

STATE OF NEW YORK

5693

2003-2004 Regular Sessions

IN SENATE

June 19, 2003

Introduced by COMMITTEE ON RULES -- (at request of the Governor) – read twice and ordered printed, and when printed to be committed to the Committee on Rules AN ACT to amend the local emergency housing rent control act, the emergency housing rent control law, the emergency tenant protection act of nineteen seventy-four, chapter 576 of the laws of 1974 amending the emergency housing rent control law relating to the control of and stabilization of rent in certain cases, the administrative code of the city of New York, chapter 329 of the laws of 1963 amending the emergency housing rent control law relating to reconrol of rents in the city of Albany, chapter 555 of the laws of 1982 amending the general business law and the administrative code of the city of New York relating to conversion of residential property to cooperative or condominium ownership in the city of New York, chapter 402 of the laws of 1983 amending the general business law relating to conversions of residential property to cooperative or condominium ownership in certain municipalities in the counties of Nassau, Westchester and Rockland, and the rent regulation reform act of 1997, in relation to the regulation of rents

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

- 1 Section 1. Subdivision 5 of section 1 of chapter 21 of the laws of
- 2 1962, constituting the local emergency housing rent control act, the
- 3 opening paragraph as separately amended by chapters 371, 373 and 1012 of
- 4 the laws of 1971, the second undesignated paragraph as amended by chap-
- 5 ter 679 of the laws of 1994, the third undesignated paragraph as added
- 6 by chapter 69 of the laws of 1980, the fourth undesignated paragraph as
- 7 amended by chapter 1012 of the laws of 1971, the fifth undesignated
- 8 paragraph as added by chapter 116 of the laws of 1997 and the closing
- 9 paragraph as added by chapter 373 of the laws of 1971, is amended to
- 10 read as follows:

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

LBD12094-01-3

S. 5693

2

- 1 5. Authority for local rent control legislation. Each city having a
- 2 population of one million or more, acting through its local legislative
- 3 body, may adopt and amend local laws or ordinances in respect of the

4 establishment or designation of a city housing rent agency. When it
5 deems such action to be desirable or necessitated by local conditions in
6 order to carry out the purposes of this section, such city, except as
7 hereinafter provided, acting through its local legislative body and not
8 otherwise, may adopt and amend local laws or ordinances in respect of
9 the regulation and control of residential rents, including but not
10 limited to provision for the establishment and adjustment of maximum
11 rents, the classification of housing accommodations, the regulation of
12 evictions, and the enforcement of such local laws or ordinances. The
13 validity of any such local laws or ordinances, and the rules or regu-
14 lations promulgated in accordance therewith, shall not be affected by
15 and need not be consistent with the state emergency housing rent control
16 law or with rules and regulations of the state division of housing and
17 community renewal.

18 Notwithstanding any local law or ordinance, housing accommodations
19 which became vacant on or after July first, nineteen hundred seventy-one
20 or which hereafter become vacant shall be subject to the provisions of
21 the emergency tenant protection act of nineteen seventy-four, provided,
22 however, that this provision shall not apply or become effective with
23 respect to housing accommodations which, by local law or ordinance, are
24 made directly subject to regulation and control by a city housing rent
25 agency and such agency determines or finds that the housing accommo-
26 dations became vacant because the landlord or any person acting on his
27 behalf, with intent to cause the tenant to vacate, engaged in any course
28 of conduct (including but not limited to, interruption or discontinuance
29 of essential services) which interfered with or disturbed or was
30 intended to interfere with or disturb the comfort, repose, peace or
31 quiet of the tenant in his use or occupancy of the housing accommo-
32 dations. The removal of any housing accommodation from regulation and
33 control of rents pursuant to the vacancy exemption provided for in this
34 paragraph shall not constitute or operate as a ground for the subjection
35 to more stringent regulation and control of any housing accommodation in
36 such property or in any other property owned by the same landlord,
37 notwithstanding any prior agreement to the contrary by the landlord. The
38 vacancy exemption provided for in this paragraph shall not arise with
39 respect to any rented plot or parcel of land otherwise subject to the
40 provisions of this act, by reason of a transfer of title and possession
41 occurring on or after July first, nineteen hundred seventy-one of a
42 dwelling located on such plot or parcel and owned by the tenant where
43 such transfer of title and possession is made to a member of the
44 tenant's immediate family provided that the member of the tenant's imme-
45 diate family occupies the dwelling with the tenant prior to the transfer
46 of title and possession for a continuous period of two years.

47 The term "immediate family" shall include a husband, wife, son, daugh-
48 ter, stepson, stepdaughter, father, mother, father-in-law or mother-in-
49 law.

50 Notwithstanding the foregoing, no local law or ordinance shall here-
51 after provide for the regulation and control of residential rents and
52 eviction in respect of any housing accommodations which are (1) present-
53 ly exempt from such regulation and control or (2) hereafter decontrolled
54 either by operation of law or by a city housing rent agency, by order or
55 otherwise. No housing accommodations presently subject to regulation and
56 control pursuant to local laws or ordinances adopted or amended under

1 authority of this subdivision shall hereafter be by local law or ordi-
2 nance or by rule or regulation which has not been theretofore approved
3 by the state commissioner of housing and community renewal subjected to
4 more stringent or restrictive provisions of regulation and control than
5 those presently in effect.

6 Notwithstanding any other provision of law, on and after the effective
7 date of this paragraph, a city having a population of one million or
8 more shall not, either through its local legislative body or otherwise,
9 adopt or amend local laws or ordinances with respect to the regulation
10 and control of residential rents and eviction, including but not limited
11 to provision for the establishment and adjustment of rents, the classi-
12 fication of housing accommodations, the regulation of evictions, and the
13 enforcement of such local laws or ordinances, or otherwise adopt laws or
14 ordinances pursuant to the provisions of this act, the emergency tenant
15 protection act of nineteen seventy-four, the New York city rent and
16 rehabilitation law or the New York city rent stabilization law, except
17 to the extent that such city for the purpose of reviewing the continued
18 need for the existing regulation and control of residential rents or to
19 remove a classification of housing accommodation from such regulation
20 and control adopts or amends local laws or ordinances pursuant to subdi-
21 vision three of section one of this act, section three of the emergency
22 tenant protection act of nineteen seventy-four, section 26-415 of the
23 New York city rent and rehabilitation law, and sections 26-502 and
24 26-520 of the New York city rent stabilization law of nineteen hundred
25 sixty-nine.

26 Notwithstanding any provision of this act to the contrary, any local
27 law adopted pursuant to this act shall provide that notwithstanding any
28 provision of such local law in the case where all tenants occupying the
29 housing accommodation on the effective date of this paragraph have
30 vacated the housing accommodation and a family member of such vacating
31 tenant or tenants is entitled to and continues to occupy the housing
32 accommodation subject to the protections of such act, if such accommo-
33 dation continues to be subject to such act after such family member
34 vacates, on the occurrence of such vacancy the maximum collectable rent
35 shall be increased by a sum equal to the allowance then in effect for
36 vacancy leases for housing accommodations covered by the rent stabiliza-
37 tion law of nineteen hundred sixty-nine, including the amount allowed by
38 paragraph (5-a) of subdivision c of section 26-511 of such law. This
39 increase shall be in addition to any other increases provided for in
40 this act and shall be applicable in like manner to each second subse-
41 quent succession.

42 Notwithstanding the foregoing, no local law or ordinance shall subject
43 to such regulation and control any housing accommodation which is not
44 occupied by the tenant in possession as his primary residence; provided,
45 however, that such housing accommodation not occupied by the tenant in
46 possession as his primary residence shall continue to be subject to
47 regulation and control as provided for herein unless the city housing
48 rent agency issues an order decontrolling such accommodation, which the
49 agency shall do upon application by the landlord whenever it is estab-

50 lished by any facts and circumstances which, in the judgment of the
51 agency, may have a bearing upon the question of residence, that the
52 tenant maintains his primary residence at some place other than at such
53 housing accommodation.

54 § 2. Paragraph 13 of subdivision a of section 5 of section 4 of chap-
55 ter 576 of the laws of 1974, constituting the emergency tenant

S. 5693

4

1 protection act of nineteen seventy-four, as amended by chapter 116 of
2 the laws of 1997, is amended to read as follows:

3 (13) any housing accommodation with a legal regulated rent of two
4 thousand dollars or more per month at any time between the effective
5 date of this paragraph and October first, nineteen hundred ninety-three
6 which is or becomes vacant on or after the effective date of this para-
7 graph, or any housing accommodation with a legal regulated rent of two
8 thousand dollars or more per month at any time on or after the effective
9 date of the rent regulation reform act of 1997 which is or becomes
10 vacant on or after the effective date of the rent regulation reform act
11 of 1997. This exclusion shall apply regardless of whether the next
12 tenant in occupancy or any subsequent tenant in occupancy actually is
13 charged or pays less than two thousand dollars a month. Provided howev-
14 er, that this exclusion shall not apply to housing accommodations which
15 became or become subject to this act (a) by virtue of receiving tax
16 benefits pursuant to section four hundred twenty-one-a or four hundred
17 eighty-nine of the real property tax law, except as otherwise provided
18 in subparagraph (i) of paragraph (f) of subdivision two of section four
19 hundred twenty-one-a of the real property tax law, or (b) by virtue of
20 article seven-C of the multiple dwelling law. This paragraph shall not
21 apply, however, to or become effective with respect to housing accommo-
22 dations which the commissioner determines or finds that the landlord or
23 any person acting on his or her behalf, with intent to cause the tenant
24 to vacate, has engaged in any course of conduct (including, but not
25 limited to, interruption or discontinuance of required services) which
26 interfered with or disturbed or was intended to interfere with or
27 disturb the comfort, repose, peace or quiet of the tenant in his or her
28 use or occupancy of the housing accommodations and in connection with
29 such course of conduct, any other general enforcement provision of this
30 act shall also apply.

31 § 3. Section 10 of section 4 of chapter 576 of the laws of 1974,
32 constituting the emergency tenant protection act of nineteen seventy-
33 four, is amended by adding a new subdivision a-2 to read as follows:
34 a-2. Provides that where the amount of rent charged to and paid by the
35 tenant is less than the legal regulated rent for the housing accommo-
36 dation, the amount of rent for such housing accommodation which may be
37 charged upon renewal or upon vacancy thereof may, at the option of the
38 owner, be based upon such previously established legal regulated rent,
39 as adjusted by the most recent applicable guidelines increases and other
40 increases authorized by law. Where, subsequent to vacancy, such legal
41 regulated rent, as adjusted by the most recent applicable guidelines
42 increases and any other increases authorized by law is two thousand
43 dollars or more per month, such housing accommodation shall be excluded

44 from the provisions of this act pursuant to paragraph thirteen of subdi-
45 vision a of section five of this act.

46 § 4. Subdivision a of section 26-504.2 of the administrative code of
47 the city of New York, as amended by chapter 116 of the laws of 1997 and
48 such paragraph as designated by local law number 12 of the city of New
49 York for the year 2000, is amended to read as follows:

50 a. "Housing accommodations" shall not include any housing accommo-
51 dation which becomes vacant on or after April first, nineteen hundred
52 ninety-seven and where at the time the tenant vacated such housing
53 accommodation the legal regulated rent was two thousand dollars or more
54 per month, or any housing accommodation which is or becomes vacant on or
55 after the effective date of the rent regulation reform act of 1997 with
56 a legal regulated rent of two thousand dollars or more per month. This

S. 5693

5

1 exclusion shall apply regardless of whether the next tenant in occupancy
2 or any subsequent tenant in occupancy actually is charged or pays less
3 than two thousand dollars a month. Provided however, that this exclusion
4 shall not apply to housing accommodations which became or become subject
5 to this law (a) by virtue of receiving tax benefits pursuant to section
6 four hundred twenty-one-a or four hundred eighty-nine of the real prop-
7 erty tax law, except as otherwise provided in subparagraph (i) of para-
8 graph (f) of subdivision two of section four hundred twenty-one-a of the
9 real property tax law, or (b) by virtue of article seven-C of the multi-
10 ple dwelling law. This section shall not apply, however, to or become
11 effective with respect to housing accommodations which the commissioner
12 determines or finds that the landlord or any person acting on his or her
13 behalf, with intent to cause the tenant to vacate, engaged in any course
14 of conduct (including, but not limited to, interruption or discontin-
15 uance of required services) which interfered with or disturbed or was
16 intended to interfere with or disturb the comfort, repose, peace or
17 quiet of the tenant in his or her use or occupancy of the housing accom-
18 modations and in connection with such course of conduct, any other
19 general enforcement provision of this law shall also apply.

