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

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:

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

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

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

(6-B) PROVIDES CRITERIA WHEREBY AS AN ALTERNATIVE TO THE HARDSHIP APPLICATION PROVIDED UNDER PARAGRAPH SIX OR PARAGRAPH SIX-A OF THIS SUBDIVISION OWNERS OF BUILDINGS ACQUIRED BY THE SAME OWNER OR A RELATED ENTITY OWNED BY THE SAME PRINCIPALS THREE YEARS PRIOR TO THE DATE OF APPLICATION MAY APPLY TO THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL FOR INCREASES IN EXCESS OF THE LEVEL OF APPLICABLE GUIDELINE INCREASES ESTABLISHED UNDER THIS LAW BASED ON A FINDING BY THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL THAT SUCH GUIDELINE INCREASES ARE NOT SUFFICIENT TO ENABLE THE OWNER TO MAINTAIN A NET ANNUAL RETURN OF EIGHT AND ONE-HALF PER CENTUM OF THE VALUATION OF THE PROPERTY. SUCH VALUATION SHALL BE THE CURRENT ASSESSED VALUATION, WHICH IS IN EFFECT AT THE TIME OF THE FILING OF THE APPLICATION FOR AN ADJUSTMENT UNDER THIS PARAGRAPH PROPERLY ADJUSTED BY APPLYING THERETO THE RATIO WHICH SUCH ASSESSED VALUATION BEARS TO THE FULL VALUATION AS DETERMINED BY THE 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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AMOUNT BY WHICH THE EARNED INCOME EXCEEDS THE OPERATING EXPENSES OF THE PROPERTY, EXCLUDING MORTGAGE INTEREST AND AMORTIZATION, AND EXCLUDING ALLOWANCES FOR OBSOLESCENCE AND RESERVES, BUT INCLUDING AN ALLOWANCE FOR DEPRECIATION OF TWO PER CENTUM OF THE VALUE OF THE BUILDINGS EXCLUSIVE OF THE LAND, OR THE AMOUNT SHOWN FOR DEPRECIATION OF THE BUILDINGS IN THE LATEST REQUIRED FEDERAL INCOME TAX RETURN, WHICHEVER IS LOWER; PROVIDED, HOWEVER, THAT NO ALLOWANCE FOR DEPRECIATION OF THE BUILDINGS SHALL BE INCLUDED WHERE THE BUILDINGS HAVE BEEN FULLY DEPRECIATED FOR FEDERAL INCOME TAX PURPOSES OR ON THE BOOKS OF THE OWNER.

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

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

S 4. This act shall take effect on the first of September next succeeding the date on which it shall have become a law, provided that the amendment to section 26-405 of the city rent and rehabilitation law, made by section one of this act, shall remain in full force and effect only as 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; and provided further that the amendment to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine, made by section two of this act, shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of the administrative code of the city of New York; and provided further that the amendment to section 6 of the emergency tenant protection act of nineteen seventy-four, made by section three of this act, shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974, as amended.