

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

6131--A

2011-2012 Regular Sessions

I N A S S E M B L Y

March 8, 2011

Introduced by M. of A. KAVANAGH -- Multi-Sponsored by -- M. of A. FARRELL -- read once and referred to the Committee on Housing -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the emergency housing rent control law, the administrative code of the city of New York, and the emergency tenant protection act of nineteen seventy-four, in relation to providing for a hearing before the division of housing and community renewal prior to issuance of an order of decontrol for failure to respond to income certification material; and in relation to excluding certain tenants from inclusion for annual income determination

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

1 Section 1. Paragraph 1 of subdivision (a) of section 2-a of chapter
2 274 of the laws of 1946, constituting the emergency housing rent control
3 law, as amended by section 32 of part B of chapter 97 of the laws of
4 2011, is amended to read as follows:
5 1. For purposes of this section, annual income shall mean the federal
6 adjusted gross income as reported on the New York state income tax
7 return. Total annual income means the sum of the annual incomes of all
8 persons who occupy the housing accommodation as their primary residence
9 on other than a temporary basis, excluding bona fide employees of such
10 occupants residing therein in connection with such employment, EXCLUDING
11 SENIOR CITIZENS AND DISABLED PERSONS, and excluding bona fide subtenants
12 in occupancy pursuant to the provisions of section two hundred twenty-
13 six-b of the real property law. In the case where a housing accommo-
14 dation is sublet, the annual income of the sublessor shall be consid-
15 ered. FOR THE PURPOSES OF THIS SUBDIVISION, DISABLED PERSON SHALL MEAN
16 AN INDIVIDUAL (I) WITH A PHYSICAL OR MENTAL IMPAIRMENT, INCLUDING, BUT
17 NOT LIMITED TO, THOSE OF NEUROLOGICAL, EMOTIONAL OR SENSORY ORGANS,

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

LBD00948-03-1

1 WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF THE INDIVIDUAL'S MAJOR LIFE
2 ACTIVITIES, AND (II) WHO IS REGARDED AS HAVING SUCH AN IMPAIRMENT AS
3 CERTIFIED BY A LICENSED PHYSICIAN OF THIS STATE. FOR THE PURPOSES OF
4 THIS SUBDIVISION, SENIOR CITIZEN SHALL MEAN ANY PERSON WHO IS SIXTY-TWO
5 YEARS OF AGE OR OLDER.

6 S 2. Subdivision (c) of section 2-a of chapter 274 of the laws of
7 1946, constituting the emergency housing rent control law, as amended by
8 section 32 of part B of chapter 97 of the laws of 2011, is amended to
9 read as follows:

10 (c) 1. In the event that the tenant or tenants either fail to return
11 the completed certification to the owner on or before the date required
12 by subdivision (b) of this section or the owner disputes the certifi-
13 cation returned by the tenant or tenants, the owner may, on or before
14 June thirtieth of such year, petition the state division of housing and
15 community renewal to verify, pursuant to section one hundred seventy-
16 one-b of the tax law, whether the total annual income exceeds the dereg-
17 ulation income threshold in each of the two preceding calendar years.
18 Within twenty days after the filing of such request with the division,
19 the division shall notify the tenant or tenants that such tenant or
20 tenants must provide the division with such information as the division
21 and the department of taxation and finance shall require to verify
22 whether the total annual income exceeds the deregulation income thresh-
23 old in each of the two preceding calendar years. The division's notifi-
24 cation shall require the tenant or tenants to provide the information to
25 the division within [sixty] NINETY days of service upon such tenant or
26 tenants and shall include a warning in bold faced type AT THE TOP OF THE
27 PAGE that failure to respond [will] MAY RESULT IN AN ORDER OF DECONTROL
28 BEING ISSUED BY THE DIVISION FOR SUCH HOUSING ACCOMMODATION FOLLOWING A
29 HEARING TO BE SCHEDULED NOT MORE THAN NINETY DAYS FROM THE DATE THE
30 DIVISION SENT SUCH TENANT OR TENANTS THE NOTICE PROVIDED IN THIS PARA-
31 GRAPH, THE NOTIFICATION SHALL ADVISE SUCH TENANT OR TENANTS THAT FAILURE
32 TO APPEAR AT SUCH HEARING WITHOUT GOOD OR JUST CAUSE MAY result in an
33 order of deregulation being issued by the division for such housing
34 accommodation. SUCH TENANT OR TENANTS MAY AUTHORIZE A PERSON OR PERSONS
35 TO REPRESENT SUCH TENANT'S OR TENANTS' INTEREST AT THE HEARING.

