

4231

2009-2010 Regular Sessions

I N A S S E M B L Y

February 2, 2009

Introduced by M. of A. FITZPATRICK, WALKER -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to providing an alternative hardship allowance

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

1 Section 1. The opening paragraph of subparagraph (a) of paragraph 1 of  
2 subdivision g of section 26-405 of the administrative code of the city  
3 of New York is amended to read as follows:

4 The rental income from a property yields a net annual return of less  
5 than [six] EIGHT AND ONE-HALF per centum of the valuation of the proper-  
6 ty.

7 S 2. Subdivision c of section 26-511 of the administrative code of the  
8 city of New York is amended by adding a new paragraph 6-b to read as  
9 follows:

10 (6-B) PROVIDES CRITERIA WHEREBY AS AN ALTERNATIVE TO THE HARDSHIP  
11 APPLICATION PROVIDED UNDER PARAGRAPH SIX OR PARAGRAPH SIX-A OF THIS  
12 SUBDIVISION OWNERS OF BUILDINGS ACQUIRED BY THE SAME OWNER OR A RELATED  
13 ENTITY OWNED BY THE SAME PRINCIPALS THREE YEARS PRIOR TO THE DATE OF  
14 APPLICATION MAY APPLY TO THE STATE DIVISION OF HOUSING AND COMMUNITY  
15 RENEWAL FOR INCREASES IN EXCESS OF THE LEVEL OF APPLICABLE GUIDELINE  
16 INCREASES ESTABLISHED UNDER THIS LAW BASED ON A FINDING BY THE COMMIS-  
17 SIONER OF HOUSING AND COMMUNITY RENEWAL THAT SUCH GUIDELINE INCREASES  
18 ARE NOT SUFFICIENT TO ENABLE THE OWNER TO MAINTAIN A NET ANNUAL RETURN  
19 OF EIGHT AND ONE-HALF PER CENTUM OF THE VALUATION OF THE PROPERTY. SUCH  
20 VALUATION SHALL BE THE CURRENT ASSESSED VALUATION, WHICH IS IN EFFECT AT  
21 THE TIME OF THE FILING OF THE APPLICATION FOR AN ADJUSTMENT UNDER THIS  
22 PARAGRAPH PROPERLY ADJUSTED BY APPLYING THERETO THE RATIO WHICH SUCH  
23 ASSESSED VALUATION BEARS TO THE FULL VALUATION AS DETERMINED BY THE  
24 STATE BOARD OF REAL PROPERTY SERVICES. NET ANNUAL RETURN SHALL BE THE

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

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1 AMOUNT BY WHICH THE EARNED INCOME EXCEEDS THE OPERATING EXPENSES OF THE  
2 PROPERTY, EXCLUDING MORTGAGE INTEREST AND AMORTIZATION, AND EXCLUDING  
3 ALLOWANCES FOR OBSOLESCENCE AND RESERVES, BUT INCLUDING AN ALLOWANCE FOR  
4 DEPRECIATION OF TWO PER CENTUM OF THE VALUE OF THE BUILDINGS EXCLUSIVE  
5 OF THE LAND, OR THE AMOUNT SHOWN FOR DEPRECIATION OF THE BUILDINGS IN  
6 THE LATEST REQUIRED FEDERAL INCOME TAX RETURN, WHICHEVER IS LOWER;  
7 PROVIDED, HOWEVER, THAT NO ALLOWANCE FOR DEPRECIATION OF THE BUILDINGS  
8 SHALL BE INCLUDED WHERE THE BUILDINGS HAVE BEEN FULLY DEPRECIATED FOR  
9 FEDERAL INCOME TAX PURPOSES OR ON THE BOOKS OF THE OWNER.

