STATE OF NEW YORK

5394

2017-2018 Regular Sessions

IN ASSEMBLY

February 8, 2017

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Housing

AN ACT to amend the real property law, in relation to notice to market rate tenants of lease expiration (Part A); to amend the administrative code of the city of New York, in relation to eliminating fuel pass-a-long charges for occupants of rent controlled housing accommodations (Part B); to amend the administrative code of the city of New York, in relation to reducing the amount of maximum rent increase collectible in one year (Part C); and to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to making conforming technical changes; and to repeal paragraph 13 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, paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, and section 26-504.2 and subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, relating to vacancy decontrol (Part D)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2017-2018 state fiscal year. Each component is wholly contained within a Part identified as Parts A through D. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the

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

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Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 232-a of the real property law, as amended by chapter 312 of the laws of 1962, is amended to read as follows:

§ 232-a. Notice to terminate monthly tenancy or tenancy from month to month**, and notice to terminate non-regulated tenancy or offer a new lease,** in the city of New York.

1. No monthly tenant, or tenant from month to month, shall hereafter be removed from any lands or buildings in the city of New York on the grounds of holding over his term unless at least thirty days before the expiration of the term the landlord or his agent serve upon the tenant, in the same manner in which a notice of petition in summary proceedings is now allowed to be served by law, a notice in writing to the effect that the landlord elects to terminate the tenancy and that unless the tenant removes from such premises on the day on which his term expires the landlord will commence summary proceedings under the statute to remove such tenant therefrom.

2. Every landlord in the city of New York shall give the following notice, in writing and by mail or personal delivery, to every residential tenant whose lease is not subject to regulation pursuant to the local emergency housing rent control law, the emergency tenant protection act of nineteen seventy-four, the rent stabilization law of nineteen hundred sixty-nine or the city rent and rehabilitation law. The landlord shall notify the tenant named in the expiring lease, not more than one hundred fifty days and not less than ninety days prior to the end of the tenant's lease term, of the expiration of the lease term and whether the landlord will offer a new lease and if so upon what terms or whether the landlord will terminate the lease. If the landlord offers a new lease, the landlord shall give such tenant a period of sixty days from the date of service of such notice to accept the offer and sign the new lease. If a landlord fails to give the notice required by this subdivision, the tenant will be entitled to remain in occupancy for up to ninety days, at the tenant's option, after expiration of the lease term.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.

PART B

Section 1. The administrative code of the city of New York is amended by adding a new section 26-407.1 to read as follows:

§ 26-407.1 Fuel pass-along to tenants under rent control prohibited. Notwithstanding any other provision of law, rule, regulation, charter or administrative code, tenants of housing accommodations which are subject to rent control under this chapter shall not be subject to a fuel adjustment or pass-along increase in rent and any such increase to such tenant shall be null and void.

§ 2. This act shall take effect on the first of September next succeeding the date on which it shall have become a law; provided that the addition of section 26-407.1 to the city rent and rehabilitation law made by section one of this act shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in

subdivision 3 of section 1 of the local emergency housing rent control act.

PART C

Section 1. Paragraph 5 of subdivision a of section 26-405 of the administrative code of the city of New York is amended to read as follows:

(5) Where a maximum rent established pursuant to this chapter on or after January first, nineteen hundred seventy-two, is higher than the previously existing maximum rent, the landlord may not collect more than [~~seven and one-half percentum~~] **three percent** increase from a tenant in occupancy on such date in any one year period, provided however, that where the period for which the rent is established exceeds one year, regardless of how the collection thereof is averaged over such period, the rent the landlord shall be entitled to receive during the first twelve months shall not be increased by more than [~~seven and one-half percentum~~] **three percent** over the previous rent and additional annual rents shall not exceed [~~seven and one-half percentum~~] **three percent** of the rent paid during the previous year. Notwithstanding any of the foregoing limitations in this paragraph five, maximum rent shall be increased if ordered by the agency pursuant to subparagraphs (d), (e), (f), (g), (h), (i), (k), (l), (m) or (n) of paragraph one of subdivision g of this section. Commencing January first, nineteen hundred eighty, rent adjustments pursuant to subparagraph (n) of paragraph one of subdivision g of this section shall be excluded from the maximum rent when computing the [~~seven and one-half percentum~~] **three percent** increase authorized by this paragraph five. Where a housing accommodation is vacant on January first, nineteen hundred seventy-two, or becomes vacant thereafter by voluntary surrender of possession by the tenants, the maximum rent established for such accommodations may be collected.

§ 2. This act shall take effect immediately; provided that the amendments to section 26-405 of the city rent and rehabilitation law made by section one of this act shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act.

