

799

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. SQUADRON -- 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 administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four, and the emergency housing rent control law, in relation to adjustment of maximum allowable rent

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

1 Section 1. Subparagraph (e) of paragraph 1 of subdivision g of section
2 26-405 of the administrative code of the city of New York, as amended by
3 section 15 of part B of chapter 97 of the laws of 2011, is amended to
4 read as follows:
5 (e) The landlord and tenant by mutual voluntary written agreement
6 agree to a substantial increase or decrease in dwelling space or a
7 change in the services, furniture, furnishings or equipment provided in
8 the housing accommodations. An adjustment under this subparagraph shall
9 be equal to [one-fortieth, in the case of a building with thirty-five or
10 fewer housing accommodations, or] one-sixtieth[, in the case of a build-
11 ing with more than thirty-five housing accommodations where such adjust-
12 ment takes effect on or after September twenty-fourth, two thousand
13 eleven,] of the total cost incurred by the landlord in providing such
14 modification or increase in dwelling space, services, furniture,
15 furnishings or equipment, including the cost of installation, but
16 excluding finance charges, provided further that an owner who is enti-
17 tled to a rent increase pursuant to this subparagraph shall not be enti-
18 tled to a further rent increase based upon the installation of similar
19 equipment, or new furniture or furnishings within the useful life of
20 such new equipment, or new furniture or furnishings. The owner shall

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

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1 give written notice to the city rent agency of any such adjustment
2 pursuant to this subparagraph; or

3 S 2. Paragraph 13 of subdivision c of section 26-511 of the adminis-
4 trative code of the city of New York, as amended by section 16 of part B
5 of chapter 97 of the laws of 2011, is amended to read as follows:

6 (13) provides that an owner is entitled to a rent increase where there
7 has been a substantial modification or increase of dwelling space or an
8 increase in the services, or installation of new equipment or improve-
9 ments or new furniture or furnishings provided in or to a tenant's hous-
10 ing accommodation, on written tenant consent to the rent increase. In
11 the case of a vacant housing accommodation, tenant consent shall not be
12 required.

13 (A) The permanent increase in the legal regulated rent for the
14 affected housing accommodation shall be [one-fortieth, in the case of a
15 building with thirty-five or fewer housing accommodations, or] one-six-
16 tieth[, in the case of a building with more than thirty-five housing
17 accommodations where such permanent increase takes effect on or after
18 September twenty-fourth, two thousand eleven,] of the total cost
19 incurred by the landlord in providing such modification or increase in
20 dwelling space, services, furniture, furnishings or equipment, including
21 the cost of installation, but excluding finance charges.

22 (B) Provided further that an owner who is entitled to a rent increase
23 pursuant to this paragraph shall not be entitled to a further rent
24 increase based upon the installation of similar equipment, or new furni-
25 ture or furnishings within the useful life of such new equipment, or new
26 furniture or furnishings.

27 (C) NO INCREASE SHALL BE COLLECTIBLE UNDER THIS PARAGRAPH UNTIL THE
28 LANDLORD HAS PROVIDED THE TENANT WITH A RIDER PURSUANT TO SUBDIVISION D
29 OF THIS SECTION, INCLUDING AN EXPLANATION OF HOW THE RENT IN THE VACANCY
30 LEASE HAS BEEN COMPUTED, AND THE SPECIFIC AMOUNTS OF ALL EXPENDITURES
31 SUPPORTING A RENT INCREASE UNDER THIS PARAGRAPH.

32 (D) NO INCREASE SHALL BE COLLECTIBLE UNDER THIS PARAGRAPH WHERE THE
33 DIVISION OF HOUSING AND COMMUNITY RENEWAL HAS DETERMINED THAT THE OWNER
34 IS NOT MAINTAINING ALL BUILDING-WIDE REQUIRED SERVICES OR ALL REQUIRED
35 SERVICES WITH RESPECT TO THE AFFECTED HOUSING ACCOMMODATION, OR WHERE
36 THERE ARE CURRENT HAZARDOUS VIOLATIONS OF ANY MUNICIPAL, COUNTY, STATE
37 OR FEDERAL LAW WHICH RELATE TO THE MAINTENANCE OF SUCH SERVICES.

