

4457

2009-2010 Regular Sessions

I N S E N A T E

April 23, 2009

Introduced by Sen. SCHNEIDERMAN -- 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 rent regulation reform act of 1997, in relation to
the adoption of rules or regulations

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

1 Section 1. Section 44 of chapter 116 of the laws of 1997, constituting
2 the rent regulation reform act of 1997, is amended to read as follows:
3 S 44. Any rule or regulation or form necessary for the implementation
4 of this act, or any section of this act, is directed to be made and
5 completed within 180 days after the effective date of this act.
6 1. NOTWITHSTANDING THE FOREGOING, OR ANY OTHER PROVISION OF LAW, THE
7 DIVISION OF HOUSING AND COMMUNITY RENEWAL IS PROHIBITED FROM ADOPTING
8 ANY RULE OR REGULATION PROVIDING:
9 (A) THAT THE GIVING OF WRITTEN NOTICE BY A TENANT TO AN OWNER OR
10 OWNER'S AGENT WILL BE REQUIRED BEFORE FILING WITH THE DIVISION OF HOUS-
11 ING AND COMMUNITY RENEWAL OF A TENANT'S APPLICATION FOR A REDUCTION OF
12 THE LEGAL REGULATED RENT BASED ON AN ALLEGED FAILURE TO MAINTAIN
13 REQUIRED SERVICES; OR
14 (B) THAT A TENANT'S APPLICATION FOR A REDUCTION OF THE LEGAL REGULATED
15 RENT BASED ON AN ALLEGED FAILURE TO MAINTAIN REQUIRED SERVICES DUE TO A
16 LACK OF ADEQUATE HEAT OR HOT WATER MUST BE ACCOMPANIED BY A REPORT FROM
17 A CITY AGENCY FINDING SUCH LACK OF ADEQUATE HEAT OR HOT WATER; OR
18 (C) FOR ANY SCHEDULE OF BUILDING OR APARTMENT CONDITIONS THAT WILL BE
19 CONSIDERED DE MINIMIS IN NATURE AND NOT AMOUNTING TO A FAILURE TO MAIN-
20 TAIN REQUIRED SERVICES; OR
21 (D) THAT THE PASSAGE OF TIME DURING WHICH A DISPUTED SERVICE WAS NOT
22 PROVIDED AND DURING WHICH NO COMPLAINT WAS FILED BY A TENANT ALLEGING
23 FAILURE BY AN OWNER TO MAINTAIN SUCH SERVICE SHALL BE EVIDENCE THAT SUCH

