

3454

2009-2010 Regular Sessions

I N S E N A T E

March 19, 2009

Introduced by Sen. ESPADA -- (at request of the Division of Housing & Community Renewal) -- 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 administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to the civil penalties that may be imposed for violations of such laws; notices of deregulation under the rent regulatory laws and the statute of limitations based on such notices

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

1 Section 1. Paragraphs 1 and 2 of subdivision c of section 26-516 of
2 the administrative code of the city of New York, paragraph 2 as amended
3 by chapter 116 of the laws of 1997, are amended to read as follows:
4 (1) to have violated an order of the division the commissioner may
5 impose by administrative order after hearing, a civil penalty in the
6 amount of [two hundred fifty] ONE THOUSAND dollars for the first such
7 offense and [one] TWO thousand dollars for each subsequent offense; or
8 (2) to have harassed a tenant to obtain vacancy of his or her housing
9 accommodation, the commissioner may impose by administrative order after
10 hearing, a civil penalty for any such violation. Such penalty shall be
11 in the amount of [not less than one] TWO thousand dollars [nor more than
12 five] FOR A FIRST SUCH OFFENSE AND UP TO TEN thousand dollars for each
13 [such] SUBSEQUENT offense or for a violation consisting of conduct
14 directed at the tenants of more than one housing accommodation.
15 S 2. Subparagraph (a) of paragraph 2 of subdivision b of section
16 26-413 of the administrative code of the city of New York, as amended by
17 chapter 116 of the laws of 1997, is amended to read as follows:
18 (a) Impose by administrative order after hearing, a civil penalty for
19 any violation of said section and bring an action to recover same in any
20 court of competent jurisdiction. Such penalty in the case of a violation

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

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1 of subdivision d of such section shall be in the amount of [not less
2 than one] TWO thousand dollars [nor more than five] FOR THE FIRST SUCH
3 OFFENSE AND TEN thousand dollars for each SUBSEQUENT offense or for a
4 violation consisting of conduct directed at the tenants of more than one
5 housing accommodation; and in the case of any other violation of such
6 section in the amount of [one hundred] ONE THOUSAND dollars for the
7 first such offense and [five hundred] TWO THOUSAND dollars for each
8 subsequent offense. Such order by the city rent agency shall be deemed
9 a final determination for the purposes of judicial review as provided in
10 section 26-411 of this chapter. Such action shall be brought on behalf
11 of the city and any amount recovered shall be paid into the city treas-
12 ury. Such right of action may be released, compromised or adjusted by
13 the city rent agency at any [item] TIME subsequent to the issuance of
14 such administrative order.

15 S 3. Clauses (i) and (ii) of paragraph 3 of subdivision a of section
16 12 of section 4 of chapter 576 of the laws of 1974, constituting the
17 emergency tenant protection act of nineteen seventy-four, clause (i) as
18 amended by chapter 403 of the laws of 1983 and clause (ii) as amended by
19 chapter 116 of the laws of 1997, are amended to read as follows:

20 (i) to have violated an order of the division the commissioner may
21 impose by administrative order after hearing, a civil penalty in the
22 amount of [two hundred fifty] ONE THOUSAND dollars for the first such
23 offense and [one] TWO thousand dollars for each subsequent offense; or

24 (ii) to have harassed a tenant to obtain vacancy of his OR HER housing
25 accommodation, the commissioner may impose by administrative order after
26 hearing, a civil penalty for any such violation. Such penalty shall be
27 in the amount of [not less than one] TWO thousand dollars [nor more than
28 five] FOR THE FIRST SUCH OFFENSE AND TEN thousand dollars for each
29 offense or for a violation consisting of conduct directed at the tenants
30 of more than one housing accommodation.

