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I N S E N A T E

February 13, 2012

Introduced by Sen. YOUNG -- 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 high income decontrol of rent regulated housing accommodations

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

1 Section 1. Subparagraph 1 of paragraph (m) of subdivision 2 of section  
2 2 of chapter 274 of the laws of 1946, constituting the emergency housing  
3 rent control law, as amended by section 31 of part B of chapter 97 of  
4 the laws of 2011, is amended to read as follows:

5 (1) are occupied by persons who have a total AVERAGE annual income, as  
6 defined in and subject to the limitations and process set forth in  
7 section two-a of this law, in excess of the deregulation income thresh-  
8 old as defined in section two-a of this law [in each of] FOR the two  
9 preceding calendar years;

10 S 2. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of  
11 section 2-a of chapter 274 of the laws of 1946, constituting the emer-  
12 gency housing rent control law, as amended by section 32 of part B of  
13 chapter 97 of the laws of 2011, are amended to read as follows:

14 (b) On or before the first day of May in each calendar year, the owner  
15 of each housing accommodation for which the maximum monthly rent equals  
16 or exceeds the deregulation rent threshold may provide the tenant or  
17 tenants residing therein with an income certification form prepared by  
18 the division of housing and community renewal on which such tenant or  
19 tenants shall identify all persons referred to in subdivision (a) of  
20 this section and shall certify whether the total annual income is in  
21 excess of the deregulation income threshold in each of the two preceding  
22 calendar years. Such income certification form shall state that the  
23 income level certified to by the tenant may be subject to verification  
24 by the department of taxation and finance pursuant to section one  
25 hundred seventy-one-b of the tax law and shall not require disclosure of

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

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1 any income information other than whether the aforementioned threshold  
2 has been exceeded. Such income certification form shall clearly state  
3 that: (i) only tenants residing in housing accommodations which had a  
4 maximum monthly rent equal to or in excess of the deregulation rent  
5 threshold are required to complete the certification form; (ii) that  
6 tenants have protections available to them which are designed to prevent  
7 harassment; (iii) that tenants are not required to provide any informa-  
8 tion regarding their income except that which is requested on the form  
9 and may contain such other information the division deems appropriate.  
10 The tenant or tenants shall return the completed certification to the  
11 owner within thirty days after service upon the tenant or tenants. In  
12 the event that the total AVERAGE annual income as certified is in excess  
13 of the deregulation income threshold [in each of] FOR the two preceding  
14 calendar years, the owner may file the certification with the state  
15 division of housing and community renewal on or before June thirtieth of  
16 such year. Upon filing such certification with the division, the divi-  
17 sion shall, within thirty days after the filing, issue an order of  
18 deregulation providing that such housing accommodations shall not be  
19 subject to the provisions of this law as of the first day of June in the  
20 year next succeeding the filing of the certification by the owner. A  
21 copy of such order shall be mailed by regular and certified mail, return  
22 receipt requested, to the tenant or tenants and a copy thereof shall be  
23 mailed to the owner.

24 1. In the event that the tenant or tenants either fail to return the  
25 completed certification to the owner on or before the date required by  
26 subdivision (b) of this section or the owner disputes the certification  
27 returned by the tenant or tenants, the owner may, on or before June  
28 thirtieth of such year, petition the state division of housing and  
29 community renewal to verify, pursuant to section one hundred seventy-  
30 one-b of the tax law, whether the total AVERAGE annual income exceeds  
31 the deregulation income threshold [in each of] FOR the two preceding  
32 calendar years. Within twenty days after the filing of such request with  
33 the division, the division shall notify the tenant or tenants that such  
34 tenant or tenants must provide the division with such information as the  
35 division and the department of taxation and finance shall require to  
36 verify whether the total AVERAGE annual income exceeds the deregulation  
37 income threshold [in each of] FOR the two preceding calendar years. The  
38 division's notification shall require the tenant or tenants to provide  
39 the information to the division within sixty days of service upon such  
40 tenant or tenants and shall include a warning in bold faced type that  
41 failure to respond will result in an order of deregulation being issued  
42 by the division for such housing accommodation.

