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:

Section 1. Legislative intent and findings. The legislature finds and declares that the use of rental concessions in rent stabilized apartments to charge one rent to tenants while reporting another rent to the division of housing and community renewal undermines the purposes of the rent stabilization laws. The rent stabilization laws, as currently written, should be interpreted to find the use of rental concessions equivalent to the creation of a preferential rent. It is the intent of the legislature to clarify that, for the purposes of the emergency tenant protection act of nineteen seventy-four or any successor legislation, the amount of rent charged to and paid by the tenant or any initial adjusted monthly rent charged and paid refers to the net effective rent, which sum shall reflect the value of any rental concession. In order to effectuate the meaning and intent of the rent stabilization laws, rents reported to the division should equal the net effective rent paid by a tenant based upon the value of any and all concessions, and in this respect the application of the law will be facilitated by including rental concessions and their value in annual rent registration statements.

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

f. An annual statement shall be filed containing the current rent for each unit and such other information contained in subdivision a of this section as shall be required by the division. The owner shall provide 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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statement as pertains to the tenant's unit. **Such annual statement shall also contain information relating to any and all concessions granted for a unit and, in any case where a concession includes a discount on rent paid for a unit by the tenant, the current rent for each unit reported by the owner to the division shall equal the net effective rent for such unit based upon the value of such concession.**

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

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

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

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

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

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

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

§ 5. Paragraph a of subdivision 1 of section 421-a of the real property tax law, as amended by chapter 857 of the laws of 1975 and as renumbered by chapter 110 of the laws of 1977, is amended to read as follows:

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

aided by exemption under this section less the cost of providing parking facilities and electricity, gas, cooking fuel and other utilities other than heat and hot water to occupants of such dwelling units[~~.~~]**, which sum shall reflect the value of any and all concessions as such term is defined by subdivision f of section twelve-a of section four of the emergency tenant protection act of 1974 or any successor legislation.**

§ 6. This act shall take effect immediately; provided, however, that the amendments to section 26-517 of chapter 4 of title 26 of the administrative code of the city of New York made by section three 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.