

1492

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. KRUEGER, ADDABBO, AVELLA, HASSELL-THOMPSON, HOYLMAN, MONTGOMERY, PARKER, PERALTA, PERKINS, SERRANO, STAVISKY -- 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 local emergency housing rent control act, in relation to rent regulation laws

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

1 Section 1. Subdivision 5 of section 1 of chapter 21 of the laws of
2 1962, constituting the local emergency housing rent control act, as
3 amended by chapter 82 of the laws of 2003 and the closing paragraph as
4 amended by chapter 422 of the laws of 2010, is amended to read as
5 follows:

6 5. Authority for local rent control legislation. Each city having a
7 population of one million or more, acting through its local legislative
8 body, may adopt and amend local laws or ordinances in respect of the
9 establishment or designation of a city housing rent agency. When it
10 deems such action to be desirable or necessitated by local conditions in
11 order to carry out the purposes of this section, such city, except as
12 hereinafter provided, acting through its local legislative body and not
13 otherwise, may adopt and amend local laws or ordinances in respect of
14 the regulation and control of residential rents, including but not
15 limited to provision for the establishment and adjustment of maximum
16 rents, the classification of housing accommodations, the regulation of
17 evictions, and the enforcement of such local laws or ordinances. The
18 validity of any such local laws or ordinances, and the rules or regu-
19 lations promulgated in accordance therewith, shall not be affected by
20 and need not be consistent with the state emergency housing rent control
21 law or with rules and regulations of the state division of housing and
22 community renewal.

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

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1 Notwithstanding any local law or ordinance, housing accommodations
2 which became vacant on or after July first, nineteen hundred seventy-one
3 or which hereafter become vacant shall be subject to the provisions of
4 the emergency tenant protection act of nineteen seventy-four, provided,
5 however, that this provision shall not apply or become effective with
6 respect to housing accommodations which, by local law or ordinance, are
7 made directly subject to regulation and control by a city housing rent
8 agency and such agency determines or finds that the housing accommo-
9 dations became vacant because the landlord or any person acting on his
10 behalf, with intent to cause the tenant to vacate, engaged in any course
11 of conduct (including but not limited to, interruption or discontinuance
12 of essential services) which interfered with or disturbed or was
13 intended to interfere with or disturb the comfort, repose, peace or
14 quiet of the tenant in his use or occupancy of the housing accommo-
15 dations. The removal of any housing accommodation from regulation and
16 control of rents pursuant to the vacancy exemption provided for in this
17 paragraph shall not constitute or operate as a ground for the subjection
18 to more stringent regulation and control of any housing accommodation in
19 such property or in any other property owned by the same landlord,
20 notwithstanding any prior agreement to the contrary by the landlord. The
21 vacancy exemption provided for in this paragraph shall not arise with
22 respect to any rented plot or parcel of land otherwise subject to the
23 provisions of this act, by reason of a transfer of title and possession
24 occurring on or after July first, nineteen hundred seventy-one of a
25 dwelling located on such plot or parcel and owned by the tenant where
26 such transfer of title and possession is made to a member of the
27 tenant's immediate family provided that the member of the tenant's im-
28 mediate family occupies the dwelling with the tenant prior to the transfer
29 of title and possession for a continuous period of two years.

30 The term "immediate family" shall include a husband, wife, son, daugh-
31 ter, stepson, stepdaughter, father, mother, father-in-law or mother-in-
32 law.

33 [Notwithstanding the foregoing, no local law or ordinance shall here-
34 after provide for the regulation and control of residential rents and
35 eviction in respect of any housing accommodations which are (1) present-
36 ly exempt from such regulation and control or (2) hereafter decontrolled
37 either by operation of law or by a city housing rent agency, by order or
38 otherwise. No housing accommodations presently subject to regulation and
39 control pursuant to local laws or ordinances adopted or amended under
40 authority of this subdivision shall hereafter be by local law or ordi-
41 nance or by rule or regulation which has not been theretofore approved
42 by the state commissioner of housing and community renewal subjected to
43 more stringent or restrictive provisions of regulation and control than
44 those presently in effect.