10 S 3. Subdivision d of section 6 of section 4 of chapter 576 of the  
11 laws of 1974, constituting the emergency tenant protection act of nine-  
12 teen seventy-four, is amended by adding a new paragraph 6 to read as  
13 follows:

14 (6) AS AN ALTERNATIVE TO THE HARDSHIP APPLICATION PROVIDED UNDER PARA-  
15 GRAPH FOUR OR FIVE OF THIS SUBDIVISION OWNERS OF BUILDINGS ACQUIRED BY  
16 THE SAME OWNER OR A RELATED ENTITY OWNED BY THE SAME PRINCIPALS THREE  
17 YEARS PRIOR TO THE DATE OF APPLICATION MAY APPLY TO THE STATE DIVISION  
18 OF HOUSING AND COMMUNITY RENEWAL FOR INCREASES IN EXCESS OF THE LEVEL OF  
19 APPLICABLE GUIDELINE INCREASES ESTABLISHED UNDER THIS LAW BASED ON A  
20 FINDING BY THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL THAT SUCH  
21 GUIDELINE INCREASES ARE NOT SUFFICIENT TO ENABLE THE OWNER TO MAINTAIN A  
22 NET ANNUAL RETURN OF EIGHT AND ONE-HALF PER CENTUM OF THE VALUATION OF  
23 THE PROPERTY. SUCH VALUATION SHALL BE THE CURRENT ASSESSED VALUATION  
24 ESTABLISHED BY A CITY, TOWN OR VILLAGE, WHICH IS IN EFFECT AT THE TIME  
25 OF THE FILING OF THE APPLICATION FOR AN ADJUSTMENT UNDER THIS PARAGRAPH  
26 PROPERLY ADJUSTED BY APPLYING THERETO THE RATIO WHICH SUCH ASSESSED  
27 VALUATION BEARS TO THE FULL VALUATION AS DETERMINED BY THE STATE BOARD  
28 OF REAL PROPERTY SERVICES. NET ANNUAL RETURN SHALL BE THE AMOUNT BY  
29 WHICH THE EARNED INCOME EXCEEDS THE OPERATING EXPENSES OF THE PROPERTY,  
30 EXCLUDING MORTGAGE INTEREST AND AMORTIZATION, AND EXCLUDING ALLOWANCES  
31 FOR OBSOLESCENCE AND RESERVES, BUT INCLUDING AN ALLOWANCE FOR DEPRECI-  
32 ATION OF TWO PER CENTUM OF THE VALUE OF THE BUILDINGS EXCLUSIVE OF THE  
33 LAND, OR THE AMOUNT SHOWN FOR DEPRECIATION OF THE BUILDINGS IN THE  
34 LATEST REQUIRED FEDERAL INCOME TAX RETURN, WHICHEVER IS LOWER; PROVIDED,  
35 HOWEVER, THAT NO ALLOWANCE FOR DEPRECIATION OF THE BUILDINGS SHALL BE  
36 INCLUDED WHERE THE BUILDINGS HAVE BEEN FULLY DEPRECIATED FOR FEDERAL  
37 INCOME TAX PURPOSES OR ON THE BOOKS OF THE OWNER.

38 S 4. This act shall take effect on the first of September next  
39 succeeding the date on which it shall have become a law, provided that  
40 the amendment to section 26-405 of the city rent and rehabilitation law,  
41 made by section one of this act, shall remain in full force and effect  
42 only as long as the public emergency requiring the regulation and  
43 control of residential rents and evictions continues, as provided in  
44 subdivision 3 of section 1 of the local emergency housing rent control  
45 act; and provided further that the amendment to section 26-511 of the  
46 rent stabilization law of nineteen hundred sixty-nine, made by section  
47 two of this act, shall expire on the same date as such law expires and  
48 shall not affect the expiration of such law as provided under section  
49 26-520 of the administrative code of the city of New York; and provided  
50 further that the amendment to section 6 of the emergency tenant  
51 protection act of nineteen seventy-four, made by section three of this  
52 act, shall expire on the same date as such act expires and shall not  
53 affect the expiration of such act as provided in section 17 of chapter  
54 576 of the laws of 1974, as amended.