

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:

1 Section 1. Subdivision b of section 4 of section 4 of chapter 576 of
2 the laws of 1974, constituting the emergency tenant protection act of
3 nineteen seventy-four, as amended by chapter 486 of the laws of 1976,
4 the opening paragraph as amended by chapter 403 of the laws of 1983 and
5 the second and third undesignated paragraphs as amended by chapter 330
6 of the laws of 1980, is amended to read as follows:
7 b. A county rent guidelines board shall establish annually guidelines
8 for rent adjustments which, at its sole discretion may be varied and
9 different for and within the several zones and jurisdictions of the
10 board, OR WITH RESPECT TO ONE OR MORE CLASSES OF HOUSING ACCOMMODATIONS
11 SUBJECT TO THIS ACT, and in determining whether rents for housing accom-
12 modations as to which an emergency has been declared pursuant to this
13 act shall be adjusted, shall consider among other things (1) A REPRESENTATIVE
14 STATISTICAL SAMPLE OF AUDITED INCOME AND EXPENDITURE STATEMENTS
15 OF HOUSING ACCOMMODATIONS IN THE AFFECTED AREA, (2) the economic condi-
16 tion of the residential real estate industry in the affected area
17 including such factors as the prevailing and projected (i) real estate
18 taxes and sewer and water rates, (ii) gross operating maintenance costs
19 (including insurance rates, governmental fees, cost of fuel and labor
20 costs), (iii) costs and availability of financing (including effective
21 rates of interest), (iv) over-all supply of housing accommodations and
22 over-all vacancy rates, [(2)] AND (V) FEDERAL, STATE AND LOCAL INCOME
23 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

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

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

27 Where a city, town or village shall act to determine the existence of
28 public emergency pursuant to section three of this act subsequent to the
29 establishment of annual guidelines for rent adjustments of the accommo-
30 dations subject to this act, the rent guidelines board as soon as prac-
31 ticable thereafter shall file its findings and rates of rent adjustment
32 for leases or other rental agreements for the housing accommodations in
33 such a city, town or village, which rates shall be effective for leases
34 or other rental agreements commencing on or after the effective date of
35 the determination.

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

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

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

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

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

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

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

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

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

11 S 4. This act shall take effect immediately provided that the amend-
12 ment to section 4 of the emergency tenant protection act of nineteen
13 seventy-four made by section one of this act shall expire on the same
14 date as such act expires and shall not affect the expiration of such act
15 as provided in section 17 of chapter 576 of the laws of 1974, as
16 amended; provided that the amendments to section 26-510 of the rent
17 stabilization law of nineteen hundred sixty-nine made by sections two
18 and three of this act shall expire on the same date as such law expires
19 and shall not affect the expiration of such law as provided under
20 section 26-520 of such law.