31 S 4. Paragraph 13 of subdivision c of section 26-511 of the adminis-
32 trative code of the city of New York, as added by chapter 253 of the
33 laws of 1993, is amended to read as follows:

34 (13) provides that an owner is entitled to a rent increase where there
35 has been a substantial modification or increase of dwelling space or an
36 increase in the services, or installation of new equipment or improve-
37 ments or new furniture or furnishings provided in or to a tenant's hous-
38 ing accommodation, on written tenant consent to the rent increase. In
39 the case of a vacant housing accommodation, tenant consent shall not be
40 required. The permanent increase in the legal regulated rent for the
41 affected housing accommodation shall be one-fortieth of the total cost
42 incurred by the landlord in providing such modification or increase in
43 dwelling space, services, furniture, furnishings or equipment, including
44 the cost of installation, but excluding finance charges. Provided
45 further that an owner who is entitled to a rent increase pursuant to
46 this paragraph shall not be entitled to a further rent increase based
47 upon the installation of similar equipment, or new furniture or
48 furnishings within the useful life of such new equipment, or new furni-
49 ture or furnishings. THE OWNER SHALL GIVE WRITTEN NOTICE TO THE DIVI-
50 SION AND THE TENANT ON FORMS PRESCRIBED BY THE COMMISSIONER OF ANY SUCH
51 ADJUSTMENT PURSUANT TO THIS PARAGRAPH AND THE FAILURE TO PROVIDE SUCH
52 WRITTEN NOTICE AS PROVIDED IN THIS PARAGRAPH SHALL PRECLUDE THE
53 COLLECTION OF ANY SUCH ADJUSTMENT.

54 S 5. Paragraph 1 of subdivision d of section 6 of section 4 of chapter
55 576 of the laws of 1974, constituting the emergency tenant protection

1 act of nineteen seventy-four, as added by chapter 253 of the laws of
2 1993, is amended to read as follows:

3 (1) there has been a substantial modification or increase of dwelling
4 space or an increase in the services, or installation of new equipment
5 or improvements or new furniture or furnishings, provided in or to a
6 tenant's housing accommodation, on written tenant consent to the rent
7 increase. In the case of a vacant housing accommodation, tenant consent
8 shall not be required. The permanent increase in the legal regulated
9 rent for the affected housing accommodation shall be one-fortieth of the
10 total cost incurred by the landlord in providing such modification or
11 increase in dwelling space, services, furniture, furnishings or equip-
12 ment, including the cost of installation, but excluding finance charges.
13 Provided further [than] THAT an owner who is entitled to a rent increase
14 pursuant to this paragraph shall not be entitled to a further rent
15 increase based upon the installation of similar equipment, or new furni-
16 ture or furnishings within the useful life of such new equipment, or new
17 furniture or furnishings. THE OWNER SHALL GIVE WRITTEN NOTICE TO THE
18 DIVISION AND THE TENANT ON FORMS PRESCRIBED BY THE COMMISSIONER OF ANY
19 SUCH ADJUSTMENT PURSUANT TO THIS PARAGRAPH AND THE FAILURE TO PROVIDE
20 SUCH WRITTEN NOTICE AS PROVIDED IN THIS PARAGRAPH SHALL PRECLUDE THE
21 COLLECTION OF ANY SUCH ADJUSTMENT.

22 S 6. Section 26-504.2 of the administrative code of the city of New
23 York is amended by adding a new subdivision c to read as follows:

24 C. NOTWITHSTANDING SECTION 26-516 OF THIS CHAPTER AND SECTION TWO
25 HUNDRED THIRTEEN-A OF THE CIVIL PRACTICE LAW AND RULES, THE PERIODS
26 PROVIDED FOR THEREIN FOR EXAMINATION OF THE RENTAL HISTORY OF THE ACCOM-
27 MODATION FOR THE DETERMINATION OF AN OVERCHARGE AND WHETHER THE ACCOMMO-
28 DATION IS SUBJECT TO THIS LAW ARE EXTENDED BY THE PERIOD DURING WHICH
29 THE OWNER IS NOT IN COMPLIANCE WITH THE REQUIREMENTS OF SUBDIVISION B OF
30 THIS SECTION.

