

449--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KRUEGER, DUANE, HUNTLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- recommitted to the Committee on Housing, Construction and Community Development in accordance with Senate Rule 6, sec. 8 -- 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

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

LBD00948-02-1

1 AN INDIVIDUAL (I) WITH A PHYSICAL OR MENTAL IMPAIRMENT, INCLUDING, BUT
2 NOT LIMITED TO, THOSE OF NEUROLOGICAL, EMOTIONAL OR SENSORY ORGANS,
3 WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF THE INDIVIDUAL'S MAJOR LIFE
4 ACTIVITIES, AND (II) WHO IS REGARDED AS HAVING SUCH AN IMPAIRMENT AS
5 CERTIFIED BY A LICENSED PHYSICIAN OF THIS STATE. FOR THE PURPOSES OF
6 THIS SUBDIVISION, SENIOR CITIZEN SHALL MEAN ANY PERSON WHO IS SIXTY-TWO
7 YEARS OF AGE OR OLDER.

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

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

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

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

provisions of this law as of the first day of March in the year next succeeding the last day on which the tenant or tenants were required to [provide the information] APPEAR AT THE HEARING required by such paragraph. 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 sent to the owner.

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

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

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

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

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds the deregulation income threshold in each of the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total annual income exceeds the deregulation income threshold in each of the two preceding calendar years. The division's notification shall require the tenant or tenants to provide the information to the division within [sixty] NINETY days of service upon such tenant or tenants and shall include a warning in bold faced type AT THE TOP OF THE PAGE that failure to respond [will] MAY RESULT IN AN ORDER OF DECONTROL BEING ISSUED BY THE DIVISION FOR SUCH HOUSING ACCOMMODATION FOLLOWING A HEARING TO BE SCHEDULED NOT MORE THAN NINETY DAYS FROM THE DATE THE DIVISION SENT SUCH TENANT OR TENANTS THE NOTICE PROVIDED IN THIS PARAGRAPH, THE NOTIFICATION SHALL ADVISE SUCH TENANT OR TENANTS THAT FAILURE TO APPEAR AT SUCH HEARING WITHOUT GOOD OR JUST CAUSE MAY result in an

1 order of deregulation being issued by the division for such housing
2 accommodation. SUCH TENANT OR TENANTS MAY AUTHORIZE A PERSON OR PERSONS
3 TO REPRESENT SUCH TENANT'S OR TENANTS' INTEREST AT THE HEARING.

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

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

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

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

35 1. For purposes of this section, annual income shall mean the federal
36 adjusted gross income as reported on the New York state income tax
37 return. Total annual income means the sum of the annual incomes of all
38 persons whose names are recited as the tenant or co-tenant on a lease
39 who occupy the housing accommodation and all other persons that occupy
40 the housing accommodation as their primary residence on other than a
41 temporary basis, excluding bona fide employees of such occupants resid-
42 ing therein in connection with such employment, EXCLUDING SENIOR CITI-
43 ZENS AND DISABLED PERSONS, and excluding bona fide subtenants in occu-
44 pancy pursuant to the provisions of section two hundred twenty-six-b of
45 the real property law. [In the case where a housing accommodation is
46 sublet, the annual income of the tenant or co-tenant recited on the
47 lease who will reoccupy the housing accommodation upon the expiration of
48 the sublease shall be considered.] FOR THE PURPOSES OF THIS SUBDIVISION,
49 DISABLED PERSON SHALL MEAN AN INDIVIDUAL (I) WITH A PHYSICAL OR MENTAL
50 IMPAIRMENT, INCLUDING, BUT NOT LIMITED TO, THOSE OF NEUROLOGICAL,
51 EMOTIONAL OR SENSORY ORGANS, WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF
52 THE INDIVIDUAL'S MAJOR LIFE ACTIVITIES, AND (II) WHO IS REGARDED AS
53 HAVING SUCH AN IMPAIRMENT AS CERTIFIED BY A LICENSED PHYSICIAN OF THIS
54 STATE. FOR THE PURPOSES OF THIS SUBDIVISION, SENIOR CITIZEN SHALL MEAN
55 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.