S T A T E O F N E W Y O R K

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I N A S S E M B L Y

January 9, 2009

Introduced by M. of A. V. LOPEZ, SILVER, WRIGHT, DINOWITZ, LATIMER, PERRY, KAVANAGH, BOYLAND, KELLNER, LANCMAN, MILLMAN, O'DONNELL, PHEFFER, TITUS, ORTIZ, SPANO, POWELL, COLTON, ROSENTHAL, BROOK-KRASNY -- Multi-Sponsored by -- M. of A. BARRON, BENJAMIN, BING, CASTRO, ESPAILLAT, FARRELL, GLICK, GOTTFRIED, JACOBS, JEFFRIES, LENTOL, MAYERSOHN, PERALTA, P. RIVERA, ROBINSON, TOWNS -- read once and referred to the Committee on Housing

AN ACT to amend the local emergency housing rent control act, in relation to rent regulation laws

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

Section 1. Subdivision 5 of section 1 of chapter 21 of the laws of 1962, constituting the local emergency housing rent control act, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

5. Authority for local rent control legislation. Each city having a population of one million or more, acting through its local legislative body, may adopt and amend local laws or ordinances in respect of the establishment or designation of a city housing rent agency. When it deems such action to be desirable or necessitated by local conditions in order to carry out the purposes of this section, such city, except as hereinafter provided, acting through its local legislative body and not otherwise, may adopt and amend local laws or ordinances in respect of the regulation and control of residential rents, including but not limited to provision for the establishment and adjustment of maximum rents, the classification of housing accommodations, the regulation of evictions, and the enforcement of such local laws or ordinances. The validity of any such local laws or ordinances, and the rules or regulations promulgated in accordance therewith, shall not be affected by and need not be consistent with the state emergency housing rent control

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

law or with rules and regulations of the state division of housing and community renewal.

Notwithstanding any local law or ordinance, housing accommodations which became vacant on or after July first, nineteen hundred seventy-one or which hereafter become vacant shall be subject to the provisions of the emergency tenant protection act of nineteen seventy-four, provided, however, that this provision shall not apply or become effective with respect to housing accommodations which, by local law or ordinance, are made directly subject to regulation and control by a city housing rent agency and such agency determines or finds that the housing accommodations became vacant because the landlord or any person acting on his behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including but not limited to, interruption or discontinuance of essential services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his use or occupancy of the housing accommodations. The removal of any housing accommodation from regulation and control of rents pursuant to the vacancy exemption provided for in this paragraph shall not constitute or operate as a ground for the subjection to more stringent regulation and control of any housing accommodation in such property or in any other property owned by the same landlord, notwithstanding any prior agreement to the contrary by the landlord. The vacancy exemption provided for in this paragraph shall not arise with respect to any rented plot or parcel of land otherwise subject to the provisions of this act, by reason of a transfer of title and possession occurring on or after July first, nineteen hundred seventy-one of a dwelling located on such plot or parcel and owned by the tenant where such transfer of title and possession is made to a member of the tenant's immediate family provided that the member of the tenant's immediate family occupies the dwelling with the tenant prior to the transfer of title and possession for a continuous period of two years.

The term "immediate family" shall include a husband, wife, son, daughter, stepson, stepdaughter, father, mother, father-in-law or mother-in-law.

[Notwithstanding the foregoing, no local law or ordinance shall hereafter provide for the regulation and control of residential rents and eviction in respect of any housing accommodations which are (1) presently exempt from such regulation and control or (2) hereafter decontrolled either by operation of law or by a city housing rent agency, by order or otherwise. No housing accommodations presently subject to regulation and control pursuant to local laws or ordinances adopted or amended under authority of this subdivision shall hereafter be by local law or ordinance or by rule or regulation which has not been theretofore approved by the state commissioner of housing and community renewal subjected to more stringent or restrictive provisions of regulation and control than those presently in effect.

Notwithstanding any other provision of law, on and after the effective date of this paragraph, a city having a population of one million or more shall not, either through its local legislative body or otherwise, adopt or amend local laws or ordinances with respect to the regulation and control of residential rents and eviction, including but not limited to provision for the establishment and adjustment of rents, the classification of housing accommodations, the regulation of evictions, and the enforcement of such local laws or ordinances, or otherwise adopt laws or ordinances pursuant to the provisions of this act, the emergency tenant protection act of nineteen seventy-four, the New York city rent and

rehabilitation law or the New York city rent stabilization law, except to the extent that such city for the purpose of reviewing the continued need for the existing regulation and control of residential rents or to remove a classification of housing accommodation from such regulation and control adopts or amends local laws or ordinances pursuant to subdivision three of section one of this act, section three of the emergency tenant protection act of nineteen seventy-four, section 26-415 of the New York city rent and rehabilitation law, and sections 26-502 and 26-520 of the New York city rent stabilization law of nineteen hundred sixty-nine.]

Notwithstanding any provision of this act to the contrary, any local law adopted pursuant to this act shall provide that notwithstanding any provision of such local law in the case where all tenants occupying the housing accommodation on the effective date of this paragraph have vacated the housing accommodation and a family member of such vacating tenant or tenants is entitled to and continues to occupy the housing accommodation subject to the protections of such act, if such accommodation continues to be subject to such act after such family member vacates, on the occurrence of such vacancy the maximum collectable rent shall be increased by a sum equal to the allowance then in effect for vacancy leases for housing accommodations covered by the rent stabilization law of nineteen hundred sixty-nine, including the amount allowed by paragraph (5-a) of subdivision c of section 26-511 of such law. This increase shall be in addition to any other increases provided for in this act and shall be applicable in like manner to each second subsequent succession.

Notwithstanding the foregoing, no local law or ordinance shall subject to such regulation and control any housing accommodation which is not occupied by the tenant in possession as his primary residence; provided, however, that such housing accommodation not occupied by the tenant in possession as his primary residence shall continue to be subject to regulation and control as provided for herein unless the city housing rent agency issues an order decontrolling such accommodation, which the agency shall do upon application by the landlord whenever it is established by any facts and circumstances which, in the judgment of the agency, may have a bearing upon the question of residence, that the tenant maintains his primary residence at some place other than at such housing accommodation.

S 2. This act shall take effect immediately; provided, however, that the amendments to subdivision 5 of section 1 of chapter 21 of the laws of 1962 made by section one of this act shall remain in full force and effect only so long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act; provided further, however, that the amendment to the second undesignated paragraph of subdivision 5 of section 1 of chapter 21 of the laws of 1962 made by section one of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith.