

5296

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sens. SQUADRON, ADAMS, DIAZ, HASSELL-THOMPSON, MONSERRATE, ONORATO, SERRANO, STAVISKY -- 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, the emergency tenant protection act of nineteen seventy-four, and the emergency housing rent control law, in relation to adjustment of maximum allowable rent

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

1 Section 1. Subparagraph (e) of paragraph 1 of subdivision g of section
2 26-405 of the administrative code of the city of New York, as amended by
3 chapter 253 of the laws of 1993, is amended to read as follows:
4 (e) The landlord and tenant by mutual voluntary written agreement
5 agree to a substantial increase or decrease in dwelling space or a
6 change in the services, furniture, furnishings or equipment provided in
7 the housing accommodations. An adjustment under this subparagraph shall
8 be equal to [one-fortieth] ONE EIGHTY-FOURTH of the total cost incurred
9 by the landlord in providing such modification or increase in dwelling
10 space, services, furniture, furnishings or equipment, including the cost
11 of installation, but excluding finance charges, provided further [than]
12 THAT an owner who is entitled to a rent increase pursuant to this
13 subparagraph shall not be entitled to a further rent increase based upon
14 the installation of similar equipment, or new furniture or furnishings
15 within the useful life of such new equipment, or new furniture or
16 furnishings. The owner shall give written notice to the city rent agency
17 of any such adjustment pursuant to this subparagraph[.]; or
18 S 2. Paragraph 13 of subdivision c of section 26-511 of the adminis-
19 trative code of the city of New York, as added by chapter 253 of the
20 laws of 1993, is amended to read as follows:

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

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(13) provides that an owner is entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required.

(A) The permanent increase in the legal regulated rent for the affected housing accommodation shall be [one-fortieth] ONE EIGHTY-FOURTH of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges. [Provided further that an]

(B) AN owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

(C) NO INCREASE SHALL BE COLLECTIBLE UNDER THIS PARAGRAPH UNTIL THE LANDLORD HAS PROVIDED THE TENANT WITH A RIDER PURSUANT TO SUBDIVISION (D) OF THIS SECTION, INCLUDING AN EXPLANATION OF HOW THE RENT IN THE VACANCY LEASE HAS BEEN COMPUTED, AND THE SPECIFIC AMOUNTS OF ALL EXPENDITURES SUPPORTING A RENT INCREASE UNDER THIS PARAGRAPH.

(D) NO INCREASE SHALL BE COLLECTIBLE UNDER THIS PARAGRAPH IN ANY BUILDING WHERE THE DEPARTMENT OF HOUSING AND COMMUNITY RENEWAL HAS DETERMINED THAT THE OWNER IS NOT MAINTAINING ALL REQUIRED SERVICES, OR IN WHICH THERE ARE CURRENT HAZARDOUS VIOLATIONS OF ANY MUNICIPAL, COUNTY, STATE, OR FEDERAL LAW WHICH RELATE TO THE MAINTENANCE OF SUCH SERVICES.

(E) WITHIN THIRTY DAYS OF THE SIGNING OF A VACANCY LEASE INCLUDING A RENT INCREASE PURSUANT TO THIS PARAGRAPH THAT EXCEEDS TWENTY PERCENT OF THE RENT CHARGED TO THE PREVIOUS TENANT, THE OWNER WILL FILE AN EXPLANATION OF HOW THE VACANCY RENT WAS COMPUTED, AND ALL DOCUMENTS NECESSARY TO SUPPORT THE COLLECTION OF SUCH INCREASE, INCLUDING BUT NOT LIMITED TO, CANCELLED CHECKS, INVOICES AND SIGNED CONTRACTS CONTEMPORANEOUSLY WITH THE IMPROVEMENTS ALLEGED, AND CONTRACTOR'S AFFIDAVITS INDICATING THAT THE INSTALLATION WAS COMPLETED AND PAID IN FULL. UPON RECEIPT OF ALL DOCUMENTS SUBMITTED BY THE OWNER, THE DEPARTMENT OF HOUSING AND COMMUNITY RENEWAL SHALL ISSUE AN ORDER APPROVING OR DISAPPROVING SUCH INCREASE IN WHOLE OR IN PART. BASED UPON SUCH DETERMINATION, THE DEPARTMENT OF HOUSING AND COMMUNITY RENEWAL SHALL ORDER A REFUND TO THE TENANT EQUAL TO THE AMOUNT COLLECTED IN EXCESS OF THE LEGAL REGULATED RENT APPROVED BY THE DEPARTMENT OF HOUSING AND COMMUNITY RENEWAL.