31 S 7. Paragraph 13 of subdivision a of section 5 of section 4 of chap-
32 ter 576 of the laws of 1974, constituting the emergency tenant
33 protection act of nineteen seventy-four, as amended by chapter 82 of the
34 laws of 2003, is amended to read as follows:

35 (13) (I) any housing accommodation with a legal regulated rent of two
36 thousand dollars or more per month at any time between the effective
37 date of this paragraph and October first, nineteen hundred ninety-three
38 which is or becomes vacant on or after the effective date of this para-
39 graph, or any housing accommodation with a legal regulated rent of two
40 thousand dollars or more per month at any time on or after the effective
41 date of the rent regulation reform act of 1997 which is or becomes
42 vacant on or after the effective date of the rent regulation reform act
43 of 1997. This exclusion shall apply regardless of whether the next
44 tenant in occupancy or any subsequent tenant in occupancy actually is
45 charged or pays less than two thousand dollars a month. Provided howev-
46 er, that this exclusion shall not apply to housing accommodations which
47 became or become subject to this act (a) by virtue of receiving tax
48 benefits pursuant to section four hundred twenty-one-a or four hundred
49 eighty-nine of the real property tax law, except as otherwise provided
50 in subparagraph (i) of paragraph (f) of subdivision two of section four
51 hundred twenty-one-a of the real property tax law, or (b) by virtue of
52 article seven-C of the multiple dwelling law. This paragraph shall not
53 apply, however, to or become effective with respect to housing accommo-
54 dations which the commissioner determines or finds that the landlord or
55 any person acting on his or her behalf, with intent to cause the tenant
56 to vacate, has engaged in any course of conduct (including, but not

1 limited to, interruption or discontinuance of required services) which
2 interfered with or disturbed or was intended to interfere with or
3 disturb the comfort, repose, peace or quiet of the tenant in his or her
4 use or occupancy of the housing accommodations and in connection with
5 such course of conduct, any other general enforcement provision of this
6 act shall also apply.

7 (II) THE OWNER OF ANY HOUSING ACCOMMODATION THAT IS NOT SUBJECT TO
8 THIS ACT PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARA-
9 GRAPH OR PARAGRAPH N OF PARAGRAPH TWO OF SECTION TWO OF THE EMERGENCY
10 HOUSING RENT CONTROL LAW SHALL GIVE WRITTEN NOTICE CERTIFIED BY SUCH
11 OWNER TO THE FIRST TENANT OF THAT HOUSING ACCOMMODATION AFTER SUCH HOUS-
12 ING ACCOMMODATION BECOMES EXEMPT FROM THE PROVISIONS OF THIS ACT OR THE
13 EMERGENCY HOUSING RENT CONTROL LAW. SUCH NOTICE SHALL CONTAIN THE LAST
14 REGULATED RENT, THE REASON THAT SUCH HOUSING ACCOMMODATION IS NOT
15 SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW, A CALCU-
16 LATION OF HOW EITHER THE RENTAL AMOUNT CHARGED WHEN THERE IS NO LEASE OR
17 THE RENTAL AMOUNT PROVIDED FOR IN THE LEASE HAS BEEN DERIVED SO AS TO
18 REACH TWO THOUSAND DOLLARS OR MORE PER MONTH, A STATEMENT THAT THE LAST
19 LEGAL REGULATED RENT OR THE MAXIMUM RENT MAY BE VERIFIED BY THE TENANT
20 BY CONTACTING THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, OR
21 ANY SUCCESSOR THERETO, AND THE ADDRESS AND TELEPHONE NUMBER OF SUCH
22 AGENCY, OR ANY SUCCESSOR THERETO. SUCH NOTICE SHALL BE SENT BY CERTIFIED
23 MAIL WITHIN THIRTY DAYS AFTER THE TENANCY COMMENCES OR AFTER THE SIGNING
24 OF THE LEASE BY BOTH PARTIES, WHICHEVER OCCURS FIRST OR SHALL BE DELIV-
25 ERED TO THE TENANT AT THE SIGNING OF THE LEASE. IN ADDITION, THE OWNER
26 SHALL SEND AND CERTIFY TO THE TENANT A COPY OF THE REGISTRATION STATE-
27 MENT FOR SUCH HOUSING ACCOMMODATION FILED WITH THE STATE DIVISION OF
28 HOUSING AND COMMUNITY RENEWAL INDICATING THAT SUCH HOUSING ACCOMMODATION
29 BECAME EXEMPT FROM THE PROVISIONS OF THIS ACT OR THE EMERGENCY HOUSING
30 RENT CONTROL LAW, WHICH FORM SHALL INCLUDE THE LAST REGULATED RENT, AND
31 SHALL BE SENT TO THE TENANT WITHIN THIRTY DAYS AFTER THE TENANCY
32 COMMENCES OR THE FILING OF SUCH REGISTRATION, WHICHEVER OCCURS LATER.

