

# STATE OF NEW YORK

5634

2021-2022 Regular Sessions

## IN ASSEMBLY

February 22, 2021

Introduced by M. of A. FITZPATRICK, TAGUE -- Multi-Sponsored by -- M. of A. MANKTELOW -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to providing an alternative hardship allowance

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

1 Section 1. The opening paragraph of subparagraph (a) of paragraph 1 of  
2 subdivision g of section 26-405 of the administrative code of the city  
3 of New York is amended to read as follows:

4 The rental income from a property yields a net annual return of less  
5 than ~~[six]~~ eight and one-half per centum of the valuation of the proper-  
6 ty.

7 § 2. Subdivision c of section 26-511 of the administrative code of the  
8 city of New York is amended by adding a new paragraph 6-b to read as  
9 follows:

10 (6-b) provides criteria whereby as an alternative to the hardship  
11 application provided under paragraph six or paragraph six-a of this  
12 subdivision owners of buildings acquired by the same owner or a related  
13 entity owned by the same principals three years prior to the date of  
14 application may apply to the state division of housing and community  
15 renewal for increases in excess of the level of applicable guideline  
16 increases established under this law based on a finding by the commis-  
17 sioner of housing and community renewal that such guideline increases  
18 are not sufficient to enable the owner to maintain a net annual return  
19 of eight and one-half per centum of the valuation of the property. Such  
20 valuation shall be the current assessed valuation, which is in effect at  
21 the time of the filing of the application for an adjustment under this  
22 paragraph properly adjusted by applying thereto the ratio which such  
23 assessed valuation bears to the full valuation as determined by the  
24 commissioner of taxation and finance. Net annual return shall be the

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

LBD08143-01-1

1 amount by which the earned income exceeds the operating expenses of the  
2 property, excluding mortgage interest and amortization, and excluding  
3 allowances for obsolescence and reserves, but including an allowance for  
4 depreciation of two per centum of the value of the buildings exclusive  
5 of the land, or the amount shown for depreciation of the buildings in  
6 the latest required federal income tax return, whichever is lower;  
7 provided, however, that no allowance for depreciation of the buildings  
8 shall be included where the buildings have been fully depreciated for  
9 federal income tax purposes or on the books of the owner.

10 § 3. Subdivision d of section 6 of section 4 of chapter 576 of the  
11 laws of 1974, constituting the emergency tenant protection act of nine-  
12 teen seventy-four, is amended by adding a new paragraph 6 to read as  
13 follows:

14 (6) as an alternative to the hardship application provided under para-  
15 graph four or five of this subdivision owners of buildings acquired by  
16 the same owner or a related entity owned by the same principals three  
17 years prior to the date of application may apply to the state division  
18 of housing and community renewal for increases in excess of the level of  
19 applicable guideline increases established under this act based on a  
20 finding by the commissioner of housing and community renewal that such  
21 guideline increases are not sufficient to enable the owner to maintain a  
22 net annual return of eight and one-half per centum of the valuation of  
23 the property. Such valuation shall be the current assessed valuation  
24 established by a city, town or village, which is in effect at the time  
25 of the filing of the application for an adjustment under this paragraph  
26 properly adjusted by applying thereto the ratio which such assessed  
27 valuation bears to the full valuation as determined by the commissioner  
28 of taxation and finance. Net annual return shall be the amount by which  
29 the earned income exceeds the operating expenses of the property,  
30 excluding mortgage interest and amortization, and excluding allowances  
31 for obsolescence and reserves, but including an allowance for depreci-  
32 ation of two per centum of the value of the buildings exclusive of the  
33 land, or the amount shown for depreciation of the buildings in the  
34 latest required federal income tax return, whichever is lower; provided,  
35 however, that no allowance for depreciation of the buildings shall be  
36 included where the buildings have been fully depreciated for federal  
37 income tax purposes or on the books of the owner.

38 § 4. This act shall take effect immediately, provided that the amend-  
39 ment to section 26-405 of the city rent and rehabilitation law, made by  
40 section one of this act, shall remain in full force and effect only as  
41 long as the public emergency requiring the regulation and control of  
42 residential rents and evictions continues, as provided in subdivision 3  
43 of section 1 of the local emergency housing rent control act; and  
44 provided further that the amendment to section 26-511 of the rent  
45 stabilization law of nineteen hundred sixty-nine, made by section two of  
46 this act, shall expire on the same date as such law expires and shall  
47 not affect the expiration of such law as provided under section 26-520  
48 of the administrative code of the city of New York.