

2278--A

2015-2016 Regular Sessions

I N S E N A T E

January 22, 2015

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 tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to providing that vacancy leases and renewals thereof for rent regulated housing accommodations shall be for a term of one year

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

1 Section 1. Subdivisions a and (a-1) of section 10 of section 4 of  
2 chapter 576 of the laws of 1974, constituting the emergency tenant  
3 protection act of nineteen seventy-four, subdivision a as amended by  
4 chapter 234 of the laws of 1984 and subdivision (a-1) as amended by  
5 section 16-b of part A of chapter 20 of the laws of 2015, are amended to  
6 read as follows:

7 a. For cities having a population of less than one million and towns  
8 and villages, the state division of housing and community renewal shall  
9 be empowered to implement this act by appropriate regulations. Such  
10 regulations may encompass such speculative or manipulative practices or  
11 renting or leasing practices as the state division of housing and commu-  
12 nity renewal determines constitute or are likely to cause circumvention  
13 of this act. Such regulations shall prohibit practices which are likely  
14 to prevent any person from asserting any right or remedy granted by this  
15 act, including but not limited to retaliatory termination of periodic  
16 tenancies and shall require owners to grant a new one or two year vacan-  
17 cy or renewal lease at the option of the tenant; PROVIDED, HOWEVER, THAT  
18 FOR VACANCY AND RENEWAL LEASES WHICH TAKE EFFECT ON OR AFTER JANUARY  
19 FIRST, TWO THOUSAND SEVENTEEN, SUCH REGULATIONS SHALL REQUIRE OWNERS TO

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

LBD07554-02-6

1 GRANT A NEW ONE YEAR VACANCY OR RENEWAL LEASE, except where a mortgage  
2 or mortgage commitment existing as of the local effective date of this  
3 act provides that the owner shall not grant a one-year lease; and shall  
4 prescribe standards with respect to the terms and conditions of new and  
5 renewal leases, additional rent and such related matters as security  
6 deposits, advance rental payments, the use of escalator clauses in leas-  
7 es and provision for increase in rentals for garages and other ancillary  
8 facilities, so as to insure that the level of rent adjustments author-  
9 ized under this law will not be subverted and made ineffective. Any  
10 provision of the regulations permitting an owner to refuse to renew a  
11 lease on grounds that the owner seeks to recover possession of the hous-  
12 ing accommodation for his own use and occupancy or for the use and occu-  
13 pancy of his immediate family shall require that an owner demonstrate  
14 immediate and compelling need and shall not apply where a member of the  
15 housing accommodation is sixty-two years of age or older, has been a  
16 tenant in a housing accommodation in that building for twenty years or  
17 more, or has an impairment which results from anatomical, physiological  
18 or psychological conditions, other than addiction to alcohol, gambling,  
19 or any controlled substance, which are demonstrable by medically accept-  
20 able clinical and laboratory diagnostic techniques, and which are  
21 expected to be permanent and which prevent the tenant from engaging in  
22 any substantial gainful employment.

23 [(a-1)] A-1. provides that, notwithstanding any provision of this act,  
24 the legal regulated rent for any vacancy lease entered into after the  
25 effective date of this subdivision shall be as hereinafter set forth.  
26 The previous legal regulated rent for such housing accommodation shall  
27 be increased by [the following: (i) if the vacancy lease is for a term  
28 of two years,] twenty percent of the previous legal regulated rent[; or  
29 (ii) if the vacancy lease is for a term of one year the increase shall  
30 be twenty percent of the previous legal regulated rent less an amount  
31 equal to the difference between (a) the two year renewal lease guideline  
32 promulgated by the guidelines board of the county in which the housing  
33 accommodation is located applied to the previous legal regulated rent  
34 and (b) the one year renewal lease guideline promulgated by the guide-  
35 lines board of the county in which the housing accommodation is located  
36 applied to the previous legal regulated rent. However, where the amount  
37 charged and paid by the prior tenant pursuant to paragraph fourteen of  
38 this subdivision, was less than the legal regulated rent, such increase  
39 to the legal regulated rent shall not exceed: five percent of the  
40 previous legal regulated rent if the last vacancy lease commenced less  
41 than two years ago; ten percent of the previous legal regulated rent if  
42 the last vacancy commenced less than three years ago; fifteen percent of  
43 the previous legal regulated rent if the last vacancy lease commenced  
44 less than four years ago; twenty percent of the previous legal regulated  
45 rent if the last vacancy lease commenced four or more years ago]. In  
46 addition, if the legal regulated rent was not increased with respect to  
47 such housing accommodation by a permanent vacancy allowance within eight  
48 years prior to a vacancy lease executed on or after the effective date  
49 of this subdivision, the legal regulated rent may be further increased  
50 by an amount equal to the product resulting from multiplying such previ-  
51 ous legal regulated rent by six-tenths of one percent and further multi-  
52 plying the amount of rent increase resulting therefrom by the greater of  
53 (A) the number of years since the imposition of the last permanent  
54 vacancy allowance, or (B) if the rent was not increased by a permanent  
55 vacancy allowance since the housing accommodation became subject to this  
56 act, the number of years that such housing accommodation has been