45 Notwithstanding any other provision of law, on and after the effective
46 date of this paragraph, a city having a population of one million or
47 more shall not, either through its local legislative body or otherwise,
48 adopt or amend local laws or ordinances with respect to the regulation
49 and control of residential rents and eviction, including but not limited
50 to provision for the establishment and adjustment of rents, the classi-
51 fication of housing accommodations, the regulation of evictions, and the
52 enforcement of such local laws or ordinances, or otherwise adopt laws or
53 ordinances pursuant to the provisions of this act, the emergency tenant
54 protection act of nineteen seventy-four, the New York city rent and
55 rehabilitation law or the New York city rent stabilization law, except
56 to the extent that such city for the purpose of reviewing the continued

1 need for the existing regulation and control of residential rents or to
2 remove a classification of housing accommodation from such regulation
3 and control adopts or amends local laws or ordinances pursuant to subdi-
4 vision three of section one of this act, section three of the emergency
5 tenant protection act of nineteen seventy-four, section 26-415 of the
6 New York city rent and rehabilitation law, and sections 26-502 and
7 26-520 of the New York city rent stabilization law of nineteen hundred
8 sixty-nine.]

9 Notwithstanding any provision of this act to the contrary, any local
10 law adopted pursuant to this act shall provide that notwithstanding any
11 provision of such local law in the case where all tenants occupying the
12 housing accommodation on the effective date of this paragraph have
13 vacated the housing accommodation and a family member of such vacating
14 tenant or tenants is entitled to and continues to occupy the housing
15 accommodation subject to the protections of such act, if such accommo-
16 dation continues to be subject to such act after such family member
17 vacates, on the occurrence of such vacancy the maximum collectable rent
18 shall be increased by a sum equal to the allowance then in effect for
19 vacancy leases for housing accommodations covered by the rent stabiliza-
20 tion law of nineteen hundred sixty-nine, including the amount allowed by
21 paragraph (5-a) of subdivision c of section 26-511 of such law. This
22 increase shall be in addition to any other increases provided for in
23 this act and shall be applicable in like manner to each second subse-
24 quent succession.

25 Notwithstanding the foregoing, no local law or ordinance shall subject
26 to such regulation and control any housing accommodation which is not
27 occupied by the tenant in possession as his or her primary residence;
28 provided, however, that such housing accommodation not occupied by the
29 tenant in possession as his or her primary residence shall continue to
30 be subject to regulation and control as provided for herein unless the
31 city housing rent agency issues an order decontrolling such accommo-
32 dation, which the agency shall do upon application by the landlord when-
33 ever it is established by any facts and circumstances which, in the
34 judgment of the agency, may have a bearing upon the question of resi-
35 dence, that the tenant maintains his or her primary residence at some
36 place other than at such housing accommodation. For the purposes of
37 determining primary residency, a tenant who is a victim of domestic
38 violence, as defined in section four hundred fifty-nine-a of the social
39 services law, who has left the unit because of such violence, and who
40 asserts an intent to return to the housing accommodation shall be deemed
41 to be occupying the unit as his or her primary residence.

42 S 2. This act shall take effect immediately; provided, however, that
43 the amendments to subdivision 5 of section 1 of chapter 21 of the laws
44 of 1962 made by section one of this act shall remain in full force and
45 effect only so long as the public emergency requiring the regulation and
46 control of residential rents and evictions continues, as provided in
47 subdivision 3 of section 1 of the local emergency housing rent control
48 act; provided further, however, that the amendment to the second undes-
49 ignated paragraph of subdivision 5 of section 1 of chapter 21 of the
50 laws of 1962 made by section one of this act shall not affect the expi-
51 ration of such paragraph and shall be deemed to expire therewith.