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

1 S 3. Paragraph 12 of subdivision a of section 5 of section 4 of chap-  
2 ter 576 of the laws of 1974, constituting the emergency tenant  
3 protection act of nineteen seventy-four, as amended by section 29 of  
4 part B of chapter 97 of the laws of 2011, is amended to read as follows:

5 (12) upon issuance of an order by the division, housing accommodations  
6 which are: (1) occupied by persons who have a total AVERAGE annual  
7 income as defined in and subject to the limitations and process set  
8 forth in section five-a of this act in excess of the deregulation income  
9 threshold, as defined in section five-a of this act, [in each of] FOR  
10 the two preceding calendar years; and (2) have a legal regulated rent  
11 that equals or exceeds the deregulation rent threshold, as defined in  
12 section five-a of this act. Provided however, that this exclusion shall  
13 not apply to housing accommodations which became or become subject to  
14 this act (a) by virtue of receiving tax benefits pursuant to section  
15 four hundred twenty-one-a or four hundred eighty-nine of the real prop-  
16 erty tax law, except as otherwise provided in subparagraph (i) of para-  
17 graph (f) of subdivision two of section four hundred twenty-one-a of the  
18 real property tax law, or (b) by virtue of article seven-C of the multi-  
19 ple dwelling law.

20 S 4. Subdivisions (b) and (c) of section 5-a of section 4 of chapter  
21 576 of the laws of 1974, constituting the emergency tenant protection  
22 act of nineteen seventy-four, as amended by section 30 of part B of  
23 chapter 97 of the laws of 2011, are amended to read as follows:

24 (b) On or before the first day of May in each calendar year, the owner  
25 of each housing accommodation for which the legal regulated monthly rent  
26 equals or exceeds the deregulation rent threshold may provide the tenant  
27 or tenants residing therein with an income certification form prepared  
28 by the division of housing and community renewal on which such tenant or  
29 tenants shall identify all persons referred to in subdivision (a) of  
30 this section and shall certify whether the total AVERAGE annual income  
31 is in excess of the deregulation income threshold [in each of] FOR the  
32 two preceding calendar years. Such income certification form shall  
33 state that the income level certified to by the tenant may be subject to  
34 verification by the department of taxation and finance pursuant to  
35 section one hundred seventy-one-b of the tax law, and shall not require  
36 disclosure of any information other than whether the aforementioned  
37 threshold has been exceeded. Such income certification form shall clear-  
38 ly state that: (i) only tenants residing in housing accommodations which  
39 had a legal regulated monthly rent that equals or exceeds the deregu-  
40 lation rent threshold are required to complete the certification form;  
41 (ii) that tenants have protections available to them which are designed  
42 to prevent harassment; (iii) that tenants are not required to provide  
43 any information regarding their income except that which is requested on  
44 the form and may contain such other information the division deems  
45 appropriate. The tenant or tenants shall return the completed certifi-  
46 cation to the owner within thirty days after service upon the tenant or  
47 tenants. In the event that the total AVERAGE annual income as certified  
48 is in excess of the deregulation income threshold [in each of] FOR the  
49 two preceding calendar years, the owner may file the certification with  
50 the state division of housing and community renewal on or before June  
51 thirtieth of such year. Upon filing such certification with the divi-  
52 sion, the division shall, within thirty days after the filing, issue an  
53 order providing that such housing accommodation shall not be subject to  
54 the provisions of this act upon the expiration of the existing lease. A  
55 copy of such order shall be mailed by regular and certified mail, return

1 receipt requested, to the tenant or tenants and a copy thereof shall be  
2 mailed to the owner.