1 subject to this act. Provided that if the previous legal regulated rent  
2 was less than three hundred dollars the total increase shall be as  
3 calculated above plus one hundred dollars per month. Provided, further,  
4 that if the previous legal regulated rent was at least three hundred  
5 dollars and no more than five hundred dollars in no event shall the  
6 total increase pursuant to this subdivision be less than one hundred  
7 dollars per month. Such increase shall be in lieu of any allowance  
8 authorized for the one or two year renewal component thereof, but shall  
9 be in addition to any other increases authorized pursuant to this act  
10 including an adjustment based upon a major capital improvement, or a  
11 substantial modification or increase of dwelling space or services, or  
12 installation of new equipment or improvements or new furniture or  
13 furnishings provided in or to the housing accommodation pursuant to  
14 section six of this act. The increase authorized in this subdivision  
15 may not be implemented more than one time in any calendar year, notwith-  
16 standing the number of vacancy leases entered into in such year.

17 S 2. Paragraphs 4, 5-a and 12 of subdivision c of section 26-511 of  
18 the administrative code of the city of New York, paragraph 5-a as  
19 amended by section 16-a of part A of chapter 20 of the laws of 2015, are  
20 amended to read as follows:

21 (4) includes provisions requiring owners to grant a one or two year  
22 vacancy or renewal lease at the option of the tenant; PROVIDED, HOWEVER,  
23 THAT FOR VACANCY AND RENEWAL LEASES WHICH TAKE EFFECT ON OR AFTER JANU-  
24 ARY FIRST, TWO THOUSAND SEVENTEEN, SUCH CODE SHALL REQUIRE OWNERS TO  
25 GRANT A NEW ONE YEAR VACANCY OR RENEWAL LEASE, except where a mortgage  
26 or mortgage commitment existing as of April first, nineteen hundred  
27 sixty-nine, provides that the mortgagor shall not grant a one year  
28 lease;

29 (5-a) provides that, notwithstanding any provision of this chapter,  
30 the legal regulated rent for any vacancy lease entered into after the  
31 effective date of this paragraph shall be as hereinafter provided in  
32 this paragraph. The previous legal regulated rent for such housing  
33 accommodation shall be increased by [the following: (i) if the vacancy  
34 lease is for a term of two years,] twenty percent of the previous legal  
35 regulated rent[; or (ii) if the vacancy lease is for a term of one year  
36 the increase shall be twenty percent of the previous legal regulated  
37 rent less an amount equal to the difference between (a) the two year  
38 renewal lease guideline promulgated by the guidelines board of the city  
39 of New York applied to the previous legal regulated rent and (b) the one  
40 year renewal lease guideline promulgated by the guidelines board of the  
41 city of New York applied to the previous legal regulated rent. However,  
42 where the amount charged and paid by the prior tenant pursuant to para-  
43 graph fourteen of this subdivision, was less than the legal regulated  
44 rent, such increase to the legal regulated rent shall not exceed: five  
45 percent of the previous legal regulated rent if the last vacancy lease  
46 commenced less than two years ago; ten percent of the previous legal  
47 regulated rent if the last vacancy lease commenced less than three years  
48 ago; fifteen percent of the previous legal regulated rent if the last  
49 vacancy lease commenced less than four years ago; twenty percent of the  
50 previous legal regulated rent if the last vacancy lease commenced four  
51 or more years ago]. In addition, if the legal regulated rent was not  
52 increased with respect to such housing accommodation by a permanent  
53 vacancy allowance within eight years prior to a vacancy lease executed  
54 on or after the effective date of this paragraph, the legal regulated  
55 rent may be further increased by an amount equal to the product result-  
56 ing from multiplying such previous legal regulated rent by six-tenths of

