

# 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.