulations permitting an owner to refuse to renew a
8 lease on grounds that the owner seeks to recover possession of the hous-
9 ing accommodation for his own use and occupancy or for the use and occu-
10 pancy of his immediate family shall require that an owner demonstrate
11 immediate and compelling need and shall not apply where a member of the
12 housing accommodation is sixty-two years of age or older, has been a
13 tenant in a housing accommodation in that building for twenty years or
14 more, or has an impairment which results from anatomical, physiological
15 or psychological conditions, other than addiction to alcohol, gambling,
16 or any controlled substance, which are demonstrable by medically accept-
17 able clinical and laboratory diagnostic techniques, and which are
18 expected to be permanent and which prevent the tenant from engaging in
19 any substantial gainful employment.

20 [(a-1)] A-1. provides that, notwithstanding any provision of this act,
21 the legal regulated rent for any vacancy lease entered into after the
22 effective date of this subdivision shall be as hereinafter set forth.
23 The previous legal regulated rent for such housing accommodation shall
24 be increased by [the following: (i) if the vacancy lease is for a term
25 of two years,] twenty percent of the previous legal regulated rent[; or
26 (ii) if the vacancy lease is for a term of one year the increase shall
27 be twenty percent of the previous legal regulated rent less an amount
28 equal to the difference between (a) the two year renewal lease guideline
29 promulgated by the guidelines board of the county in which the housing
30 accommodation is located applied to the previous legal regulated rent
31 and (b) the one year renewal lease guideline promulgated by the guide-
32 lines board of the county in which the housing accommodation is located
33 applied to the previous legal regulated rent]. In addition, if the legal
34 regulated rent was not increased with respect to such housing accommo-
35 dation by a permanent vacancy allowance within eight years prior to a
36 vacancy lease executed on or after the effective date of this subdivi-
37 sion, the legal regulated rent may be further increased by an amount
38 equal to the product resulting from multiplying such previous legal
39 regulated rent by six-tenths of one percent and further multiplying the
40 amount of rent increase resulting therefrom by the greater of (A) the
41 number of years since the imposition of the last permanent vacancy
42 allowance, or (B) if the rent was not increased by a permanent vacancy
43 allowance since the housing accommodation became subject to this act,
44 the number of years that such housing accommodation has been subject to
45 this act. Provided that if the previous legal regulated rent was less
46 than three hundred dollars the total increase shall be as calculated
47 above plus one hundred dollars per month. Provided, further, that if
48 the previous legal regulated rent was at least three hundred dollars and
49 no more than five hundred dollars in no event shall the total increase
50 pursuant to this subdivision be less than one hundred dollars per month.
51 Such increase shall be in lieu of any allowance authorized for the one
52 or two year renewal component thereof, but shall be in addition to any
53 other increases authorized pursuant to this act including an adjustment
54 based upon a major capital improvement, or a substantial modification or
55 increase of dwelling space or services, or installation of new equipment
56 or improvements or new furniture or furnishings provided in or to the

1 housing accommodation pursuant to section six of this act. The increase
2 authorized in this subdivision may not be implemented more than one time
3 in any calendar year, notwithstanding the number of vacancy leases
4 entered into in such year.

5 S 2. Paragraphs 4, 5-a and 12 of subdivision c of section 26-511 of
6 the administrative code of the city of New York, paragraph 5-a as
7 amended by section 7 of part B of chapter 97 of the laws of 2011, are
8 amended to read as follows:

9 (4) includes provisions requiring owners to grant a one or two year
10 vacancy or renewal lease at the option of the tenant; PROVIDED, HOWEVER,
11 THAT FOR VACANCY AND RENEWAL LEASES WHICH TAKE EFFECT ON OR AFTER JANU-
12 ARY FIRST, TWO THOUSAND FOURTEEN, SUCH CODE SHALL REQUIRE OWNERS TO
13 GRANT A NEW ONE YEAR VACANCY OR RENEWAL LEASE, except where a mortgage
14 or mortgage commitment existing as of April first, nineteen hundred
15 sixty-nine, provides that the mortgagor shall not grant a one year
16 lease;

