

# STATE OF NEW YORK

9155

## IN SENATE

May 11, 2022

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the emergency tenant protection act of nineteen seventy-four, the administrative code of the city of New York and the real property tax law, in relation to reporting rent concessions

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

1 Section 1. Legislative intent and findings. The legislature finds and  
2 declares that the use of rental concessions in rent stabilized apart-  
3 ments to charge one rent to tenants while reporting another rent to the  
4 division of housing and community renewal undermines the purposes of the  
5 rent stabilization laws. The rent stabilization laws, as currently writ-  
6 ten, should be interpreted to find the use of rental concessions equiv-  
7 alent to the creation of a preferential rent. It is the intent of the  
8 legislature to clarify that, for the purposes of the emergency tenant  
9 protection act of nineteen seventy-four or any successor legislation,  
10 the amount of rent charged to and paid by the tenant or any initial  
11 adjusted monthly rent charged and paid refers to the net effective rent,  
12 which sum shall reflect the value of any rental concession. In order to  
13 effectuate the meaning and intent of the rent stabilization laws, rents  
14 reported to the division should equal the net effective rent paid by a  
15 tenant based upon the value of any and all concessions, and in this  
16 respect the application of the law will be facilitated by including  
17 rental concessions and their value in annual rent registration state-  
18 ments.

19 § 2. Subdivision f of section 12-a of section 4 of chapter 576 of the  
20 laws of 1974, constituting the emergency tenant protection act of 1974,  
21 as added by chapter 403 of the laws of 1983, is amended to read as  
22 follows:

23 f. An annual statement shall be filed containing the current rent for  
24 each unit and such other information contained in subdivision a of this  
25 section as shall be required by the division. The owner shall provide  
26 each tenant then in occupancy with a copy of that portion of such annual

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

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1 statement as pertains to the tenant's unit. Such annual statement shall  
2 also contain information relating to any and all concessions granted for  
3 a unit and, in any case where a concession includes a discount on rent  
4 paid for a unit by the tenant, the current rent for each unit reported  
5 by the owner to the division shall equal the net effective rent for such  
6 unit based upon the value of such concession.

7 (1) For the purposes of this subdivision, the term "concession" shall  
8 mean any temporary adjustment to a lease intended to induce a tenant to  
9 sign or renew such lease, including without limitation a rebate,  
10 discount, waiver, license agreement, proration, money payment, or phys-  
11 ical good or service or access thereto.

12 (2) For the purposes of this subdivision, the term "net effective  
13 rent" shall mean the average monthly rent charged to and paid by a  
14 tenant over the duration of a tenant's occupancy of a unit pursuant to  
15 an unexpired lease and any related rider or agreement.

16 § 3. Subdivision f of section 26-517 of the administrative code of  
17 the city of New York is amended to read as follows:

18 f. An annual statement shall be filed containing the current rent for  
19 each unit and such other information contained in subdivision a of this  
20 section as shall be required by the division. The owner shall provide  
21 each tenant then in occupancy with a copy of that portion of such annual  
22 statement as pertains to the tenant's unit. Such annual statement shall  
23 also contain information relating to any and all concessions granted for  
24 a unit and, in any case where a concession includes a discount on rent  
25 paid for a unit by the tenant, the current rent for each unit reported  
26 by the owner to the division shall equal the net effective rent for such  
27 unit based upon the value of such concession.

28 (1) For the purposes of this subdivision, the term "concession" shall  
29 mean any temporary adjustment to a lease intended to induce a tenant to  
30 sign or renew such lease, including without limitation a rebate,  
31 discount, waiver, license agreement, proration, money payment, or phys-  
32 ical good or service or access thereto.

33 (2) For the purposes of this subdivision, the term "net effective  
34 rent" shall mean the average monthly rent charged to and paid by a  
35 tenant over the duration of a tenant's occupancy of a unit pursuant to  
36 an unexpired lease and any related rider or agreement.

37 § 4. Every owner of housing accommodations subject to section 12-a of  
38 section 4 of the emergency tenant protection act of nineteen seventy-  
39 four or section 26-517 of the administrative code of the city of New  
40 York shall amend the annual statement filed pursuant to subdivision f of  
41 such applicable section for the year 2020 and, if applicable, for the  
42 year 2021 to include information required to be reported pursuant to  
43 section two or three of this act relating to concessions granted on a  
44 rental unit on or after March 1, 2020. Such amended statement shall be  
45 filed with the filing of the next annual statement or January 1, 2023,  
46 whichever is sooner. If an annual statement was not filed for the year  
47 2020 or 2021 prior to the effective date of this act, then the  
48 provisions of sections two and three of this act shall apply to the next  
49 filing, and information relating to concessions granted on rental units  
50 on or after March 1, 2020 shall be included in such annual statement.

51 § 5. Paragraph a of subdivision 1 of section 421-a of the real proper-  
52 ty tax law, as amended by chapter 857 of the laws of 1975 and as renum-  
53 bered by chapter 110 of the laws of 1977, is amended to read as follows:

54 a. "Adjusted Monthly Rent." The rent payable per month as provided in  
55 the first effective lease or occupancy agreement upon initial occupancy  
56 of a rental dwelling unit of a multiple dwelling after construction

1 aided by exemption under this section less the cost of providing parking  
2 facilities and electricity, gas, cooking fuel and other utilities other  
3 than heat and hot water to occupants of such dwelling units[-], which  
4 sum shall reflect the value of any and all concessions as such term is  
5 defined by subdivision f of section twelve-a of section four of the  
6 emergency tenant protection act of 1974 or any successor legislation.  
7 § 6. This act shall take effect immediately; provided, however, that  
8 the amendments to section 26-517 of chapter 4 of title 26 of the admin-  
9 istrative code of the city of New York made by section three of this act  
10 shall expire on the same date as such law expires and shall not affect  
11 the expiration of such law as provided under section 26-520 of such law.