

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:

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

3 § 610. Rental assistance and legal regulated rents. 1. (a) Notwith-
4 standing the emergency tenant protection act of nineteen seventy-four or
5 the rent stabilization law of nineteen hundred sixty-nine, any regu-
6 lation promulgated pursuant to such act or law, or any other provision
7 of law, where a housing accommodation is subject to a regulatory agree-
8 ment with a state or municipal agency or public benefit corporation, or
9 a political subdivision of the state, and where a federal, state, or
10 local program provides rental assistance for such housing accommodation,
11 such state or municipal agency or public benefit corporation, or poli-
12 tical subdivision of the state, may allow in such regulatory agreement
13 the owner of such housing accommodation to charge and collect a rent for
14 such housing accommodation that (i) does not exceed the maximum payment
15 standard or contract rent that the rental assistance program may provide
16 for such housing accommodation, but (ii) does exceed the legal regulated
17 rent for the housing accommodation.

18 (b) If any such rental assistance ends upon the vacancy of the housing
19 accommodation, the owner of such housing accommodation shall thereafter
20 charge and collect a rent for such housing accommodation that does not
21 exceed the lesser of (i) the previously established legal regulated rent
22 for such housing accommodation, as adjusted by the most recent applica-
23 ble guidelines increases approved by a rent guidelines board established
24 pursuant to the emergency tenant protection act of nineteen seventy-four
25 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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1 ously established legal regulated rent was last charged, and (ii) any
2 lower rent that is required by such regulatory agreement.

3 (c) If any such rental assistance ends during a tenancy, including,
4 but not limited to, upon the renewal of a lease, the owner of such hous-
5 ing accommodation shall thereafter charge and collect a rent for such
6 housing accommodation that does not exceed the lesser of (i) the previ-
7 ously established legal regulated rent for such housing accommodation,
8 as adjusted by the most recent applicable guidelines increases approved
9 by a rent guidelines board established pursuant to the emergency tenant
10 protection act of nineteen seventy-four and any other increases author-
11 ized by law, regardless of when the previously established legal regu-
12 lated rent was last charged, (ii) any rent charged to and paid by the
13 tenant immediately prior to the commencement of the rental assistance
14 that was less than the legal regulated rent for such housing accommo-
15 dation, as adjusted by such most recent applicable guidelines increases
16 and any other increases authorized by law, and (iii) any lower rent that
17 is required by such regulatory agreement.

18 2. Any rent charged pursuant to subdivision one of this section in
19 excess of the legal regulated rent for a housing accommodation shall not
20 be registered as the legal regulated rent pursuant to the emergency
21 tenant protection act of nineteen seventy-four or the rent stabilization
22 law of nineteen hundred sixty-nine. The owner of such housing accommo-
23 dation shall continue to register the legal regulated rent and any pref-
24 erential rent calculated according to applicable guidelines increases
25 applied to the previously established legal regulated rent or preferen-
26 tial rent, respectively, and separately register the actual rent charged
27 to the tenant pursuant to subdivision one of this section.

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

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

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

1 state, that has executed the regulatory agreement shall audit such
2 owner's records at least once every three years to verify that such
3 owner is complying with the provisions of this section.
4 § 2. This act shall take effect immediately.