1 one percent and further multiplying the amount of rent increase result-  
2 ing therefrom by the greater of (A) the number of years since the impo-  
3 sition of the last permanent vacancy allowance, or (B) if the rent was  
4 not increased by a permanent vacancy allowance since the housing accom-  
5 modation became subject to this chapter, the number of years that such  
6 housing accommodation has been subject to this chapter. Provided that if  
7 the previous legal regulated rent was less than three hundred dollars  
8 the total increase shall be as calculated above plus one hundred dollars  
9 per month. Provided, further, that if the previous legal regulated rent  
10 was at least three hundred dollars and no more than five hundred dollars  
11 in no event shall the total increase pursuant to this paragraph be less  
12 than one hundred dollars per month. Such increase shall be in lieu of  
13 any allowance authorized for the one or two year renewal component ther-  
14 eof, but shall be in addition to any other increases authorized pursuant  
15 to this chapter including an adjustment based upon a major capital  
16 improvement, or a substantial modification or increase of dwelling space  
17 or services, or installation of new equipment or improvements or new  
18 furniture or furnishings provided in or to the housing accommodation  
19 pursuant to this section. The increase authorized in this paragraph may  
20 not be implemented more than one time in any calendar year, notwith-  
21 standing the number of vacancy leases entered into in such year.

22 (12) permits subletting of units subject to this law pursuant to  
23 section two hundred twenty-six-b of the real property law provided that  
24 (a) the rental charged to the subtenant does not exceed the stabilized  
25 rent plus a ten percent surcharge payable to the tenant if the unit  
26 sublet was furnished with the tenant's furniture; (b) the tenant can  
27 establish that at all times he or she has maintained the unit as his or  
28 her primary residence and intends to occupy it as such at the expiration  
29 of the sublease; (c) an owner may terminate the tenancy of a tenant who  
30 sublets or assigns contrary to the terms of this paragraph but no action  
31 or proceeding based on the non-primary residence of a tenant may be  
32 commenced prior to the expiration date of his or her lease; (d) where an  
33 apartment is sublet the prime tenant shall retain the right to a renewal  
34 lease and the rights and status of a tenant in occupancy as they relate  
35 to conversion to condominium or cooperative ownership; (e) where a  
36 tenant violates the provisions of subparagraph (a) of this paragraph the  
37 subtenant shall be entitled to damages of three times the overcharge and  
38 may also be awarded attorneys fees and interest from the date of the  
39 overcharge at the rate of interest payable on a judgment pursuant to  
40 section five thousand four of the civil practice law and rules; (f) the  
41 tenant may not sublet the unit for more than a total of two years,  
42 including the term of the proposed sublease, out of the four-year period  
43 preceding the termination date of the proposed sublease; PROVIDED,  
44 HOWEVER, THAT FOR SUBLEASES COMMENCING ON OR AFTER JANUARY FIRST, TWO  
45 THOUSAND SEVENTEEN, A TENANT MAY NOT SUBLET THE UNIT FOR MORE THAN ONE  
46 YEAR. The provisions of this subparagraph shall only apply to subleases  
47 commencing on and after July first, nineteen hundred eighty-three; (g)  
48 for the purposes of this paragraph only, the term of the proposed  
49 sublease may extend beyond the term of the tenant's lease. In such  
50 event, such sublease shall be subject to the tenant's right to a renewal  
51 lease. The subtenant shall have no right to a renewal lease. It shall be  
52 unreasonable for an owner to refuse to consent to a sublease solely  
53 because such sublease extends beyond the tenant's lease; and (h)  
54 notwithstanding the provisions of section two hundred twenty-six-b of  
55 the real property law, a not-for-profit hospital shall have the right to  
56 sublet any housing accommodation leased by it to its affiliated person-

1 nel without requiring the landlord's consent to any such sublease and  
2 without being bound by the provisions of subparagraphs (b), (c) and (f)  
3 of this paragraph. Commencing with the effective date of this subpara-  
4 graph, whenever a not-for-profit hospital executes a renewal lease for a  
5 housing accommodation, the legal regulated rent shall be increased by a  
6 sum equal to fifteen percent of the previous lease rental for such hous-  
7 ing accommodation, hereinafter referred to as a vacancy surcharge,  
8 unless the landlord shall have received within the seven year period  
9 prior to the commencement date of such renewal lease any vacancy  
10 increases or vacancy surcharges allocable to the said housing accommo-  
11 dation. In the event the landlord shall have received any such vacancy  
12 increases or vacancy surcharges during such seven year period, the  
13 vacancy surcharge shall be reduced by the amount received by any such  
14 vacancy increase or vacancy surcharges.

15 S 3. This act shall take effect immediately; provided that:

16 (a) the amendments to section 10 of the emergency tenant protection  
17 act of nineteen seventy-four made by section one of this act shall  
18 expire on the same date as such act expires and shall not affect the  
19 expiration of such act as provided in section 17 of chapter 576 of the  
20 laws of 1974; and

21 (b) the amendments to section 26-511 of chapter 4 of title 26 of the  
22 administrative code of the city of New York made by section two of this  
23 act shall expire on the same date as such law expires and shall not  
24 affect the expiration of such law as provided under section 26-520 of  
25 such law.