3 (c) 1. In the event that the tenant or tenants either fail to return  
4 the completed certification to the owner on or before the date required  
5 by subdivision (b) of this section or the owner disputes the certifi-  
6 cation returned by the tenant or tenants, the owner may, on or before  
7 June thirtieth of such year, petition the state division of housing and  
8 community renewal to verify, pursuant to section one hundred seventy-  
9 one-b of the tax law, whether the total AVERAGE annual income exceeds  
10 the deregulation income threshold [in each of] FOR the two preceding  
11 calendar years. Within twenty days after the filing of such request  
12 with the division, the division shall notify the tenant or tenants that  
13 such tenant or tenants named on the lease must provide the division with  
14 such information as the division and the department of taxation and  
15 finance shall require to verify whether the total AVERAGE annual income  
16 exceeds the deregulation income threshold [in each of] FOR the two  
17 preceding calendar years. The division's notification shall require the  
18 tenant or tenants to provide the information to the division within  
19 sixty days of service upon such tenant or tenants and shall include a  
20 warning in bold faced type that failure to respond will result in an  
21 order being issued by the division providing that such housing accommo-  
22 dations shall not be subject to the provisions of this act.

23 2. If the department of taxation and finance determines that the total  
24 AVERAGE annual income is in excess of the deregulation income threshold  
25 [in each of] FOR the two preceding calendar years, the division shall,  
26 on or before November fifteenth of such year, notify the owner and  
27 tenants of the results of such verification. Both the owner and the  
28 tenants shall have thirty days within which to comment on such verifica-  
29 tion results. Within forty-five days after the expiration of the  
30 comment period, the division shall, where appropriate, issue an order  
31 providing that such housing accommodation shall not be subject to the  
32 provisions of this act upon expiration of the existing lease. A copy of  
33 such order shall be mailed by regular and certified mail, return receipt  
34 requested, to the tenant or tenants and a copy thereof shall be sent to  
35 the owner.

36 3. In the event the tenant or tenants fail to provide the information  
37 required pursuant to paragraph one of this subdivision, the division  
38 shall issue, on or before December first of such year, an order provid-  
39 ing that such housing accommodation shall not be subject to the  
40 provisions of this act upon the expiration of the current lease. A copy  
41 of such order shall be mailed by regular and certified mail, return  
42 receipt requested, to the tenant or tenants and a copy thereof shall be  
43 sent to the owner.

44 4. The provisions of the state freedom of information act shall not  
45 apply to any income information obtained by the division pursuant to  
46 this section.

47 S 5. Clause 1 of subparagraph (j) of paragraph 2 of subdivision e of  
48 section 26-403 of the administrative code of the city of New York, as  
49 amended by section 33 of part B of chapter 97 of the laws of 2011, is  
50 amended to read as follows:

51 (1) are occupied by persons who have a total AVERAGE annual income, as  
52 defined in and subject to the limitations and process set forth in  
53 section 26-403.1 of this chapter, in excess of the deregulation income  
54 threshold, as defined in section 26-403.1 of this chapter, [in each of]  
55 FOR the two preceding calendar years; and

1 S 6. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of  
2 section 26-403.1 of the administrative code of the city of New York, as  
3 amended by section 34 of part B of chapter 97 of the laws of 2011, are  
4 amended to read as follows:

5 (b) On or before the first day of May in each calendar year, the owner  
6 of each housing accommodation for which the maximum rent equals or  
7 exceeds the deregulation rent threshold may provide the tenant or  
8 tenants residing therein with an income certification form prepared by  
9 the division of housing and community renewal on which such tenant or  
10 tenants shall identify all persons referred to in subdivision (a) of  
11 this section and shall certify whether the total AVERAGE annual income  
12 is in excess of the deregulation income threshold [in each of] FOR the  
13 two preceding calendar years. Such income certification form shall state  
14 that the income level certified to by the tenant may be subject to  
15 verification by the department of taxation and finance pursuant to  
16 section one hundred seventy-one-b of the tax law and shall not require  
17 disclosure of any income information other than whether the aforemen-  
18 tioned threshold has been exceeded. Such income certification form shall  
19 clearly state that: (i) only tenants residing in housing accommodations  
20 which have a maximum monthly rent that equals or exceeds the deregu-  
21 lation rent threshold are required to complete the certification form;  
22 (ii) that tenants have protections available to them which are designed  
23 to prevent harassment; (iii) that tenants are not required to provide  
24 any information regarding their income except that which is requested on  
25 the form and may contain such other information the division deems  
26 appropriate. The tenant or tenants shall return the completed certifi-  
27 cation to the owner within thirty days after service upon the tenant or  
28 tenants. In the event that the total AVERAGE annual income as certified  
29 is in excess of the deregulation income threshold [in each of] FOR the  
30 two preceding calendar years, the owner may file the certification with  
31 the state division of housing and community renewal on or before June  
32 thirtieth of such year. Upon filing such certification with the divi-  
33 sion, the division shall, within thirty days after the filing, issue an  
34 order of deregulation providing that such housing accommodations shall  
35 not be subject to the provisions of this law as of the first day of June  
36 in the year next succeeding the filing of the certification by the  
37 owner. A copy of such order shall be mailed by regular and certified  
38 mail, return receipt requested, to the tenant or tenants and a copy  
39 thereof shall be mailed to the owner.

