

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.