36 2. If the department of taxation and finance determines that the total
37 annual income is in excess of the deregulation income threshold in each
38 of the two preceding calendar years, the division shall, on or before
39 November fifteenth of such year, notify the owner and tenants of the
40 results of such verification. Both the owner and the tenants shall have
41 [thirty] SIXTY days within which to comment on such verification
42 results. Within forty-five days after the expiration of the comment
43 period, the division shall, where appropriate, issue an order of dereg-
44 ulation providing that such housing accommodation shall not be subject to
45 the provisions of this law as of the first day of March in the year next
46 succeeding the filing of the owner's petition with the division. A copy
47 of such order shall be mailed by regular and certified mail, return
48 receipt requested, to the tenant or tenants and a copy thereof shall be
49 sent to the owner.

50 3. In the event the tenant or tenants fail to [provide the informa-
51 tion] APPEAR WITHOUT GOOD OR JUST CAUSE AT THE HEARING required pursuant
52 to paragraph one of this subdivision, the division [shall] MAY issue, on
53 or before December first of such year, an order of deregulation provid-
54 ing that such housing accommodation shall not be subject to the
55 provisions of this law as of the first day of March in the year next
56 succeeding the last day on which the tenant or tenants were required to

1 [provide the information] APPEAR AT THE HEARING required by such para-
2 graph. A copy of such order shall be mailed by regular and certified
3 mail, return receipt requested, to the tenant or tenants and a copy
4 thereof shall be sent to the owner.

5 4. The provisions of the state freedom of information act shall not
6 apply to any income information obtained by the division pursuant to
7 this section.

8 S 3. Paragraph 1 of subdivision (a) of section 26-403.1 of the admin-
9 istrative code of the city of New York, as amended by section 34 of part
10 B of chapter 97 of the laws of 2011, is amended to read as follows:

11 1. For purposes of this section, annual income shall mean the federal
12 adjusted gross income as reported on the New York state income tax
13 return. Total annual income means the sum of the annual incomes of all
14 persons who occupy the housing accommodation as their primary residence
15 other than on a temporary basis, excluding bona fide employees of such
16 occupants residing therein in connection with such employment, EXCLUDING
17 SENIOR CITIZENS AND DISABLED PERSONS, and excluding bona fide subtenants
18 in occupancy pursuant to the provisions of section two hundred twenty-
19 six-b of the real property law. [In the case where a housing accommo-
20 dation is sublet, the annual income of the sublessor shall be consid-
21 ered.] FOR THE PURPOSES OF THIS SUBDIVISION, DISABLED PERSON SHALL MEAN
22 AN INDIVIDUAL (I) WITH A PHYSICAL OR MENTAL IMPAIRMENT, INCLUDING, BUT
23 NOT LIMITED TO, THOSE OF NEUROLOGICAL, EMOTIONAL OR SENSORY ORGANS,
24 WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF THE INDIVIDUAL'S MAJOR LIFE
25 ACTIVITIES, AND (II) WHO IS REGARDED AS HAVING SUCH AN IMPAIRMENT AS
26 CERTIFIED BY A LICENSED PHYSICIAN OF THIS STATE. FOR THE PURPOSES OF
27 THIS SUBDIVISION, SENIOR CITIZEN SHALL MEAN ANY PERSON WHO IS SIXTY-TWO
28 YEARS OF AGE OR OLDER.