33 (III) NOTWITHSTANDING SECTION TWELVE OF THIS ACT AND SECTION 213-A OF
34 THE CIVIL PRACTICE LAW AND RULES TO THE CONTRARY, THE PERIODS PROVIDED
35 FOR THEREIN FOR EXAMINATION OF THE RENTAL HISTORY OF THE ACCOMMODATION
36 FOR THE DETERMINATION OF AN OVERCHARGE AND WHETHER THE ACCOMMODATION IS
37 SUBJECT TO THIS LAW ARE EXTENDED BY THE PERIOD DURING WHICH THE OWNER IS
38 NOT IN COMPLIANCE WITH REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARA-
39 GRAPH.

40 S 8. This act shall take effect immediately; provided that sections
41 one, two and three of this act shall take effect on the thirtieth day
42 after it shall have become a law; provided, further:

43 (a) the amendments to sections 26-516, 26-511 and 26-504.2 of the rent
44 stabilization law of nineteen hundred sixty-nine made by sections one,
45 four, and six of this act, respectively, shall expire on the same date
46 as such law expires and shall not affect the expiration of such law as
47 provided under section 26-520 of such law;

48 (b) the amendments to section 26-413 of the city rent and rehabili-
49 tation law made by section two of this act shall remain in full force
50 and effect only so long as the public emergency requiring the regulation
51 and control of residential rents and evictions continues, as provided in
52 subdivision 3 of section 1 of the local emergency housing rent control
53 law;

54 (c) the amendments to sections 12, 6 and 5 of section 4 of the emer-
55 gency tenant protection act of nineteen seventy-four made by sections
56 three, five and seven of this act, respectively, shall expire on the

1 same date as such act expires and shall not affect the expiration of
2 such act as provided in section 17 of chapter 576 of the laws of 1974,
3 as amended;

4 (d) the amendments to paragraph 2 of subdivision c of section 26-516
5 and subparagraph (a) of paragraph 2 of subdivision b of section 26-413
6 of the administrative code of the city of New York and clause (ii) of
7 paragraph 3 of subdivision a of section 12 of section 4 of the emergency
8 tenant protection act of nineteen seventy-four, made by sections one,
9 two and three of this act, respectively, shall not affect the expiration
10 of such provisions pursuant to subdivision 6 of section 46 of chapter
11 116 of the laws of 1997, as amended, and shall expire and be deemed
12 repealed therewith;

13 (e) the provisions of sections four and five of this act shall apply
14 with respect to any modification or increase of dwelling space or
15 increase in services or installation of new equipment or improvements or
16 new furnishings in a housing accommodation on or after the effective
17 date of this act; and

18 (f) the provisions of sections six and seven of this act shall apply
19 to housing accommodations which became vacant on or after the effective
20 date of this act.