PART D

Section 1. Legislative findings and declaration of emergency. The legislature hereby finds and declares that the serious public emergency which led to the enactment of the existing laws regulating residential rents and evictions continues to exist; that such laws would better serve the public interest if certain changes were made thereto, including the continued regulation of certain housing accommodations that become vacant and the reinstatement of regulation of certain housing accommodations that have been deregulated upon vacancy.

The legislature further recognizes that severe disruption of the rental housing market has occurred and threatens to be exacerbated as a result of the present state of the law in relation to the deregulation of housing accommodations upon vacancy. The situation has permitted speculative and profiteering practices and has brought about the loss of vital and irreplaceable affordable housing for working persons and families.

The legislature therefore declares that in order to prevent uncertainty, potential hardship and dislocation of tenants living in housing accommodations subject to government regulations as to rentals and continued occupancy as well as those not subject to such regulation, the provisions of this act are necessary to protect the public health, safety and general welfare. The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 2. Paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, is REPEALED.

§ 3. Paragraph 13 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, is REPEALED.

§ 4. Subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York is REPEALED.

§ 5. Section 26-504.2 of the administrative code of the city of New York is REPEALED.

§ 6. Any housing accommodations that prior to the effective date of this act were excluded from coverage from the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law or the administrative code of the city of New York pursuant to the provisions of law repealed by sections two, three, four and five of this act, and where such housing accommodations were located outside the city of New York and were rented to a tenant between January 1, 2013 and the effective date of this act for less than $5,000.00 per month regardless of any subsequent payment of a higher monthly rent, or were located within the city of New York and were rented to a tenant between January 1, 2013 and the effective date of this act for less than $9,000.00 per month, regardless of any subsequent payment of a higher monthly rent, shall be subject to the provisions of such act, law or administrative code, respectively. Notwithstanding the provisions of any lease or rental agreement, the legal regulated rent or maximum collectible rent of any housing accommodation excluded from regulation prior to the effective date of this act by reason of the provisions repealed by sections two, three, four and five of this act and made subject to regulation shall be the actual rent paid by a tenant on December 31, 2016 or, if no rent was paid for such accommodation on December 31, 2016, the most recent actual rent paid by a tenant for such accommodation prior to December 31, 2016, subject to further adjustment in accordance with applicable provisions of law.

§ 7. Paragraph 14 of subdivision c of section 26-511 of the administrative code of the city of New York, as amended by section 12 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(14) provides that where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged upon renewal or upon vacancy thereof, may, at the option of the owner, be based upon such previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law. [~~Such housing accommodation shall be excluded from the provisions of this code pursuant to section 26-504.2 of this chapter when, subsequent to vacancy: (i) such legal regulated rent prior to vacancy is two thousand five hundred dollars per month, or more, for any housing accommodation that is or becomes vacant after the effective date of the rent act of 2011 but prior to the effective date~~

~~of the rent act of 2015 or (ii) such legal regulated rent is two thousand seven hundred dollars per month or more, provided, however that on January 1, 2016, and annually thereafter, the maximum legal regulated rent for this deregulation threshold shall be adjusted by the same percentage as the most recent one year renewal adjustment as adjusted by the relevant rent guidelines board, for any housing accommodation that is or becomes vacant on or after the rent act of 2015.~~]

§ 8. Subdivision (a-2) of section 10 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 11 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(a-2) Provides that where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged upon renewal or upon vacancy thereof, may, at the option of the owner, be based upon such previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases and other increases authorized by law. [~~Such housing accommodation shall be excluded from the provisions of this act pursuant to paragraph thirteen of subdivision a of section five of this act when subsequent to vacancy: (i) such legal regulated rent is two thousand five hundred dollars per month, or more, for any housing accommodation that is, or becomes, vacant after the effective date of the rent act of 2011 but prior to the effective date of the rent act of 2015 or (ii) such legal regulated rent is two thousand seven hundred dollars per month or more for any housing accommodation that is or becomes vacant on or after the rent act of 2015; starting on January 1, 2016, and annually thereafter, the maximum legal regulated rent for this deregulation threshold, shall also be increased by the same percent as the most recent one year renewal adjustment, adopted by the applicable rent guidelines board pursuant to the rent stabilization law.~~]

§ 9. This act shall take effect immediately; provided, however, that:

(a) the amendments to section 26-511 of chapter 4 of title 26 of the administrative code of the city of New York made by section seven of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law; and

(b) the amendments to subdivision (a-2) of section 10 of section 4 of the emergency tenant protection act of nineteen seventy-four made by section eight of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through D of this act shall be as specifically set forth in the last section of such Parts.