29 S 4. Subdivision (c) of section 26-403.1 of the administrative code of
30 the city of New York, as amended by section 34 of part B of chapter 97
31 of the laws of 2011, is amended to read as follows:

32 (c) 1. In the event that the tenant or tenants either fail to return
33 the completed certification to the owner on or before the date required
34 by subdivision (b) of this section or the owner disputes the certifi-
35 cation returned by the tenant or tenants, the owner may, on or before
36 June thirtieth of such year, petition the state division of housing and
37 community renewal to verify, pursuant to section one hundred seventy-
38 one-b of the tax law, whether the total annual income exceeds the dereg-
39 ulation income threshold in each of the two preceding calendar years.
40 Within twenty days after the filing of such request with the division,
41 the division shall notify the tenant or tenants that such tenant or
42 tenants must provide the division with such information as the division
43 and the department of taxation and finance shall require to verify
44 whether the total annual income exceeds the deregulation income thresh-
45 old in each of the two preceding calendar years. The division's notifi-
46 cation shall require the tenant or tenants to provide the information to
47 the division within [sixty] NINETY days of service upon such tenant or
48 tenants and shall include a warning in bold faced type AT THE TOP OF THE
49 PAGE that failure to respond [will] MAY RESULT IN AN ORDER OF DECONTROL
50 BEING ISSUED BY THE DIVISION FOR SUCH HOUSING ACCOMMODATION FOLLOWING A
51 HEARING TO BE SCHEDULED NOT MORE THAN NINETY DAYS FROM THE DATE THE
52 DIVISION SENT SUCH TENANT OR TENANTS THE NOTICE PROVIDED IN THIS PARA-
53 GRAPH, THE NOTIFICATION SHALL ADVISE SUCH TENANT OR TENANTS THAT FAILURE
54 TO APPEAR AT SUCH HEARING WITHOUT GOOD OR JUST CAUSE MAY result in an
55 order of deregulation being issued by the division for such housing

1 accommodation. SUCH TENANT OR TENANTS MAY AUTHORIZE A PERSON OR PERSONS
2 TO REPRESENT SUCH TENANT'S OR TENANTS' INTEREST AT THE HEARING.

3 2. If the department of taxation and finance determines that the total
4 annual income is in excess of the deregulation income threshold in each
5 of the two preceding calendar years, the division shall, on or before
6 November fifteenth of such year, notify the owner and tenants of the
7 results of such verification. Both the owner and the tenants shall have
8 [thirty] SIXTY days within which to comment on such verification
9 results. Within forty-five days after the expiration of the comment
10 period, the division shall, where appropriate, issue an order of deregu-
11 lation providing that such housing accommodation shall not be subject to
12 the provisions of this law as of the first day of March in the year next
13 succeeding the filing of the owner's petition with the division. A copy
14 of such order shall be mailed by regular and certified mail, return
15 receipt requested, to the tenant or tenants and a copy thereof shall be
16 sent to the owner.

17 3. In the event the tenant or tenants fail to [provide the informa-
18 tion] APPEAR WITHOUT GOOD OR JUST CAUSE AT THE HEARING required pursuant
19 to paragraph one of this subdivision, the division shall issue, on or
20 before December first of such year, an order of deregulation providing
21 that such housing accommodation shall not be subject to the provisions
22 of this law as of the first day of March in the year next succeeding the
23 last day on which the tenant or tenants were required to [provide the
24 information] APPEAR AT THE HEARING required by such paragraph. A copy of
25 such order shall be mailed by regular and certified mail, return receipt
26 requested, to the tenant or tenants and a copy thereof shall be sent to
27 the owner.

28 4. The provisions of the state freedom of information act shall not
29 apply to any income information obtained by the division pursuant to
30 this section.