(F) IF THE DEPARTMENT OF HOUSING AND COMMUNITY RENEWAL DETERMINES THAT THE OVERAGE WAS WILLFUL, IT MAY ORDER THE LANDLORD TO PAY TO THE TENANT AN ADDITIONAL AMOUNT NOT TO EXCEED THREE TIMES THE EXCESS CHARGED.

(G) THE NEXT ANNUAL REGISTRATION STATEMENT FILED FOR ANY HOUSING ACCOMMODATION SUBJECT TO AN INCREASE UNDER THIS PARAGRAPH, WHETHER OR NOT SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (E) OF THIS PARAGRAPH SHALL CONTAIN A DETAILED BREAKDOWN OF THE COSTS OF ALL IMPROVEMENTS UNDERLYING SUCH INCREASE.

S 3. Paragraph 2 of subdivision d of section 26-511 of the administrative code of the city of New York is renumbered paragraph 3 and a new paragraph 2 is added to read as follows:

(2) FOR VACANCY LEASES, SUCH RIDER SHALL ALSO INCLUDE A NOTICE OF THE PRIOR LEGAL RENT, IF ANY, THAT WAS IN EFFECT IMMEDIATELY PRIOR TO THE

VACANCY, AN EXPLANATION OF HOW THE RENTAL AMOUNT HAS BEEN COMPUTED, INCLUDING A DETAILED BREAKDOWN OF THE NATURE AND COST OF ANY IMPROVEMENTS UNDERLYING AN INCREASE UNDER PARAGRAPH THIRTEEN OF SUBDIVISION C OF THIS SECTION, AND A STATEMENT THAT ANY INCREASE ABOVE THE PREVIOUS RENT IS IN ACCORDANCE WITH ADJUSTMENTS PERMITTED BY LAW.

S 4. Paragraph 1 of 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, as added by chapter 253 of the laws of 1993, is amended to read as follows:

(1) there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings, provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required. The permanent increase in the legal regulated rent for the affected housing accommodation shall be [one-fortieth] ONE EIGHTY-FOURTH of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges. Provided further [than] THAT an owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

S 5. Clause 5 of the second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 253 of the laws of 1993, is amended to read as follows:

(5) the landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations; provided that an owner shall be entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation. The permanent increase in the maximum rent for the affected housing accommodation shall be [one-fortieth] ONE EIGHTY-FOURTH of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges provided further that an owner who is entitled to a rent increase pursuant to this clause shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the commission of any such adjustment pursuant to this clause; or

S 6. This act shall take effect immediately; provided that the amendments 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; provided, however, that the amendments to section 26-511 of chapter 4 of title 26 of the administrative code of the city of New York made by sections two and three of this act shall expire on the same date as such law expires

1 and shall not affect the expiration of such law as provided under
2 section 26-520 of such law; provided, further, that the amendments to
3 section 6 of the emergency tenant protection act of nineteen seventy-
4 four made by section four of this act shall expire on the same date as
5 such act expires and shall not affect the expiration of such act as
6 provided in section 17 of chapter 576 of the laws of 1974; and provided
7 that the amendments to section 4 of the emergency housing rent control
8 law made by section five of this act shall expire on the same date as
9 such law expires and shall not affect the expiration of such law as
10 provided in subdivision 2 of section 1 of chapter 274 of the laws of
11 1946.