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

3962

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. OPPENHEIMER -- 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 emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to the rent guidelines board

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

Section 1. Subdivision b of section 4 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 486 of the laws of 1976, the opening paragraph as amended by chapter 403 of the laws of 1983 and the second and third undesignated paragraphs as amended by chapter 330 of the laws of 1980, is amended to read as follows:

b. A county rent guidelines board shall establish annually guidelines for rent adjustments which, at its sole discretion may be varied and different for and within the several zones and jurisdictions of the board, OR WITH RESPECT TO ONE OR MORE CLASSES OF HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT, and in determining whether rents for housing accommodations as to which an emergency has been declared pursuant to this act shall be adjusted, shall consider among other things (1) A REPRESENTATIVE STATISTICAL SAMPLE OF AUDITED INCOME AND EXPENDITURE STATEMENTS OF HOUSING ACCOMMODATIONS IN THE AFFECTED AREA, (2) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all vacancy rates, [(2)] AND (V) FEDERAL, STATE AND LOCAL INCOME TAX LAWS, (3) relevant data from the current and projected cost of

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

LBD09283-01-9

living indices for the affected area, [(3)] AND (4) such other OBJECTIVE AND RELIABLE data as may be made available to it. As soon as practicable after its creation and thereafter not later than July first of each year, a rent guidelines board shall file with the state division of housing and community renewal its findings for the preceding calendar year, and shall accompany such findings with a statement of the maximum rate or rates of rent adjustment, if any, for one or more classes of accommodation subject to this act, authorized for leases or other rental agreements commencing during the next succeeding twelve months. The standards for rent adjustments may be applicable for the entire county or may be varied according to such zones or jurisdictions within such county as the board finds necessary to achieve the purposes of this subdivision.

The standards for rent adjustments established annually shall be effective for leases commencing on October first of each year and during the next succeeding twelve months whether or not the board has filed its findings and statement of the maximum rate or rates of rent adjustment by July first of each year. If such lease is entered into before such filing by the board, it may provide for the rent to be adjusted by the rates then in effect, subject to change by the applicable rates of rent adjustment when filed, such change to be effective as of the date of the commencement of the lease. Said lease must provide that, if the new rates of rent adjustment differ for leases of different terms, the tenant has the option of changing the original lease term to any other term for which a rate of rent adjustment is set by the board, with the rental to be adjusted accordingly.

Where a city, town or village shall act to determine the existence of public emergency pursuant to section three of this act subsequent to the establishment of annual guidelines for rent adjustments of the accommodations subject to this act, the rent guidelines board as soon as practicable thereafter shall file its findings and rates of rent adjustment for leases or other rental agreements for the housing accommodations in such a city, town or village, which rates shall be effective for leases or other rental agreements commencing on or after the effective date of the determination.

A COUNTY RENT GUIDELINES BOARD, PRIOR TO THE ANNUAL ADJUSTMENT OF THE LEVEL OF FAIR RENTS PROVIDED FOR UNDER THIS SUBDIVISION FOR DWELLING UNITS COVERED BY THIS ACT, SHALL HOLD A PUBLIC HEARING OR HEARINGS FOR THE PURPOSE OF COLLECTING INFORMATION RELATING TO ALL FACTORS SET FORTH IN THIS SUBDIVISION. NOTICE OF THE DATE, TIME, LOCATION AND SUMMARY OF SUBJECT MATTER FOR THE PUBLIC HEARING OR HEARINGS SHALL BE PUBLISHED AT LEAST ONCE IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION AT LEAST EIGHT DAYS IMMEDIATELY PRECEDING EACH HEARING DATE, AT THE EXPENSE OF THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, AND THE HEARING SHALL BE OPEN FOR TESTIMONY FROM ANY INDIVIDUAL, GROUP, ASSOCIATION OR REPRESENTATIVE THEREOF WHO WANTS TO TESTIFY.

IN FURTHERANCE OF ITS RESPONSIBILITY TO ESTABLISH ANNUAL GUIDELINES FOR RENT ADJUSTMENTS, THE BOARD SHALL COMPILE A REPRESENTATIVE STATISTICAL SAMPLE OF AUDITED INCOME AND EXPENDITURE STATEMENTS OF HOUSING ACCOMMODATIONS IN THE COUNTY AND MAY REQUIRE THAT THE OWNERS OF HOUSING ACCOMMODATIONS SUBJECT TO THIS ACT FILE WITH IT RELEVANT DATA CONCERNING THE INCOME AND OPERATING COSTS OF THEIR BUILDINGS. AN OWNER WHO HAS FAILED TO FILE SUCH DATA AFTER A REASONABLE NOTICE AND OPPORTUNITY TO DO SO, OR TO SUBMIT EVIDENCE ESTABLISHING THAT THE DATA IS NOT AVAILABLE TO THE OWNER, SHALL BE BARRED FROM COLLECTING ANY RENT WITH RESPECT TO ANY HOUSING ACCOMMODATION IN THE BUILDING OR GROUP OF BUILDINGS OR DEVELOP-