31 S 5. Paragraph 1 of subdivision (a) of section 26-504.3 of the admin-
32 istrative code of the city of New York, as amended by section 36 of part
33 B of chapter 97 of the laws of 2011, is amended to read as follows:

34 1. For purposes of this section, annual income shall mean the federal
35 adjusted gross income as reported on the New York state income tax
36 return. Total annual income means the sum of the annual incomes of all
37 persons whose names are recited as the tenant or co-tenant on a lease
38 who occupy the housing accommodation and all other persons that occupy
39 the housing accommodation as their primary residence on other than a
40 temporary basis, excluding bona fide employees of such occupants resid-
41 ing therein in connection with such employment, EXCLUDING SENIOR CITI-
42 ZENS AND DISABLED PERSONS, and excluding bona fide subtenants in occu-
43 pancy pursuant to the provisions of section two hundred twenty-six-b of
44 the real property law. [In the case where a housing accommodation is
45 sublet, the annual income of the tenant or co-tenant recited on the
46 lease who will reoccupy the housing accommodation upon the expiration of
47 the sublease shall be considered.] FOR THE PURPOSES OF THIS SUBDIVISION,
48 DISABLED PERSON SHALL MEAN AN INDIVIDUAL (I) WITH A PHYSICAL OR MENTAL
49 IMPAIRMENT, INCLUDING, BUT NOT LIMITED TO, THOSE OF NEUROLOGICAL,
50 EMOTIONAL OR SENSORY ORGANS, WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF
51 THE INDIVIDUAL'S MAJOR LIFE ACTIVITIES, AND (II) WHO IS REGARDED AS
52 HAVING SUCH AN IMPAIRMENT AS CERTIFIED BY A LICENSED PHYSICIAN OF THIS
53 STATE. FOR THE PURPOSES OF THIS SUBDIVISION, SENIOR CITIZEN SHALL MEAN
54 ANY PERSON WHO IS SIXTY-TWO YEARS OF AGE OR OLDER.

1 S 6. Subdivision (c) of section 26-504.3 of the administrative code of
2 the city of New York, as amended by section 36 of part B of chapter 97
3 of the laws of 2011, is amended to read as follows:

4 (c) 1. In the event that the tenant or tenants either fail to return
5 the completed certification to the owner on or before the date required
6 by subdivision (b) of this section or the owner disputes the certifi-
7 cation returned by the tenant or tenants, the owner may, on or before
8 June thirtieth of such year, petition the state division of housing and
9 community renewal to verify, pursuant to section one hundred seventy-
10 one-b of the tax law, whether the total annual income exceeds the dereg-
11 ulation income threshold in each of the two preceding calendar years.
12 Within twenty days after the filing of such request with the division,
13 the division shall notify the tenant or tenants named on the lease that
14 such tenant or tenants must provide the division with such information
15 as the division and the department of taxation and finance shall require
16 to verify whether the total annual income exceeds the deregulation
17 income threshold in each of the two preceding calendar years. The divi-
18 sion's notification shall require the tenant or tenants to provide the
19 information to the division within [sixty] NINETY days of service upon
20 such tenant or tenants and shall include a warning in bold faced type AT
21 THE TOP OF THE PAGE that failure to respond [will] MAY RESULT IN AN
22 ORDER OF DECONTROL BEING ISSUED BY THE DIVISION FOR SUCH HOUSING ACCOM-
23 MODATION FOLLOWING A HEARING TO BE SCHEDULED NOT MORE THAN NINETY DAYS
24 FROM THE DATE THE DIVISION SENT SUCH TENANT OR TENANTS THE NOTICE
25 PROVIDED IN THIS PARAGRAPH, THE NOTIFICATION SHALL ADVISE SUCH TENANT OR
26 TENANTS THAT FAILURE TO APPEAR AT SUCH HEARING WITHOUT GOOD OR JUST
27 CAUSE MAY result in an order being issued by the division providing that
28 such housing accommodation shall not be subject to the provisions of
29 this law. SUCH TENANT OR TENANTS MAY AUTHORIZE A PERSON OR PERSONS TO
30 REPRESENT SUCH TENANT'S OR TENANTS' INTEREST AT THE HEARING.