40 1. In the event that the tenant or tenants either fail to return the  
41 completed certification to the owner on or before the date required by  
42 subdivision (b) of this section or the owner disputes the certification  
43 returned by the tenant or tenants, the owner may, on or before June  
44 thirtieth of such year, petition the state division of housing and  
45 community renewal to verify, pursuant to section one hundred seventy-  
46 one-b of the tax law, whether the total AVERAGE annual income exceeds  
47 the deregulation income threshold [in each of] FOR the two preceding  
48 calendar years. Within twenty days after the filing of such request with  
49 the division, the division shall notify the tenant or tenants that such  
50 tenant or tenants must provide the division with such information as the  
51 division and the department of taxation and finance shall require to  
52 verify whether the total AVERAGE annual income exceeds the deregulation  
53 income threshold [in each of] FOR the two preceding calendar years. The  
54 division's notification shall require the tenant or tenants to provide  
55 the information to the division within sixty days of service upon such  
56 tenant or tenants and shall include a warning in bold faced type that

1 failure to respond will result in an order of deregulation being issued  
2 by the division for such housing accommodation.

3 2. If the department of taxation and finance determines that the total  
4 AVERAGE annual income is in excess of the deregulation income threshold  
5 [in each of] FOR the two preceding calendar years, the division shall,  
6 on or before November fifteenth of such year, notify the owner and  
7 tenants of the results of such verification. Both the owner and the  
8 tenants shall have thirty days within which to comment on such verifica-  
9 tion 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 S 7. Section 26-504.1 of the administrative code of the city of New  
18 York, as amended by section 35 of part B of chapter 97 of the laws of  
19 2011, is amended to read as follows:

20 S 26-504.1 Exclusion of accommodations of high income renters. Upon  
21 the issuance of an order by the division, "housing accommodations" shall  
22 not include housing accommodations which: (1) are occupied by persons  
23 who have a total AVERAGE annual income, as defined in and subject to the  
24 limitations and process set forth in section 26-504.3 of this chapter,  
25 in excess of the deregulation income threshold, as defined in section  
26 26-504.3 of this chapter, for [each of] the two preceding calendar  
27 years; and (2) have a legal regulated monthly rent that equals or  
28 exceeds the deregulation rent threshold, as defined in section 26-504.3  
29 of this chapter. Provided, however, that this exclusion shall not apply  
30 to housing accommodations which became or become subject to this law (a)  
31 by virtue of receiving tax benefits pursuant to section four hundred  
32 twenty-one-a or four hundred eighty-nine of the real property tax law,  
33 except as otherwise provided in subparagraph (i) of paragraph (f) of  
34 subdivision two of section four hundred twenty-one-a of the real proper-  
35 ty tax law, or (b) by virtue of article seven-C of the multiple dwelling  
36 law.

