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

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2011-2012 Regular Sessions

I N S E N A T E

June 10, 2011

Introduced by Sen. ESPAILLAT -- 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 housing rent control law, the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to income certification forms

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

Section 1. Subdivision (b) of section 2-a of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum rent is two thousand dollars or more per month may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of one hundred seventy-five thousand dollars in each of the two preceding calendar years. SUCH INCOME CERTIFICATION FORM SHALL NOT APPEAR ON THE OFFICIAL LETTERHEAD OF THE STATE OR OF ANY AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COUNCIL OR AUTHORITY THEREOF OR OTHERWISE CONVEY THE IMPRESSION THAT THE OWNER OF THE SUBJECT HOUSING ACCOMMODATION WHO UTILIZES SUCH FORM IS VOUCHED FOR OR IS AN INSTRUMENTALITY OF THE STATE. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that:

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

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(i) only tenants residing in housing accommodations which had a maximum rent of two thousand dollars or more per month are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of one hundred seventy-five thousand dollars in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of decontrol providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

S 2. Subdivision (b) of section 5-a 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 116 of the laws of 1997, is amended to read as follows:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the legal regulated rent is two thousand dollars or more per month may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of one hundred seventy-five thousand dollars in each of the two preceding calendar years. SUCH INCOME CERTIFICATION FORM SHALL NOT APPEAR ON THE OFFICIAL LETTERHEAD OF THE STATE OR OF ANY AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COUNCIL OR AUTHORITY THEREOF OR OTHERWISE CONVEY THE IMPRESSION THAT THE OWNER OF THE SUBJECT HOUSING ACCOMMODATION WHO UTILIZES SUCH FORM IS VOUCHED FOR OR IS AN INSTRUMENTALITY OF THE STATE. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law, and shall not require disclosure of any information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which had a legal regulated rent of two thousand dollars or more per month are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of one hundred seventy-five thousand dollars in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the

division, the division shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

S 3. Subdivision (b) of section 26-403.1 of the administrative code of the city of New York, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum rent is two thousand dollars or more per month may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of one hundred seventy-five thousand dollars in each of the two preceding calendar years. SUCH INCOME CERTIFICATION FORM SHALL NOT APPEAR ON THE OFFICIAL LETTERHEAD OF THE STATE OR OF ANY AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COUNCIL OR AUTHORITY THEREOF OR OTHERWISE CONVEY THE IMPRESSION THAT THE OWNER OF THE SUBJECT HOUSING ACCOMMODATION WHO UTILIZES SUCH FORM IS VOUCHED FOR OR IS AN INSTRUMENTALITY OF THE STATE. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which have a maximum rent of two thousand dollars or more per month are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of one hundred seventy-five thousand dollars in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of decontrol providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

S 4. Subdivision (b) of section 26-504.3 of the administrative code of the city of New York, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the legal regulated rent is two thousand dollars or more per month may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants

shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of one hundred seventy-five thousand dollars in each of the two preceding calendar years. SUCH INCOME CERTIFICATION FORM SHALL NOT APPEAR ON THE OFFICIAL LETTERHEAD OF THE STATE OR OF ANY AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COUNCIL OR AUTHORITY THEREOF OR OTHERWISE CONVEY THE IMPRESSION THAT THE OWNER OF THE SUBJECT HOUSING ACCOMMODATION WHO UTILIZES SUCH FORM IS VOUCHED FOR OR IS AN INSTRUMENTALITY OF THE STATE. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which have a legal regulated rent of two thousand dollars or more per month are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of one hundred seventy-five thousand dollars in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

S 5. The division of housing and community renewal is hereby directed to revise the income verification form required by section 2-a of the emergency housing rent control law, section 5-a of the emergency tenant protection act of nineteen seventy-four, section 26-403.1 of the city rent and rehabilitation law and section 26-504.3 of the rent stabilization law of nineteen hundred sixty-nine to set forth the required content in a manner of language and format which is more comprehensible to laypersons and on a form which does not appear on the letterhead of the state or of any agency, department, division, bureau, board, commission, council or authority thereof and does not otherwise convey the impression that the owner of the subject housing accommodation who utilizes such form is vouched for or is an instrumentality of the state. The content of such form shall, at a minimum, be available in English and Spanish. The revised form shall be complete and made available by the division on or before December 31, 2011.

S 6. This act shall take effect on the ninetieth day after it shall have become a law; provided that:

(a) the amendments to subdivision (b) of section 2-a of the emergency housing rent control law made by section one of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946, as amended;

(b) the amendments to subdivision (b) of section 5-a of the emergency tenant protection act of nineteen seventy-four made by section two 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;

(c) the amendments to subdivision (b) of section 26-403.1 of the city rent and rehabilitation law made by section three of this act shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act;

(d) the amendments to section 26-504.3 of chapter 4 of title 26 of the administrative code of the city of New York made by section four 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; and

(e) effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.