38 (E) WITHIN THIRTY DAYS OF THE SIGNING OF A VACANCY LEASE INCLUDING A
39 RENT INCREASE PURSUANT TO THIS PARAGRAPH THAT EXCEEDS TEN PERCENT OF THE
40 RENT CHARGED TO THE PREVIOUS TENANT, THE OWNER WILL FILE WITH THE DIVI-
41 SION OF HOUSING AND COMMUNITY RENEWAL AN EXPLANATION OF HOW THE VACANCY
42 RENT WAS COMPUTED, AND ALL DOCUMENTS NECESSARY TO SUPPORT THE COLLECTION
43 OF SUCH INCREASE, INCLUDING BUT NOT LIMITED TO, CANCELLED CHECKS,
44 INVOICES AND SIGNED CONTRACTS CONTEMPORANEOUSLY WITH THE IMPROVEMENTS
45 ALLEGED, AND CONTRACTOR'S AFFIDAVITS INDICATING THAT THE INSTALLATION
46 WAS COMPLETED AND PAID IN FULL. UPON RECEIPT OF ALL DOCUMENTS SUBMITTED
47 BY THE OWNER, AND AFTER GIVING THE TENANT NAMED IN SUCH VACANCY LEASE AN
48 OPPORTUNITY TO RESPOND, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL
49 SHALL ISSUE AN ORDER APPROVING OR DISAPPROVING SUCH INCREASE IN WHOLE OR
50 IN PART. BASED UPON SUCH DETERMINATION, THE DIVISION OF HOUSING AND
51 COMMUNITY RENEWAL SHALL ORDER A REFUND TO THE TENANT EQUAL TO THE AMOUNT
52 COLLECTED IN EXCESS OF THE LEGAL REGULATED RENT APPROVED BY THE DIVISION
53 OF HOUSING AND COMMUNITY RENEWAL.

54 (F) IF THE OWNER FAILS TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE
55 THAT THE OVERCHARGE WAS NOT WILLFUL, THE DIVISION OF HOUSING AND COMMU-

1 NITY RENEWAL SHALL ORDER THE OWNER TO PAY TO THE TENANT AN ADDITIONAL
2 AMOUNT EQUAL TO THREE TIMES THE EXCESS CHARGED.

3 (G) THE NEXT ANNUAL REGISTRATION STATEMENT FILED FOR ANY HOUSING
4 ACCOMMODATION SUBJECT TO AN INCREASE UNDER THIS PARAGRAPH, WHETHER OR
5 NOT SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (E) OF THIS PARAGRAPH
6 SHALL CONTAIN A DETAILED BREAKDOWN OF THE COSTS OF ALL IMPROVEMENTS
7 UNDERLYING SUCH INCREASE.

8 S 3. Paragraph 2 of subdivision d of section 26-511 of the administra-
9 tive code of the city of New York is renumbered paragraph 3 and a new
10 paragraph 2 is added to read as follows:

11 (2) FOR VACANCY LEASES, SUCH RIDER SHALL ALSO INCLUDE A NOTICE OF THE
12 PRIOR LEGAL RENT, IF ANY, THAT WAS IN EFFECT IMMEDIATELY PRIOR TO THE
13 VACANCY, AN EXPLANATION OF HOW THE RENTAL AMOUNT HAS BEEN COMPUTED,
14 INCLUDING A DETAILED BREAKDOWN OF THE NATURE AND COST OF ANY IMPROVE-
15 MENTS UNDERLYING AN INCREASE UNDER PARAGRAPH THIRTEEN OF SUBDIVISION C
16 OF THIS SECTION, AND A STATEMENT THAT ANY INCREASE ABOVE THE PREVIOUS
17 RENT IS IN ACCORDANCE WITH ADJUSTMENTS PERMITTED BY LAW.

18 S 4. Paragraph 1 of subdivision d of section 6 of section 4 of chapter
19 576 of the laws of 1974, constituting the emergency tenant protection
20 act of nineteen seventy-four, as amended by section 18 of part B of
21 chapter 97 of the laws of 2011, is amended to read as follows:

22 (1) there has been a substantial modification or increase of dwelling
23 space or an increase in the services, or installation of new equipment
24 or improvements or new furniture or furnishings, provided in or to a
25 tenant's housing accommodation, on written tenant consent to the rent
26 increase. In the case of a vacant housing accommodation, tenant consent
27 shall not be required. (A) The permanent increase in the legal regulated
28 rent for the affected housing accommodation shall be [one-fortieth, in
29 the case of a building with thirty-five or fewer housing accommodations,
30 or] one-sixtieth[, in the case of a building with more than thirty-five
31 housing accommodations where such permanent increase takes effect on or
32 after September twenty-fourth, two thousand eleven,] of the total cost
33 incurred by the landlord in providing such modification or increase in
34 dwelling space, services, furniture, furnishings or equipment, including
35 the cost of installation, but excluding finance charges. [Provided
36 further that an] (B) AN owner who is entitled to a rent increase pursu-
37 ant to this paragraph shall not be entitled to a further rent increase
38 based upon the installation of similar equipment, or new furniture or
39 furnishings within the useful life of such new equipment, or new furni-
40 ture or furnishings. (C) THE OWNER SHALL GIVE WRITTEN NOTICE TO THE
41 DIVISION OF HOUSING AND COMMUNITY RENEWAL AND THE TENANT NAMED IN A
42 VACANCY LEASE ON FORMS PRESCRIBED BY THE DIVISION OF ANY SUCH ADJUSTMENT
43 PURSUANT TO THIS PARAGRAPH AND THE FAILURE TO PROVIDE SUCH WRITTEN
44 NOTICE AS PROVIDED HEREIN SHALL PRECLUDE THE COLLECTION OF ANY SUCH
45 ADJUSTMENT. SUCH NOTICE MUST INCLUDE A DETAILED BREAKDOWN OF THE NATURE
46 AND COST OF ANY IMPROVEMENTS UNDERLYING AN INCREASE IN RENT UNDER THIS
47 PARAGRAPH AND A STATEMENT THAT ANY INCREASE ABOVE THE PREVIOUS RENT IS
48 IN ACCORDANCE WITH ADJUSTMENTS PERMITTED BY LAW. (D) NO INCREASE SHALL
49 BE COLLECTIBLE UNDER THIS PARAGRAPH WHERE THE DIVISION OF HOUSING AND
50 COMMUNITY RENEWAL HAS DETERMINED THAT THE OWNER IS NOT MAINTAINING ALL
51 BUILDING-WIDE REQUIRED SERVICES OR ALL REQUIRED SERVICES WITH RESPECT TO
52 THE AFFECTED HOUSING ACCOMMODATION, OR WHERE THERE ARE CURRENT HAZARDOUS
53 VIOLATIONS OF ANY MUNICIPAL, COUNTY, STATE OR FEDERAL LAW WHICH RELATE
54 TO THE MAINTENANCE OF SUCH SERVICES. (E) WITHIN THIRTY DAYS OF THE
55 SIGNING OF A VACANCY LEASE INCLUDING A RENT INCREASE PURSUANT TO THIS
56 PARAGRAPH THAT EXCEEDS TEN PERCENT OF THE RENT CHARGED TO THE PREVIOUS

1 TENANT, THE OWNER WILL FILE WITH THE DIVISION AN EXPLANATION OF HOW THE
2 VACANCY RENT WAS COMPUTED, AND ALL DOCUMENTS NECESSARY TO SUPPORT THE
3 COLLECTION OF SUCH INCREASE, INCLUDING BUT NOT LIMITED TO, CANCELLED
4 CHECKS, INVOICES AND SIGNED CONTRACTS CONTEMPORANEOUSLY WITH THE
5 IMPROVEMENTS ALLEGED, AND CONTRACTOR'S AFFIDAVITS INDICATING THAT THE
6 INSTALLATION WAS COMPLETED AND PAID IN FULL. UPON RECEIPT OF ALL DOCU-
7 MENTS SUBMITTED BY THE OWNER AND AFTER GIVING THE TENANT NAMED IN THE
8 VACANCY LEASE AN OPPORTUNITY TO RESPOND, THE DIVISION SHALL ISSUE AN
9 ORDER APPROVING OR DISAPPROVING SUCH INCREASE IN WHOLE OR IN PART. BASED
10 UPON SUCH DETERMINATION, THE DIVISION SHALL ORDER A REFUND TO THE TENANT
11 EQUAL TO THE AMOUNT COLLECTED IN EXCESS OF THE LEGAL REGULATED RENT
12 APPROVED BY THE DIVISION. (F) IF THE OWNER FAILS TO ESTABLISH BY A
13 PREPONDERANCE OF THE EVIDENCE THAT THE OVERCHARGE WAS NOT WILLFUL, THE
14 DIVISION SHALL ORDER THE OWNER TO PAY TO THE TENANT AN ADDITIONAL AMOUNT
15 EQUAL TO THREE TIMES THE EXCESS CHARGED. (G) THE NEXT ANNUAL REGISTRA-
16 TION STATEMENT FILED FOR ANY HOUSING ACCOMMODATION SUBJECT TO AN
17 INCREASE UNDER THIS PARAGRAPH, WHETHER OR NOT SUBJECT TO THE PROVISIONS
18 OF SUBPARAGRAPH (E) OF THIS PARAGRAPH SHALL CONTAIN A DETAILED BREAKDOWN
19 OF THE COSTS OF ALL IMPROVEMENTS UNDERLYING SUCH INCREASE.