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

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1 SERVICE CONDITION IS DE MINIMIS AND NOT A FAILURE TO MAINTAIN A REQUIRED
2 SERVICE; OR
3 (E) THAT THE PASSAGE OF FOUR YEARS OR MORE DURING WHICH A DISPUTED
4 SERVICE WAS NOT PROVIDED AND DURING WHICH NO COMPLAINT WAS FILED BY A
5 TENANT ALLEGING FAILURE TO MAINTAIN SUCH SERVICE SHALL BE CONSIDERED
6 PRESUMPTIVE EVIDENCE THAT SUCH SERVICE CONDITION IS DE MINIMIS; OR
7 (F) FOR THE CREATION OF ANY PRESUMPTION WITH REGARD TO A COMPLAINT OF
8 FAILURE TO MAINTAIN REQUIRED SERVICES OR AN ALLEGATION OF DEFECTIVE
9 OPERATION OF A MAJOR CAPITAL IMPROVEMENT THAT A BUILDING-WIDE CONDITION
10 EXISTS, DOES NOT EXIST, OR WAS CORRECTED BASED UPON THE AFFIDAVIT OF A
11 LICENSED ARCHITECT OR ENGINEER; OR
12 (G) FOR THE SPECIFICATION OF ANY PARTICULAR ITEMS OF EVIDENCE TO BE
13 CONSIDERED BY A COURT OR AN ADMINISTRATIVE AGENCY IN MAKING A DETERMI-
14 NATION AS TO WHETHER A HOUSING ACCOMMODATION IS OCCUPIED AS A PRIMARY
15 RESIDENCE; OR
16 (H) FOR THE SPECIFICATION OF ANY MAXIMUM RENTAL THAT MAY BE CHARGED A
17 PERSON IN OCCUPANCY OF A HOUSING ACCOMMODATION PURSUANT TO SECTION 235-F
18 OF THE REAL PROPERTY LAW; OR
19 (I) THAT FOR PURPOSES OF DETERMINING AN OVERCHARGE, WHERE A HOUSING
20 ACCOMMODATION IS VACANT OR TEMPORARILY EXEMPT FROM REGULATION, THE LEGAL
21 REGULATED RENT SHALL BE THE RENT AGREED TO BY THE OWNER AND THE FIRST
22 RENT STABILIZED TENANT TAKING OCCUPANCY AFTER SUCH VACANCY OR TEMPORARY
23 EXEMPTION; OR
24 (J) THAT FOR PURPOSES OF DETERMINING AN OVERCHARGE, THE RENT CHARGED
25 SHALL BE UTILIZED TO ESTABLISH THE LEGAL REGULATED RENT, RATHER THAN THE
26 RENT SHOWN IN THE ANNUAL REGISTRATION STATEMENT FILED FOUR YEARS PRIOR
27 TO THE MOST RECENT REGISTRATION STATEMENT (OR, IF MORE RECENTLY FILED,
28 THE INITIAL REGISTRATION STATEMENT); OR
29 (K) FOR THE COLLECTION BY AN OWNER OF SURCHARGES FROM A TENANT, WHO
30 HAS INSTALLED A PERMANENT OR PORTABLE WASHING MACHINE, DRYER, OR DISH-
31 WASHER; OR
32 (L) FOR THE COLLECTION BY AN OWNER OF SURCHARGES FROM A TENANT FOR
33 PROVIDING A UTILITY SERVICE (INCLUDING, BUT NOT LIMITED TO, ELECTRICITY,
34 GAS, CABLE, OR TELECOMMUNICATIONS); OR
35 (M) THAT THE WITHDRAWAL OF A COMPLAINT PENDING BEFORE THE DIVISION OF
36 HOUSING AND COMMUNITY RENEWAL BY A TENANT SHALL BE BINDING UPON SUBSE-
37 QUENT TENANTS; OR
38 (N) THAT A TENANT WHO IS UNREPRESENTED BY COUNSEL MAY WAIVE BENEFITS
39 OF ANY LAW OR REGULATION BY WITHDRAWING A COMPLAINT PENDING BEFORE THE
40 DIVISION OF HOUSING AND COMMUNITY RENEWAL; OR
41 (O) THAT BARS THE FILING OF A FAIR MARKET RENT APPEAL FILED MORE THAN
42 FOUR YEARS AFTER THE VACANCY WHICH CAUSED THE HOUSING ACCOMMODATION TO
43 NO LONGER BE SUBJECT TO RENT CONTROL; OR
44 (P) THAT DEPRIVES THE DIVISION OF HOUSING AND COMMUNITY RENEWAL OF THE
45 AUTHORITY TO EXTEND LEASE RENEWAL RIGHTS TO A FAMILY MEMBER BASED ON DUE
46 CONSIDERATION OF EQUITIES.
47 2. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, ANY RULE OR
48 REGULATION ADOPTED PURSUANT TO THIS SECTION AND INCONSISTENT WITH SUBDI-
49 VISION ONE OF THIS SECTION, ADOPTED PRIOR TO THE EFFECTIVE DATE OF
50 SUBDIVISION ONE OF THIS SECTION, IS HEREBY DECLARED TO BE VOID AND UNEN-
51 FORCEABLE AB INITIO.
52 S 2. This act shall take effect immediately.