

S T A T E O F N E W Y O R K

4073--A

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 -- 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 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

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

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

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

49 2. If the department of taxation and finance determines that the total
50 AVERAGE annual income is in excess of the deregulation income threshold
51 [in each of] FOR the two preceding calendar years, the division shall,
52 on or before November fifteenth of such year, notify the owner and
53 tenants of the results of such verification. Both the owner and the
54 tenants shall have thirty days within which to comment on such verifica-
55 tion results. Within forty-five days after the expiration of the comment
56 period, the division shall, where appropriate, issue an order of deregu-

lation providing 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 filing of the owner's petition with the division. 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.

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

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

S 4. Subdivisions (b) and (c) of section 5-a of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by section 30 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 legal regulated monthly 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 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 had a legal regulated 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 providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. 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.

(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 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 named on the lease 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 the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order being issued by the division providing that such housing accommodations shall not be subject to the provisions of this act.

2. If the department of taxation and finance determines that the total AVERAGE annual income is in excess of the deregulation income threshold [in each of] FOR the two preceding calendar years, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon expiration of the existing lease. 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.

3. In the event the tenant or tenants fail to provide the information required pursuant to paragraph one of this subdivision, the division shall issue, on or before December first of such year, an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the current lease. 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 5. Clause 1 of subparagraph (j) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, as amended by section 33 of part B of chapter 97 of the laws of 2011, is amended to read as follows:

(1) are occupied by persons who have a total AVERAGE annual income, as defined in and subject to the limitations and process set forth in 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

1 verify whether the total AVERAGE annual income exceeds the deregulation
2 income threshold [in each of] FOR the two preceding calendar years. The
3 division's notification shall require the tenant or tenants to provide
4 the information to the division within sixty days of service upon such
5 tenant or tenants and shall include a warning in bold faced type that
6 failure to respond will result in an order of deregulation being issued
7 by the division for such housing accommodation.

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

22 S 7. Section 26-504.1 of the administrative code of the city of New
23 York, as amended by section 35 of part B of chapter 97 of the laws of
24 2011, is amended to read as follows:

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

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

46 (b) On or before the first day of May in each calendar year, the owner
47 of each housing accommodation for which the legal regulated rent equals
48 or exceeds the deregulation rent threshold may provide the tenant or
49 tenants residing therein with an income certification form prepared by
50 the division of housing and community renewal on which such tenant or
51 tenants shall identify all persons referred to in subdivision (a) of
52 this section and shall certify whether the total AVERAGE annual income
53 is in excess of the deregulation income threshold [in each of] FOR the
54 two preceding calendar years. Such income certification form shall state
55 that the income level certified to by the tenant may be subject to
56 verification by the department of taxation and finance pursuant to

1 section one hundred seventy-one-b of the tax law and shall not require
2 disclosure of any income information other than whether the aforementioned
3 threshold has been exceeded. Such income certification form shall
4 clearly state that: (i) only tenants residing in housing accommodations
5 which have a legal regulated monthly rent, that equals or exceeds the
6 deregulation rent threshold are required to complete the certification
7 form; (ii) that tenants have protections available to them which are
8 designed to prevent harassment; (iii) that tenants are not required to
9 provide any information regarding their income except that which is
10 requested on the form and may contain such other information the division
11 deems appropriate. The tenant or tenants shall return the completed
12 certification to the owner within thirty days after service upon the
13 tenant or tenants. In the event that the total AVERAGE annual income as
14 certified is in excess of the deregulation income threshold [in each of]
15 FOR the two preceding calendar years, the owner may file the certification
16 with the state division of housing and community renewal on or
17 before June thirtieth of such year. Upon filing such certification with
18 the division, the division shall, within thirty days after the filing,
19 issue an order providing that such housing accommodation shall not be
20 subject to the provisions of this act upon the expiration of the existing
21 lease. A copy of such order shall be mailed by regular and certified
22 mail, return receipt requested, to the tenant or tenants and a copy
23 thereof shall be 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 named on
34 the lease that such tenant or tenants must provide the division with
35 such information as the division and the department of taxation and
36 finance shall require to verify whether the total AVERAGE annual income
37 exceeds the deregulation income threshold [in each of] FOR the two
38 preceding calendar years. The division's notification shall require the
39 tenant or tenants to provide the information to the division within
40 sixty days of service upon such tenant or tenants and shall include a
41 warning in bold faced type that failure to respond will result in an
42 order being issued by the division providing that such housing accommodation
43 shall not be subject to the provisions of this law.

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

1 S 9. This act shall take effect immediately and shall apply to income
2 certification forms served on and after January 1, 2015; provided that:
3 (a) the amendments to the emergency housing rent control law made by
4 sections one and two of this act shall expire on the same date as such
5 law expires and shall not affect the expiration of such law as provided
6 in subdivision 2 of section 1 of chapter 274 of the laws of 1946;
7 (b) the amendments to the emergency tenant protection act of nineteen
8 seventy-four made by sections three and four of this act shall expire on
9 the same date as such act expires and shall not affect the expiration of
10 such act as provided in section 17 of chapter 576 of the laws of 1974;
11 (c) the amendments to the city rent and rehabilitation law made by
12 sections five and six of this act shall remain in full force and effect
13 only as long as the public emergency requiring the regulation and
14 control of residential rents and evictions continues, as provided in
15 subdivision 3 of section 1 of the local emergency housing rent control
16 act; and
17 (d) the amendments to chapter 4 of title 26 of the administrative code
18 of the city of New York made by sections seven and eight of this act
19 shall expire on the same date as such law expires and shall not affect
20 the expiration of such law as provided under section 26-520 of such law.