MENT AS TO WHICH SUCH DATA IS APPLICABLE UNTIL SUCH DATA IS FILED OR SUCH EVIDENCE IS SUBMITTED. THE LATE FILING OF SUCH DATA SHALL RESULT IN THE PROSPECTIVE ELIMINATION OF SUCH SANCTIONS. THE BOARD SHALL HAVE THE ADDITIONAL POWER TO SUBPOENA THE BOOKS AND RECORDS OF SUCH OWNERS IN THE MANNER PROVIDED FOR IN THE CIVIL PRACTICE LAW AND RULES. IF A PERSON SUBPOENAED FAILS TO OBEY THE COMMAND OF SUCH SUBPOENA, WITHOUT REASONABLE CAUSE, HE SHALL BE GUILTY OF A MISDEMEANOR AND MAY BE PROSECUTED IN ANY COURT OF COMPETENT CRIMINAL JURISDICTION.

S 2. Subdivision b of section 26-510 of the administrative code of the city of New York is amended to read as follows:

b. The rent guidelines board shall establish annually guidelines for rent adjustments, and in determining whether rents for housing accommodations subject to the emergency tenant protection act of nineteen seventy-four or this law shall be adjusted shall consider, among other things (1) A REPRESENTATIVE STATISTICAL SAMPLE OF AUDITED INCOME AND EXPENDITURE STATEMENTS OF HOUSING ACCOMMODATIONS IN THE AFFECTED AREA, (2) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all vacancy rates, [(2)] AND (V) FEDERAL, STATE AND LOCAL INCOME TAX LAWS, (3) relevant data from the current and projected cost of living indices for the affected area, [(3)] AND (4) such other OBJECTIVE AND RELIABLE data as may be made available to it. Not later than July first of each year, the rent guidelines board shall file with the city clerk its findings for the preceding calendar year, and shall accompany such findings with a statement of the maximum rate or rates of rent adjustment, if any, for one or more classes of accommodations subject to this law, authorized for leases or other rental agreements commencing on the next succeeding October first or within the twelve months thereafter. Such findings and statement shall be published in the City Record.

S 3. Subdivision h of section 26-510 of the administrative code of the city of New York is amended to read as follows:

h. The rent guidelines board prior to the annual adjustment of the level of fair rents provided for under subdivision b of this section for dwelling units and hotel dwelling units covered by this law, shall hold a public hearing or hearings for the purpose of collecting information relating to all factors set forth in subdivision b of this section. Notice of the date, time, location and summary of subject matter for the public hearing or hearings shall be published in the City Record daily for a period of not less than eight days and at least once in one or more newspapers of general circulation at least eight days immediately preceding each hearing date, at the expense of the city of New York, and the hearing shall be open for testimony from any individual, group, association or representative thereof who wants to testify.

IN FURTHERANCE OF ITS RESPONSIBILITY TO ESTABLISH ANNUAL GUIDELINES FOR RENT ADJUSTMENTS, THE BOARD SHALL COMPILE A REPRESENTATIVE STATISTICAL SAMPLE OF AUDITED INCOME AND EXPENDITURE STATEMENTS OF HOUSING ACCOMMODATIONS IN THE CITY AND MAY REQUIRE THAT THE OWNERS OF HOUSING ACCOMMODATIONS SUBJECT TO THIS LAW FILE WITH IT RELEVANT DATA CONCERNING THE INCOME AND OPERATING COSTS OF THEIR BUILDINGS. AN OWNER WHO HAS FAILED TO FILE SUCH DATA AFTER A REASONABLE NOTICE AND OPPORTUNITY TO DO SO, OR TO SUBMIT EVIDENCE ESTABLISHING THAT THE DATA IS NOT AVAILABLE TO

THE OWNER, SHALL BE BARRED FROM COLLECTING ANY RENT WITH RESPECT TO ANY HOUSING ACCOMMODATION IN THE BUILDING OR GROUP OF BUILDINGS OR DEVELOPMENT AS TO WHICH SUCH DATA IS APPLICABLE UNTIL SUCH DATA IS FILED OR SUCH EVIDENCE IS SUBMITTED. THE LATE FILING OF SUCH DATA SHALL RESULT IN THE PROSPECTIVE ELIMINATION OF SUCH SANCTIONS. THE BOARD SHALL HAVE THE ADDITIONAL POWER TO SUBPOENA THE BOOKS AND RECORDS OF SUCH OWNERS IN THE MANNER PROVIDED FOR IN THE CIVIL PRACTICE LAW AND RULES. IF A PERSON SUBPOENAED FAILS TO OBEY THE COMMAND OF SUCH SUBPOENA, WITHOUT REASONABLE CAUSE, HE SHALL BE GUILTY OF A MISDEMEANOR AND MAY BE PROSECUTED IN ANY COURT OF COMPETENT CRIMINAL JURISDICTION.

S 4. This act shall take effect immediately provided that the amendment to section 4 of the emergency tenant protection act of nineteen seventy-four made by section one 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; provided that the amendments to section 26-510 of the rent stabilization law of nineteen hundred sixty-nine made by sections two and three 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 such law.