17 (5-a) provides that, notwithstanding any provision of this chapter,
18 the legal regulated rent for any vacancy lease entered into after the
19 effective date of this paragraph shall be as hereinafter provided in
20 this paragraph. The previous legal regulated rent for such housing
21 accommodation shall be increased by [the following: (i) if the vacancy
22 lease is for a term of two years,] twenty percent of the previous legal
23 regulated rent[; or (ii) if the vacancy lease is for a term of one year
24 the increase shall be twenty percent of the previous legal regulated
25 rent less an amount equal to the difference between (a) the two year
26 renewal lease guideline promulgated by the guidelines board of the city
27 of New York applied to the previous legal regulated rent and (b) the one
28 year renewal lease guideline promulgated by the guidelines board of the
29 city of New York applied to the previous legal regulated rent]. In addi-
30 tion, if the legal regulated rent was not increased with respect to such
31 housing accommodation by a permanent vacancy allowance within eight
32 years prior to a vacancy lease executed on or after the effective date
33 of this paragraph, the legal regulated rent may be further increased by
34 an amount equal to the product resulting from multiplying such previous
35 legal regulated rent by six-tenths of one percent and further multiply-
36 ing the amount of rent increase resulting therefrom by the greater of
37 (A) the number of years since the imposition of the last permanent
38 vacancy allowance, or (B) if the rent was not increased by a permanent
39 vacancy allowance since the housing accommodation became subject to this
40 chapter, the number of years that such housing accommodation has been
41 subject to this chapter. Provided that if the previous legal regulated
42 rent was less than three hundred dollars the total increase shall be as
43 calculated above plus one hundred dollars per month. Provided, further,
44 that if the previous legal regulated rent was at least three hundred
45 dollars and no more than five hundred dollars in no event shall the
46 total increase pursuant to this paragraph be less than one hundred
47 dollars per month. Such increase shall be in lieu of any allowance
48 authorized for the one or two year renewal component thereof, but shall
49 be in addition to any other increases authorized pursuant to this chap-
50 ter including an adjustment based upon a major capital improvement, or a
51 substantial modification or increase of dwelling space or services, or
52 installation of new equipment or improvements or new furniture or
53 furnishings provided in or to the housing accommodation pursuant to this
54 section. The increase authorized in this paragraph may not be imple-
55 mented more than one time in any calendar year, notwithstanding the
56 number of vacancy leases entered into in such year.

1 (12) permits subletting of units subject to this law pursuant to
2 section two hundred twenty-six-b of the real property law provided that
3 (a) the rental charged to the subtenant does not exceed the stabilized
4 rent plus a ten percent surcharge payable to the tenant if the unit
5 sublet was furnished with the tenant's furniture; (b) the tenant can
6 establish that at all times he or she has maintained the unit as his or
7 her primary residence and intends to occupy it as such at the expiration
8 of the sublease; (c) an owner may terminate the tenancy of a tenant who
9 sublets or assigns contrary to the terms of this paragraph but no action
10 or proceeding based on the non-primary residence of a tenant may be
11 commenced prior to the expiration date of his or her lease; (d) where an
12 apartment is sublet the prime tenant shall retain the right to a renewal
13 lease and the rights and status of a tenant in occupancy as they relate
14 to conversion to condominium or cooperative ownership; (e) where a
15 tenant violates the provisions of subparagraph (a) of this paragraph the
16 subtenant shall be entitled to damages of three times the overcharge and
17 may also be awarded attorneys fees and interest from the date of the
18 overcharge at the rate of interest payable on a judgment pursuant to
19 section five thousand four of the civil practice law and rules; (f) the
20 tenant may not sublet the unit for more than a total of two years,
21 including the term of the proposed sublease, out of the four-year period
22 preceding the termination date of the proposed sublease; PROVIDED,
23 HOWEVER, THAT FOR SUBLEASES COMMENCING ON OR AFTER JANUARY FIRST, TWO
24 THOUSAND FOURTEEN, A TENANT MAY NOT SUBLET THE UNIT FOR MORE THAN ONE
25 YEAR. The provisions of this subparagraph shall only apply to subleases
26 commencing on and after July first, nineteen hundred eighty-three; (g)
27 for the purposes of this paragraph only, the term of the proposed
28 sublease may extend beyond the term of the tenant's lease. In such
29 event, such sublease shall be subject to the tenant's right to a renewal
30 lease. The subtenant shall have no right to a renewal lease. It shall be
31 unreasonable for an owner to refuse to consent to a sublease solely
32 because such sublease extends beyond the tenant's lease; and (h)
33 notwithstanding the provisions of section two hundred twenty-six-b of
34 the real property law, a not-for-profit hospital shall have the right to
35 sublet any housing accommodation leased by it to its affiliated person-
36 nel without requiring the landlord's consent to any such sublease and
37 without being bound by the provisions of subparagraphs (b), (c) and (f)
38 of this paragraph. Commencing with the effective date of this subpara-
39 graph, whenever a not-for-profit hospital executes a renewal lease for a
40 housing accommodation, the legal regulated rent shall be increased by a
41 sum equal to fifteen percent of the previous lease rental for such hous-
42 ing accommodation, hereinafter referred to as a vacancy surcharge,
43 unless the landlord shall have received within the seven year period
44 prior to the commencement date of such renewal lease any vacancy
45 increases or vacancy surcharges allocable to the said housing accommo-
46 dation. In the event the landlord shall have received any such vacancy
47 increases or vacancy surcharges during such seven year period, the
48 vacancy surcharge shall be reduced by the amount received by any such
49 vacancy increase or vacancy surcharges.

50 S 3. This act shall take effect immediately; provided that:

51 (a) the amendments to section 10 of the emergency tenant protection
52 act of nineteen seventy-four made by section one of this act shall
53 expire on the same date as such act expires and shall not affect the
54 expiration of such act as provided in section 17 of chapter 576 of the
55 laws of 1974; and

1 (b) the amendments to section 26-511 of chapter 4 of title 26 of the
2 administrative code of the city of New York made by section two of this
3 act shall expire on the same date as such law expires and shall not
4 affect the expiration of such law as provided under section 26-520 of
5 such law.