

4073

2013-2014 Regular Sessions

I N S E N A T E

March 7, 2013

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

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

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

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

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

1 of such order shall be mailed by regular and certified mail, return
2 receipt requested, to the tenant or tenants and a copy thereof shall be
3 sent to the owner.

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

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

23 S 4. Subdivisions (b) and (c) of section 5-a of section 4 of chapter
24 576 of the laws of 1974, constituting the emergency tenant protection
25 act of nineteen seventy-four, as amended by section 30 of part B of
26 chapter 97 of the laws of 2011, are amended to read as follows:

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

1 the provisions of this act upon the expiration of the existing lease. A
2 copy of such order shall be mailed by regular and certified mail, return
3 receipt requested, to the tenant or tenants and a copy thereof shall be
4 mailed to the owner.

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

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

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

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

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

53 (1) are occupied by persons who have a total AVERAGE annual income, as
54 defined in and subject to the limitations and process set forth in
55 section 26-403.1 of this chapter, in excess of the deregulation income

threshold, as defined in section 26-403.1 of this chapter, [in each of] FOR the two preceding calendar years; and

S 6. Subdivision (b) and paragraphs 1 and 2 of 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, are 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 equals or exceeds the deregulation rent threshold 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 AVERAGE annual income is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years. 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 monthly rent that equals or exceeds the deregulation rent threshold 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 AVERAGE annual income as certified is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, 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 deregulation 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.

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 AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR 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 AVERAGE annual income exceeds the deregulation income threshold [in each of] FOR the two preceding calendar years. The division's notification shall require the tenant or tenants to provide

1 the information to the division within sixty days of service upon such
2 tenant or tenants and shall include a warning in bold faced type that
3 failure to respond will result in an order of deregulation being issued
4 by the division for such housing accommodation.

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

19 S 7. Section 26-504.1 of the administrative code of the city of New
20 York, as amended by section 35 of part B of chapter 97 of the laws of
21 2011, is amended to read as follows:

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

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

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

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

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

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

54 S 9. This act shall take effect immediately and shall apply to income
55 certification forms served on and after January 1, 2014; provided that:

1 (a) the amendments to the emergency housing rent control law made by
2 sections one and two of this act shall expire on the same date as such
3 law expires and shall not affect the expiration of such law as provided
4 in subdivision 2 of section 1 of chapter 274 of the laws of 1946;
5 (b) the amendments to the emergency tenant protection act of nineteen
6 seventy-four made by sections three and four of this act shall expire on
7 the same date as such act expires and shall not affect the expiration of
8 such act as provided in section 17 of chapter 576 of the laws of 1974;
9 (c) the amendments to the city rent and rehabilitation law made by
10 sections five and six of this act shall remain in full force and effect
11 only as long as the public emergency requiring the regulation and
12 control of residential rents and evictions continues, as provided in
13 subdivision 3 of section 1 of the local emergency housing rent control
14 act; and
15 (d) the amendments to chapter 4 of title 26 of the administrative code
16 of the city of New York made by sections seven and eight of this act
17 shall expire on the same date as such law expires and shall not affect
18 the expiration of such law as provided under section 26-520 of such law.