20 S 5. Clause 5 of the second undesignated paragraph of paragraph (a) of
21 subdivision 4 of section 4 of chapter 274 of the laws of 1946, consti-
22 tuting the emergency housing rent control law, as amended by section 25
23 of part B of chapter 97 of the laws of 2011, is amended to read as
24 follows:

25 (5) the landlord and tenant by mutual voluntary written agreement
26 agree to a substantial increase or decrease in dwelling space or a
27 change in the services, furniture, furnishings or equipment provided in
28 the housing accommodations; provided that an owner shall be entitled to
29 a rent increase where there has been a substantial modification or
30 increase of dwelling space or an increase in the services, or installa-
31 tion of new equipment or improvements or new furniture or furnishings
32 provided in or to a tenant's housing accommodation. The permanent
33 increase in the maximum rent for the affected housing accommodation
34 shall be [one-fortieth, in the case of a building with thirty-five or
35 fewer housing accommodations, or] one-sixtieth[, in the case of a build-
36 ing with more than thirty-five housing accommodations where such perma-
37 nent increase takes effect on or after September twenty-fourth, two
38 thousand eleven,] of the total cost incurred by the landlord in provid-
39 ing such modification or increase in dwelling space, services, furni-
40 ture, furnishings or equipment, including the cost of installation, but
41 excluding finance charges provided further that an owner who is entitled
42 to a rent increase pursuant to this clause shall not be entitled to a
43 further rent increase based upon the installation of similar equipment,
44 or new furniture or furnishings within the useful life of such new
45 equipment, or new furniture or furnishings. The owner shall give written
46 notice to the commission of any such adjustment pursuant to this clause;
47 or

48 S 6. Section 26-504.2 of the administrative code of the city of New
49 York is amended by adding a new subdivision c to read as follows:

50 C. NOTWITHSTANDING ANYTHING IN SUBDIVISION A OF THIS SECTION OR
51 SUBPARAGRAPH (K) OF PARAGRAPH TWO OF SUBDIVISION E OF SECTION 26-403 OF
52 THIS TITLE TO THE CONTRARY, THE FAILURE OF THE OWNER TO COMPLY WITH THE
53 REQUIREMENTS OF SUBDIVISION B OF THIS SECTION SHALL RESULT IN THE HOUS-
54 ING ACCOMMODATION REMAINING SUBJECT TO THE PROVISIONS OF THIS LAW OR THE
55 CITY RENT AND REHABILITATION LAW AT THE LAST REGULATED RENT UNTIL THE
56 OWNER COMPLIES WITH THE REQUIREMENTS OF SUBDIVISION B OF THIS SECTION.

1 S 7. The opening paragraph of paragraph 13 of subdivision a of section
2 5 of section 4 of chapter 576 of the laws of 1974, constituting the
3 emergency tenant protection act of nineteen seventy-four is designated
4 subparagraph (i) and two new subparagraphs (ii) and (iii) are added to
5 read as follows:

6 (II) THE OWNER OF ANY HOUSING ACCOMMODATION THAT IS NOT SUBJECT TO
7 THIS ACT PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARA-
8 GRAPH OR PARAGRAPH (N) OF SUBDIVISION TWO OF SECTION TWO OF THE EMERGEN-
9 CY HOUSING RENT CONTROL LAW SHALL GIVE WRITTEN NOTICE CERTIFIED BY SUCH
10 OWNER TO THE FIRST TENANT OF THAT HOUSING ACCOMMODATION AFTER SUCH HOUS-
11 ING ACCOMMODATION BECOMES EXEMPT FROM THE PROVISIONS OF THIS ACT OR THE
12 EMERGENCY HOUSING RENT CONTROL LAW. SUCH NOTICE SHALL CONTAIN THE LAST
13 REGULATED RENT, THE REASON THAT SUCH HOUSING ACCOMMODATION IS NOT
14 SUBJECT TO THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW, A CALCU-
15 LATION OF HOW EITHER THE RENTAL AMOUNT CHARGED WHEN THERE IS NO LEASE OR
16 THE RENTAL AMOUNT PROVIDED FOR IN THE LEASE HAS BEEN DERIVED SO AS TO
17 REACH TWO THOUSAND DOLLARS OR MORE PER MONTH, A STATEMENT THAT THE LAST
18 LEGAL REGULATED RENT OR THE MAXIMUM RENT MAY BE VERIFIED BY THE TENANT
19 BY CONTACTING THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, OR
20 ANY SUCCESSOR THERETO, AND THE ADDRESS AND TELEPHONE NUMBER OF SUCH
21 AGENCY, OR ANY SUCCESSOR THERETO. SUCH NOTICE SHALL BE SENT BY CERTIFIED
22 MAIL WITHIN THIRTY DAYS AFTER THE TENANCY COMMENCES OR AFTER THE SIGNING
23 OF THE LEASE BY BOTH PARTIES, WHICHEVER OCCURS FIRST OR SHALL BE DELIV-
24 ERED TO THE TENANT AT THE SIGNING OF THE LEASE. IN ADDITION, THE OWNER
25 SHALL SEND AND CERTIFY TO THE TENANT A COPY OF THE REGISTRATION STATE-
26 MENT FOR SUCH HOUSING ACCOMMODATION FILED WITH THE STATE DIVISION OF
27 HOUSING AND COMMUNITY RENEWAL INDICATING THAT SUCH HOUSING ACCOMMODATION
28 BECAME EXEMPT FROM THE PROVISIONS OF THIS ACT OR THE EMERGENCY HOUSING
29 RENT CONTROL LAW, WHICH FORM SHALL INCLUDE THE LAST REGULATED RENT, AND
30 SHALL BE SENT TO THE TENANT WITHIN THIRTY DAYS AFTER THE TENANCY
31 COMMENCES OR THE FILING OF SUCH REGISTRATION, WHICHEVER OCCURS LATER.

32 (III) NOTWITHSTANDING ANYTHING IN SUBPARAGRAPH (I) OF THIS PARAGRAPH
33 OR PARAGRAPH (N) OF SUBDIVISION TWO OF SECTION TWO OF THE EMERGENCY
34 HOUSING RENT CONTROL LAW TO THE CONTRARY, THE FAILURE OF THE OWNER TO
35 COMPLY WITH THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH
36 SHALL RESULT IN THE HOUSING ACCOMMODATION REMAINING SUBJECT TO THE
37 PROVISIONS OF THIS ACT OR THE EMERGENCY HOUSING RENT CONTROL LAW AT THE
38 LAST REGULATED RENT UNTIL THE OWNER COMPLIES WITH THE REQUIREMENTS OF
39 SUBPARAGRAPH (II) OF THIS PARAGRAPH.

40 S 8. This act shall take effect on the ninetieth day after it shall
41 have become a law; provided that:

42 (a) sections six and seven of this act shall take effect on the thir-
43 tieth day after this act shall have become a law;

44 (b) the amendments to section 26-405 of the city rent and rehabili-
45 tation law made by section one of this act shall remain in full force
46 and effect only as long as the public emergency requiring the regulation
47 and control of residential rents and evictions continues, as provided in
48 subdivision 3 of section 1 of the local emergency housing rent control
49 act;

50 (c) the amendments to chapter 4 of title 26 of the administrative code
51 of the city of New York made by sections two, three and six of this act
52 shall expire on the same date as such law expires and shall not affect
53 the expiration of such law as provided under section 26-520 of such law;

54 (d) the amendments to the emergency tenant protection act of nineteen
55 seventy-four made by sections four and seven of this act shall expire on

1 the same date as such act expires and shall not affect the expiration of
2 such act as provided in section 17 of chapter 576 of the laws of 1974;
3 (e) the amendments to section 4 of the emergency housing rent control
4 law made by section five of this act shall expire on the same date as
5 such law expires and shall not affect the expiration of such law as
6 provided in subdivision 2 of section 1 of chapter 274 of the laws of
7 1946; and
8 (f) effective immediately, the division of housing and community
9 renewal is authorized to and shall promulgate all rules, regulations and
10 standards necessary to implement the provisions of this act.