37 S 8. Subdivision (b) and paragraphs 1 and 2 of subdivision (c) of  
38 section 26-504.3 of the administrative code of the city of New York, as  
39 amended by section 36 of part B of chapter 97 of the laws of 2011, are  
40 amended to read as follows:

41 (b) On or before the first day of May in each calendar year, the owner  
42 of each housing accommodation for which the legal regulated rent equals  
43 or exceeds the deregulation rent threshold may provide the tenant or  
44 tenants residing therein with an income certification form prepared by  
45 the division of housing and community renewal on which such tenant or  
46 tenants shall identify all persons referred to in subdivision (a) of  
47 this section and shall certify whether the total AVERAGE annual income  
48 is in excess of the deregulation income threshold [in each of] FOR the  
49 two preceding calendar years. Such income certification form shall state  
50 that the income level certified to by the tenant may be subject to  
51 verification by the department of taxation and finance pursuant to  
52 section one hundred seventy-one-b of the tax law and shall not require  
53 disclosure of any income information other than whether the aforemen-  
54 tioned threshold has been exceeded. Such income certification form shall  
55 clearly state that: (i) only tenants residing in housing accommodations  
56 which have a legal regulated monthly rent, that equals or exceeds the

1 deregulation rent threshold are required to complete the certification  
2 form; (ii) that tenants have protections available to them which are  
3 designed to prevent harassment; (iii) that tenants are not required to  
4 provide any information regarding their income except that which is  
5 requested on the form and may contain such other information the divi-  
6 sion deems appropriate. The tenant or tenants shall return the completed  
7 certification to the owner within thirty days after service upon the  
8 tenant or tenants. In the event that the total AVERAGE annual income as  
9 certified is in excess of the deregulation income threshold [in each of]  
10 FOR the two preceding calendar years, the owner may file the certifi-  
11 cation with the state division of housing and community renewal on or  
12 before June thirtieth of such year. Upon filing such certification with  
13 the division, the division shall, within thirty days after the filing,  
14 issue an order providing that such housing accommodation shall not be  
15 subject to the provisions of this act upon the expiration of the exist-  
16 ing lease. A copy of such order shall be mailed by regular and certi-  
17 fied mail, return receipt requested, to the tenant or tenants and a copy  
18 thereof shall be mailed to the owner.

19 1. In the event that the tenant or tenants either fail to return the  
20 completed certification to the owner on or before the date required by  
21 subdivision (b) of this section or the owner disputes the certification  
22 returned by the tenant or tenants, the owner may, on or before June  
23 thirtieth of such year, petition the state division of housing and  
24 community renewal to verify, pursuant to section one hundred seventy-  
25 one-b of the tax law, whether the total AVERAGE annual income exceeds  
26 the deregulation income threshold [in each of] FOR the two preceding  
27 calendar years. Within twenty days after the filing of such request with  
28 the division, the division shall notify the tenant or tenants named on  
29 the lease that such tenant or tenants must provide the division with  
30 such information as the division and the department of taxation and  
31 finance shall require to verify whether the total AVERAGE annual income  
32 exceeds the deregulation income threshold [in each of] FOR the two  
33 preceding calendar years. The division's notification shall require the  
34 tenant or tenants to provide the information to the division within  
35 sixty days of service upon such tenant or tenants and shall include a  
36 warning in bold faced type that failure to respond will result in an  
37 order being issued by the division providing that such housing accommo-  
38 dation shall not be subject to the provisions of this law.

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

52 S 9. This act shall take effect immediately and shall apply to income  
53 certification forms served on and after January 1, 2013; provided that:

54 (a) the amendments to the emergency housing rent control law made by  
55 sections one and two of this act shall expire on the same date as such

1 law expires and shall not affect the expiration of such law as provided  
2 in subdivision 2 of section 1 of chapter 274 of the laws of 1946;

3 (b) the amendments to the emergency tenant protection act of nineteen  
4 seventy-four made by sections three and four of this act shall expire on  
5 the same date as such act expires and shall not affect the expiration of  
6 such act as provided in section 17 of chapter 576 of the laws of 1974;

7 (c) the amendments to the city rent and rehabilitation law made by  
8 sections five and six of this act shall remain in full force and effect  
9 only as long as the public emergency requiring the regulation and  
10 control of residential rents and evictions continues, as provided in  
11 subdivision 3 of section 1 of the local emergency housing rent control  
12 act; and

13 (d) the amendments to chapter 4 of title 26 of the administrative code  
14 of the city of New York made by sections seven and eight of this act  
15 shall expire on the same date as such law expires and shall not affect  
16 the expiration of such law as provided under section 26-520 of such law.