31 2. If the department of taxation and finance determines that the total
32 annual income is in excess of the deregulation income threshold in each
33 of the two preceding calendar years, the division shall, on or before
34 November fifteenth of such year, notify the owner and tenants of the
35 results of such verification. Both the owner and the tenants shall have
36 [thirty] SIXTY days within which to comment on such verification
37 results. Within forty-five days after the expiration of the comment
38 period, the division shall, where appropriate, issue an order providing
39 that such housing accommodation shall not be subject to the provisions
40 of this law upon the expiration of the existing lease. A copy of such
41 order shall be mailed by regular and certified mail, return receipt
42 requested, to the tenant or tenants and a copy thereof shall be sent to
43 the owner.

44 3. In the event the tenant or tenants fail to [provide the informa-
45 tion] APPEAR WITHOUT GOOD OR JUST CAUSE AT THE HEARING required pursuant
46 to paragraph one of this subdivision, the division shall issue, on or
47 before December first of such year, an order providing that such housing
48 accommodation shall not be subject to the provisions of this law upon
49 the expiration of the current lease. A copy of such order shall be
50 mailed by regular and certified mail, return receipt requested, to the
51 tenant or tenants and a copy thereof shall be sent to the owner.

52 4. The provisions of the state freedom of information act shall not
53 apply to any income information obtained by the division pursuant to
54 this section.

55 S 7. Paragraph 1 of subdivision (a) of section 5-a of section 4 of
56 chapter 576 of the laws of 1974, constituting the emergency tenant

1 protection act of nineteen seventy-four, as amended by section 30 of
2 part B of chapter 97 of the laws of 2011, is amended to read as follows:

3 1. For purposes of this section, annual income shall mean the federal
4 adjusted gross income as reported on the New York state income tax
5 return. Total annual income means the sum of the annual incomes of all
6 persons whose names are recited as the tenant or co-tenant on a lease
7 who occupy the housing accommodation and all other persons that occupy
8 the housing accommodation as their primary residence on other than a
9 temporary basis, excluding bona fide employees of such occupants resid-
10 ing therein in connection with such employment, EXCLUDING SENIOR CITI-
11 ZENS AND DISABLED PERSONS, and excluding bona fide subtenants in occu-
12 pancy pursuant to the provisions of section two hundred twenty-six-b of
13 the real property law. [In the case where a housing accommodation is
14 sublet, the annual income of the tenant or co-tenant recited on the
15 lease who will reoccupy the housing accommodation upon the expiration of
16 the sublease shall be considered.] FOR THE PURPOSES OF THIS SUBDIVISION,
17 DISABLED PERSON SHALL MEAN AN INDIVIDUAL (I) WITH A PHYSICAL OR MENTAL
18 IMPAIRMENT, INCLUDING, BUT NOT LIMITED TO, THOSE OF NEUROLOGICAL,
19 EMOTIONAL OR SENSORY ORGANS, WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF
20 THE INDIVIDUAL'S MAJOR LIFE ACTIVITIES, AND (II) WHO IS REGARDED AS
21 HAVING SUCH AN IMPAIRMENT AS CERTIFIED BY A LICENSED PHYSICIAN OF THIS
22 STATE. FOR THE PURPOSES OF THIS SUBDIVISION, SENIOR CITIZEN SHALL MEAN
23 ANY PERSON WHO IS SIXTY-TWO YEARS OF AGE OR OLDER.

24 S 8. Subdivision (c) of section 5-a of section 4 of chapter 576 of the
25 laws of 1974, constituting the emergency tenant protection act of nine-
26 teen seventy-four, as amended by section 30 of part B of chapter 97 of
27 the laws of 2011, is amended to read as follows:

28 (c) 1. In the event that the tenant or tenants either fail to return
29 the completed certification to the owner on or before the date required
30 by subdivision (b) of this section or the owner disputes the certif-
31 ication returned by the tenant or tenants, the owner may, on or before
32 June thirtieth of such year, petition the state division of housing and
33 community renewal to verify, pursuant to section one hundred seventy-
34 one-b of the tax law, whether the total annual income exceeds the dereg-
35 ulation income threshold in each of the two preceding calendar years.
36 Within twenty days after the filing of such request with the division,
37 the division shall notify the tenant or tenants that such tenant or
38 tenants named on the lease must provide the division with such informa-
39 tion as the division and the department of taxation and finance shall
40 require to verify whether the total annual income exceeds the deregula-
41 tion income threshold in each of the two preceding calendar years. The
42 division's notification shall require the tenant or tenants to provide
43 the information to the division within [sixty] NINETY days of service
44 upon such tenant or tenants and shall include a warning in bold faced
45 type AT THE TOP OF THE PAGE that failure to respond [will] MAY RESULT IN
46 AN ORDER OF DECONTROL BEING ISSUED BY THE DIVISION FOR SUCH HOUSING
47 ACCOMMODATION FOLLOWING A HEARING TO BE SCHEDULED NOT MORE THAN NINETY
48 DAYS FROM THE DATE THE DIVISION SENT SUCH TENANT OR TENANTS THE NOTICE
49 PROVIDED IN THIS PARAGRAPH, THE NOTIFICATION SHALL ADVISE SUCH TENANT OR
50 TENANTS THAT FAILURE TO APPEAR AT SUCH HEARING WITHOUT GOOD OR JUST
51 CAUSE MAY result in an order being issued by the division providing that
52 such housing accommodations shall not be subject to the provisions of
53 this act. SUCH TENANT OR TENANTS MAY AUTHORIZE A PERSON OR PERSONS TO
54 REPRESENT SUCH TENANT'S OR TENANTS' INTEREST AT THE HEARING.

55 2. If the department of taxation and finance determines that the total
56 annual income is in excess of the deregulation income threshold in each

1 of the two preceding calendar years, the division shall, on or before
2 November fifteenth of such year, notify the owner and tenants of the
3 results of such verification. Both the owner and the tenants shall have
4 [thirty] SIXTY days within which to comment on such verification
5 results. Within forty-five days after the expiration of the comment
6 period, the division shall, where appropriate, issue an order providing
7 that such housing accommodation shall not be subject to the provisions
8 of this act upon expiration of the existing lease. A copy of such order
9 shall be mailed by regular and certified mail, return receipt requested,
10 to the tenant or tenants and a copy thereof shall be sent to the owner.

11 3. In the event the tenant or tenants fail to [provide the informa-
12 tion] APPEAR WITHOUT GOOD OR JUST CAUSE AT THE HEARING required pursuant
13 to paragraph one of this subdivision, the division [shall] MAY issue, on
14 or before December first of such year, an order providing that such
15 housing accommodation shall not be subject to the provisions of this act
16 upon the expiration of the current lease. A copy of such order shall be
17 mailed by regular and certified mail, return receipt requested, to the
18 tenant or tenants and a copy thereof shall be sent to the owner.

19 4. The provisions of the state freedom of information act shall not
20 apply to any income information obtained by the division pursuant to
21 this section.

22 S 9. This act shall take effect immediately; provided that the amend-
23 ments to section 2-a of the emergency housing rent control law made by
24 sections one and two of this act shall expire on the same date as such
25 law expires and shall not affect the expiration of such law as provided
26 in subdivision 2 of section 1 of chapter 274 of the laws of 1946;
27 provided further that the amendments to section 26-403.1 of the city
28 rent and rehabilitation law made by sections three and four of this act
29 shall remain in full force and effect only so long as the public emer-
30 gency requiring the regulation and control of residential rents and
31 evictions continues, as provided in subdivision 3 of section 1 of the
32 local emergency housing rent control act; provided further that the
33 amendments to section 26-504.3 of the rent stabilization law of nineteen
34 hundred sixty-nine made by sections five and six of this act shall
35 expire on the same date as such law expires and shall not affect the
36 expiration of such law as provided under section 26-520 of such law; and
37 provided further that the amendments to section 5-a of the emergency
38 tenant protection act of nineteen seventy-four made by sections seven
39 and eight of this act shall expire on the same date as such act expires
40 and shall not affect the expiration of such act as provided in section
41 17 of chapter 576 of the laws of 1974.