STATE OF NEW YORK

7235

2021-2022 Regular Sessions

IN SENATE

June 7, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the private housing finance law, in relation to rental assistance and legal regulated rents in affordable housing projects

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

Section 1. The private housing finance law is amended by adding a new section 610 to read as follows:

§ 610. Rental assistance and legal regulated rents. 1. (a) Notwithstanding the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine, any regulation promulgated pursuant to such act or law, or any other provision of law, where a housing accommodation is subject to a regulatory agreement with a state or municipal agency or public benefit corporation, or a political subdivision of the state, and where a federal, state, or local program provides rental assistance for such housing accommodation, such state or municipal agency or public benefit corporation, or political subdivision of the state, may allow in such regulatory agreement the owner of such housing accommodation to charge and collect a rent for such housing accommodation that (i) does not exceed the maximum payment standard or contract rent that the rental assistance program may provide for such housing accommodation, but (ii) does exceed the legal regulated rent for the housing accommodation.

(b) If any such rental assistance ends upon the vacancy of the housing accommodation, the owner of such housing accommodation shall thereafter charge and collect a rent for such housing accommodation that does not exceed the lesser of (i) the previously established legal regulated rent for such housing accommodation, as adjusted by the most recent applicable guidelines increases approved by a rent guidelines board established pursuant to the emergency tenant protection act of nineteen seventy-four and any other increases authorized by law, regardless of when the previ-

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

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ously established legal regulated rent was last charged, and (ii) any lower rent that is required by such regulatory agreement.

(c) If any such rental assistance ends during a tenancy, including, but not limited to, upon the renewal of a lease, the owner of such housing accommodation shall thereafter charge and collect a rent for such housing accommodation that does not exceed the lesser of (i) the previously established legal regulated rent for such housing accommodation, as adjusted by the most recent applicable guidelines increases approved by a rent guidelines board established pursuant to the emergency tenant protection act of nineteen seventy-four and any other increases authorized by law, regardless of when the previously established legal regulated rent was last charged, (ii) any rent charged to and paid by the tenant immediately prior to the commencement of the rental assistance that was less than the legal regulated rent for such housing accommodation, as adjusted by such most recent applicable guidelines increases and any other increases authorized by law, and (iii) any lower rent that is required by such regulatory agreement.

2. Any rent charged pursuant to subdivision one of this section in excess of the legal regulated rent for a housing accommodation shall not be registered as the legal regulated rent pursuant to the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine. The owner of such housing accommodation shall continue to register the legal regulated rent and any preferential rent calculated according to applicable guidelines increases applied to the previously established legal regulated rent or preferential rent, respectively, and separately register the actual rent charged to the tenant pursuant to subdivision one of this section.

3. Where the owner of a housing accommodation charges and collects a rent that exceeds the legal regulated rent for such housing accommodation pursuant to subdivision one of this section, such owner shall provide every tenant of such housing accommodation with a notice, attached to the initial lease and all renewal leases, advising the tenant in plain language that if such tenant ceases to receive the rental assistance described in subdivision one of this section for any reason, the rent for such housing accommodation shall be the legal regulated rent, or any lower rent as required by subdivision one of this section. The owner shall disclose any applicable regulatory agreement and the applicability of this section in any legal proceeding brought against a tenant whose rent is governed by this section.

4. An owner of a housing accommodation who fails to adjust a rent upon the termination of any such rental assistance as required by subdivision one of this section shall refund to the tenant the amount of the overcharge and be liable for treble damages. The tenant shall have the right to recover such overcharges and damages from the date of their accrual, notwithstanding any statute of limitations set forth in the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine. The tenant may raise such an overcharge as a claim or defense in any court of appropriate jurisdiction, or in a proceeding at the division of housing and community renewal, pursuant to the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine.

5. Where a regulatory agreement allows an owner of a housing accommodation to charge and collect a rent for the housing accommodation that exceeds the legal regulated rent for such housing accommodation in accordance with subdivision one of this section, the state or municipal agency or public benefit corporation, or political subdivision of the

state, that has executed the regulatory agreement shall audit such owner's records at least once every three years to verify that such owner is complying with the provisions of this section.

§ 2. This act shall take effect immediately.