

2009-2010 Regular Sessions

I N S E N A T E

January 15, 2009

Introduced by Sens. KRUEGER, DUANE, MONSERRATE, ONORATO, PARKER, PERKINS, SAVINO, SCHNEIDERMAN, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the local emergency housing rent control act, in relation to rent regulation laws

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

1 Section 1. Subdivision 5 of section 1 of chapter 21 of the laws of
2 1962, constituting the local emergency housing rent control act, as
3 amended by chapter 82 of the laws of 2003, is amended to read as
4 follows:
5 5. Authority for local rent control legislation. Each city having a
6 population of one million or more, acting through its local legislative
7 body, may adopt and amend local laws or ordinances in respect of the
8 establishment or designation of a city housing rent agency. When it
9 deems such action to be desirable or necessitated by local conditions in
10 order to carry out the purposes of this section, such city, except as
11 hereinafter provided, acting through its local legislative body and not
12 otherwise, may adopt and amend local laws or ordinances in respect of
13 the regulation and control of residential rents, including but not
14 limited to provision for the establishment and adjustment of maximum
15 rents, the classification of housing accommodations, the regulation of
16 evictions, and the enforcement of such local laws or ordinances. The
17 validity of any such local laws or ordinances, and the rules or regu-
18 lations promulgated in accordance therewith, shall not be affected by
19 and need not be consistent with the state emergency housing rent control
20 law or with rules and regulations of the state division of housing and
21 community renewal.
22 Notwithstanding any local law or ordinance, housing accommodations
23 which became vacant on or after July first, nineteen hundred seventy-one

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

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1 or which hereafter become vacant shall be subject to the provisions of
2 the emergency tenant protection act of nineteen seventy-four, provided,
3 however, that this provision shall not apply or become effective with
4 respect to housing accommodations which, by local law or ordinance, are
5 made directly subject to regulation and control by a city housing rent
6 agency and such agency determines or finds that the housing accommo-
7 dations became vacant because the landlord or any person acting on his
8 behalf, with intent to cause the tenant to vacate, engaged in any course
9 of conduct (including but not limited to, interruption or discontinuance
10 of essential services) which interfered with or disturbed or was
11 intended to interfere with or disturb the comfort, repose, peace or
12 quiet of the tenant in his use or occupancy of the housing accommo-
13 dations. The removal of any housing accommodation from regulation and
14 control of rents pursuant to the vacancy exemption provided for in this
15 paragraph shall not constitute or operate as a ground for the subjection
16 to more stringent regulation and control of any housing accommodation in
17 such property or in any other property owned by the same landlord,
18 notwithstanding any prior agreement to the contrary by the landlord. The
19 vacancy exemption provided for in this paragraph shall not arise with
20 respect to any rented plot or parcel of land otherwise subject to the
21 provisions of this act, by reason of a transfer of title and possession
22 occurring on or after July first, nineteen hundred seventy-one of a
23 dwelling located on such plot or parcel and owned by the tenant where
24 such transfer of title and possession is made to a member of the
25 tenant's immediate family provided that the member of the tenant's im-
26 mediate family occupies the dwelling with the tenant prior to the transfer
27 of title and possession for a continuous period of two years.

28 The term "immediate family" shall include a husband, wife, son, daugh-
29 ter, stepson, stepdaughter, father, mother, father-in-law or mother-in-
30 law.

31 [Notwithstanding the foregoing, no local law or ordinance shall here-
32 after provide for the regulation and control of residential rents and
33 eviction in respect of any housing accommodations which are (1) present-
34 ly exempt from such regulation and control or (2) hereafter decontrolled
35 either by operation of law or by a city housing rent agency, by order or
36 otherwise. No housing accommodations presently subject to regulation and
37 control pursuant to local laws or ordinances adopted or amended under
38 authority of this subdivision shall hereafter be by local law or ordi-
39 nance or by rule or regulation which has not been theretofore approved
40 by the state commissioner of housing and community renewal subjected to
41 more stringent or restrictive provisions of regulation and control than
42 those presently in effect.

43 Notwithstanding any other provision of law, on and after the effective
44 date of this paragraph, a city having a population of one million or
45 more shall not, either through its local legislative body or otherwise,
46 adopt or amend local laws or ordinances with respect to the regulation
47 and control of residential rents and eviction, including but not limited
48 to provision for the establishment and adjustment of rents, the classi-
49 fication of housing accommodations, the regulation of evictions, and the
50 enforcement of such local laws or ordinances, or otherwise adopt laws or
51 ordinances pursuant to the provisions of this act, the emergency tenant
52 protection act of nineteen seventy-four, the New York city rent and
53 rehabilitation law or the New York city rent stabilization law, except
54 to the extent that such city for the purpose of reviewing the continued
55 need for the existing regulation and control of residential rents or to
56 remove a classification of housing accommodation from such regulation

1 and control adopts or amends local laws or ordinances pursuant to subdi-
2 vision three of section one of this act, section three of the emergency
3 tenant protection act of nineteen seventy-four, section 26-415 of the
4 New York city rent and rehabilitation law, and sections 26-502 and
5 26-520 of the New York city rent stabilization law of nineteen hundred
6 sixty-nine.]

7 Notwithstanding any provision of this act to the contrary, any local
8 law adopted pursuant to this act shall provide that notwithstanding any
9 provision of such local law in the case where all tenants occupying the
10 housing accommodation on the effective date of this paragraph have
11 vacated the housing accommodation and a family member of such vacating
12 tenant or tenants is entitled to and continues to occupy the housing
13 accommodation subject to the protections of such act, if such accommo-
14 dation continues to be subject to such act after such family member
15 vacates, on the occurrence of such vacancy the maximum collectable rent
16 shall be increased by a sum equal to the allowance then in effect for
17 vacancy leases for housing accommodations covered by the rent stabiliza-
18 tion law of nineteen hundred sixty-nine, including the amount allowed by
19 paragraph (5-a) of subdivision c of section 26-511 of such law. This
20 increase shall be in addition to any other increases provided for in
21 this act and shall be applicable in like manner to each second subse-
22 quent succession.

23 Notwithstanding the foregoing, no local law or ordinance shall subject
24 to such regulation and control any housing accommodation which is not
25 occupied by the tenant in possession as his primary residence; provided,
26 however, that such housing accommodation not occupied by the tenant in
27 possession as his primary residence shall continue to be subject to
28 regulation and control as provided for herein unless the city housing
29 rent agency issues an order decontrolling such accommodation, which the
30 agency shall do upon application by the landlord whenever it is estab-
31 lished by any facts and circumstances which, in the judgment of the
32 agency, may have a bearing upon the question of residence, that the
33 tenant maintains his primary residence at some place other than at such
34 housing accommodation.

35 S 2. This act shall take effect immediately; provided, however, that
36 the amendments to subdivision 5 of section 1 of chapter 21 of the laws
37 of 1962 made by section one of this act shall remain in full force and
38 effect only so long as the public emergency requiring the regulation and
39 control of residential rents and evictions continues, as provided in
40 subdivision 3 of section 1 of the local emergency housing rent control
41 act; provided further, however, that the amendment to the second undes-
42 ignated paragraph of subdivision 5 of section 1 of chapter 21 of the
43 laws of 1962 made by section one of this act shall not affect the expi-
44 ration of such paragraph and shall be deemed to expire therewith.