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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.