

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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Introduced by M. of A. KAVANAGH -- Multi-Sponsored by -- M. of A. FARRELL -- read once and referred to the Committee on Housing

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  
16    AN INDIVIDUAL (I) WITH A PHYSICAL OR MENTAL IMPAIRMENT, INCLUDING, BUT  
17    NOT LIMITED TO, THOSE OF NEUROLOGICAL, EMOTIONAL OR SENSORY ORGANS,  
18    WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF THE INDIVIDUAL'S MAJOR LIFE  
19    ACTIVITIES, AND (II) WHO IS REGARDED AS HAVING SUCH AN IMPAIRMENT AS

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

LBD01743-01-3

1 CERTIFIED BY A LICENSED PHYSICIAN OF THIS STATE. FOR THE PURPOSES OF  
2 THIS SUBDIVISION, SENIOR CITIZEN SHALL MEAN ANY PERSON WHO IS SIXTY-TWO  
3 YEARS OF AGE OR OLDER.

4 S 2. Subdivision (c) of section 2-a of chapter 274 of the laws of  
5 1946, constituting the emergency housing rent control law, as amended by  
6 section 32 of part B of chapter 97 of the laws of 2011, is amended to  
7 read as follows:

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

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

48 3. In the event the tenant or tenants fail to [provide the informa-  
49 tion] APPEAR WITHOUT GOOD OR JUST CAUSE AT THE HEARING required pursuant  
50 to paragraph one of this subdivision, the division [shall] MAY issue, on  
51 or before December first of such year, an order of deregulation provid-  
52 ing that such housing accommodation shall not be subject to the  
53 provisions of this law as of the first day of March in the year next  
54 succeeding the last day on which the tenant or tenants were required to  
55 [provide the information] APPEAR AT THE HEARING required by such para-  
56 graph. A copy of such order shall be mailed by regular and certified

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

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

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

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

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

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

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

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

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

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

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

53 S 6. Subdivision (c) of section 26-504.3 of the administrative code of  
54 the city of New York, as amended by section 36 of part B of chapter 97  
55 of the laws of 2011, is amended to read as follows:

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

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

41 3. In the event the tenant or tenants fail to [provide the informa-  
42 tion] APPEAR WITHOUT GOOD OR JUST CAUSE AT THE HEARING required pursuant  
43 to paragraph one of this subdivision, the division shall issue, on or  
44 before December first of such year, an order providing that such housing  
45 accommodation shall not be subject to the provisions of this law upon  
46 the expiration of the current lease. A copy of such order shall be  
47 mailed by regular and certified mail, return receipt requested, to the  
48 tenant or tenants and a copy thereof shall be sent to the owner.

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

52 S 7. Paragraph 1 of subdivision (a) of section 5-a of section 4 of  
53 chapter 576 of the laws of 1974, constituting the emergency tenant  
54 protection act of nineteen seventy-four, as amended by section 30 of  
55 part B of chapter 97 of the laws of 2011, is amended to read as follows:

1 1. For purposes of this section, annual income shall mean the federal  
2 adjusted gross income as reported on the New York state income tax  
3 return. Total annual income means the sum of the annual incomes of all  
4 persons whose names are recited as the tenant or co-tenant on a lease  
5 who occupy the housing accommodation and all other persons that occupy  
6 the housing accommodation as their primary residence on other than a  
7 temporary basis, excluding bona fide employees of such occupants resid-  
8 ing therein in connection with such employment, EXCLUDING SENIOR CITI-  
9 ZENS AND DISABLED PERSONS, and excluding bona fide subtenants in occu-  
10 pancy pursuant to the provisions of section two hundred twenty-six-b of  
11 the real property law. [In the case where a housing accommodation is  
12 sublet, the annual income of the tenant or co-tenant recited on the  
13 lease who will reoccupy the housing accommodation upon the expiration of  
14 the sublease shall be considered.] FOR THE PURPOSES OF THIS SUBDIVISION,  
15 DISABLED PERSON SHALL MEAN AN INDIVIDUAL (I) WITH A PHYSICAL OR MENTAL  
16 IMPAIRMENT, INCLUDING, BUT NOT LIMITED TO, THOSE OF NEUROLOGICAL,  
17 EMOTIONAL OR SENSORY ORGANS, WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF  
18 THE INDIVIDUAL'S MAJOR LIFE ACTIVITIES, AND (II) WHO IS REGARDED AS  
19 HAVING SUCH AN IMPAIRMENT AS CERTIFIED BY A LICENSED PHYSICIAN OF THIS  
20 STATE. FOR THE PURPOSES OF THIS SUBDIVISION, SENIOR CITIZEN SHALL MEAN  
21 ANY PERSON WHO IS SIXTY-TWO YEARS OF AGE OR OLDER.

22 S 8. Subdivision (c) of section 5-a of section 4 of chapter 576 of the  
23 laws of 1974, constituting the emergency tenant protection act of nine-  
24 teen seventy-four, as amended by section 30 of part B of chapter 97 of  
25 the laws of 2011, is amended to read as follows:

26 (c) 1. In the event that the tenant or tenants either fail to return  
27 the completed certification to the owner on or before the date required  
28 by subdivision (b) of this section or the owner disputes the certif-  
29 ication returned by the tenant or tenants, the owner may, on or before  
30 June thirtieth of such year, petition the state division of housing and  
31 community renewal to verify, pursuant to section one hundred seventy-  
32 one-b of the tax law, whether the total annual income exceeds the dereg-  
33 ulation income threshold in each of the two preceding calendar years.  
34 Within twenty days after the filing of such request with the division,  
35 the division shall notify the tenant or tenants that such tenant or  
36 tenants named on the lease must provide the division with such informa-  
37 tion as the division and the department of taxation and finance shall  
38 require to verify whether the total annual income exceeds the dereg-  
39 ulation income threshold in each of the two preceding calendar years. The  
40 division's notification shall require the tenant or tenants to provide  
41 the information to the division within [sixty] NINETY days of service  
42 upon such tenant or tenants and shall include a warning in bold faced  
43 type AT THE TOP OF THE PAGE that failure to respond [will] MAY RESULT IN  
44 AN ORDER OF DECONTROL BEING ISSUED BY THE DIVISION FOR SUCH HOUSING  
45 ACCOMMODATION FOLLOWING A HEARING TO BE SCHEDULED NOT MORE THAN NINETY  
46 DAYS FROM THE DATE THE DIVISION SENT SUCH TENANT OR TENANTS THE NOTICE  
47 PROVIDED IN THIS PARAGRAPH, THE NOTIFICATION SHALL ADVISE SUCH TENANT OR  
48 TENANTS THAT FAILURE TO APPEAR AT SUCH HEARING WITHOUT GOOD OR JUST  
49 CAUSE MAY result in an order being issued by the division providing that  
50 such housing accommodations shall not be subject to the provisions of  
51 this act. SUCH TENANT OR TENANTS MAY AUTHORIZE A PERSON OR PERSONS TO  
52 REPRESENT SUCH TENANT'S OR TENANTS' INTEREST AT THE HEARING.

53 2. If the department of taxation and finance determines that the total  
54 annual income is in excess of the deregulation income threshold in each  
55 of the two preceding calendar years, the division shall, on or before  
56 November fifteenth of such year, notify the owner and tenants of the

1 results of such verification. Both the owner and the tenants shall have  
2 [thirty] SIXTY days within which to comment on such verification  
3 results. Within forty-five days after the expiration of the comment  
4 period, the division shall, where appropriate, issue an order providing  
5 that such housing accommodation shall not be subject to the provisions  
6 of this act upon expiration of the existing lease. A copy of such order  
7 shall be mailed by regular and certified mail, return receipt requested,  
8 to the tenant or tenants and a copy thereof shall be sent to the owner.

9 3. In the event the tenant or tenants fail to [provide the informa-  
10 tion] APPEAR WITHOUT GOOD OR JUST CAUSE AT THE HEARING required pursuant  
11 to paragraph one of this subdivision, the division [shall] MAY issue, on  
12 or before December first of such year, an order providing that such  
13 housing accommodation shall not be subject to the provisions of this act  
14 upon the expiration of the current lease. A copy of such order shall be  
15 mailed by regular and certified mail, return receipt requested, to the  
16 tenant or tenants and a copy thereof shall be sent to the owner.

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

20 S 9. This act shall take effect immediately; provided that the amend-  
21 ments to section 2-a of the emergency housing rent control law made by  
22 sections one and two of this act shall expire on the same date as such  
23 law expires and shall not affect the expiration of such law as provided  
24 in subdivision 2 of section 1 of chapter 274 of the laws of 1946;  
25 provided further that the amendments to section 26-403.1 of the city  
26 rent and rehabilitation law made by sections three and four of this act  
27 shall remain in full force and effect only so long as the public emer-  
28 gency requiring the regulation and control of residential rents and  
29 evictions continues, as provided in subdivision 3 of section 1 of the  
30 local emergency housing rent control act; provided further that the  
31 amendments to section 26-504.3 of the rent stabilization law of nineteen  
32 hundred sixty-nine made by sections five and six of this act shall  
33 expire on the same date as such law expires and shall not affect the  
34 expiration of such law as provided under section 26-520 of such law; and  
35 provided further that the amendments to section 5-a of the emergency  
36 tenant protection act of nineteen seventy-four made by sections seven  
37 and eight of this act shall expire on the same date as such act expires  
38 and shall not affect the expiration of such act as provided in section  
39 17 of chapter 576 of the laws of 1974.