20 § 5. Subparagraph (k) of paragraph 2 of subdivision e of section
21 26-403 of the administrative code of the city of New York, as amended by
22 chapter 116 of the laws of 1997, is amended to read as follows:

23 (k) Any housing accommodation which becomes vacant on or after April
24 first, nineteen hundred ninety-seven and where at the time the tenant
25 vacated such housing accommodation the maximum rent was two thousand
26 dollars or more per month, or any housing accommodation which is or
27 becomes vacant on or after the effective date of the rent regulation
28 reform act of 1997 with a maximum rent of two thousand dollars or more
29 per month. This exclusion shall apply regardless of whether the next
30 tenant in occupancy or any subsequent tenant in occupancy actually is
31 charged or pays less than two thousand dollars a month. Provided howev-
32 er, that this exclusion shall not apply to housing accommodations which
33 became or become subject to this law by virtue of receiving tax benefits
34 pursuant to section four hundred eighty-nine of the real property tax
35 law. This subparagraph shall not apply, however, to or become effective
36 with respect to housing accommodations which the commissioner determines

37 or finds that the landlord or any person acting on his or her behalf,
38 with intent to cause the tenant to vacate, has engaged in any course of
39 conduct (including, but not limited to, interruption or discontinuance
40 of required services) which interfered with or disturbed or was intended
41 to interfere with or disturb the comfort, repose, peace or quiet of the
42 tenant in his or her use or occupancy of the housing accommodations and
43 in connection with such course of conduct, any other general enforcement
44 provision of this law shall also apply.

45 § 6. Subdivision c of section 26-511 of the administrative code of the
46 city of New York is amended by adding a new paragraph 14 to read as
47 follows:

48 (14) provides that where the amount of rent charged to and paid by the
49 tenant is less than the legal regulated rent for the housing accommo-
50 dation, the amount of rent for such housing accommodation which may be
51 charged upon renewal or upon vacancy thereof may, at the option of the
52 owner, be based upon such previously established legal regulated rent,
53 as adjusted by the most recent applicable guidelines increases and any
54 other increases authorized by law. Where, subsequent to vacancy, such
55 legal regulated rent, as adjusted by the most recent applicable guide-
56 lines increases and any other increases authorized by law is two thou-

S. 5693

6

1 sand dollars or more per month, such housing accommodation shall be
2 excluded from the provisions of this law pursuant to section 26-504.2 of
3 this chapter.

4 § 6-a. Paragraph (n) of subdivision 2 of section 2 of chapter 274 of
5 the laws of 1946, constituting the emergency housing rent control law,
6 as amended by chapter 116 of the laws of 1997, is amended to read as
7 follows:

8 (n) any housing accommodation with a maximum rent of two thousand
9 dollars or more per month at any time between the effective date of this
10 paragraph and October first, nineteen hundred ninety-three which is or
11 becomes vacant on or after the effective date of this paragraph, or any
12 housing accommodation with a maximum rent of two thousand dollars or
13 more per month at any time on or after the effective date of the rent
14 regulation reform act of 1997 which is or becomes vacant on or after the
15 effective date of the rent regulation reform act of 1997. **This exclu-**
16 **sion shall apply regardless of whether the next tenant in occupancy or**
17 **any subsequent tenant in occupancy actually is charged or pays less than**
18 **two thousand dollars a month.** This exclusion shall not apply, however,
19 to or become effective with respect to housing accommodations which the
20 commissioner determines or finds that the landlord or any person acting
21 on his or her behalf, with intent to cause the tenant to vacate, has
22 engaged in any course of conduct (including, but not limited to, inter-
23 ruption or discontinuance of required services) which interfered with or
24 disturbed or was intended to interfere with or disturb the comfort,
25 repose, peace or quiet of the tenant in his or her use or occupancy of
26 the housing accommodations and in connection with such course of
27 conduct, any other general enforcement provision of this law shall also
28 apply.

29 § 7. Section 17 of chapter 576 of the laws of 1974, amending the emer-

30 gency housing rent control law relating to the control of and stabiliza-
31 tion of rent in certain cases, as amended by a chapter of the laws of
32 2003, amending chapter 576 of the laws of 1974, amending the emergency
33 housing rent control law relating to the control of and stabilization of
34 rent in certain cases, and various other laws relating to extending the
35 dates upon which certain provisions thereof expire, as proposed in
36 legislative bills numbers S. 5675 and A. 9105, is amended to read as
37 follows: This act shall take effect immediately and
39 shall remain in full force and effect until and including the [~~nine-~~
40 ~~teenth~~] **fifteenth** day of June [~~2003~~] **2011**; except that sections two and
41 three shall take effect with respect to any city having a population of
42 one million or more and section one shall take effect with respect to
43 any other city, or any town or village whenever the local legislative
44 body of a city, town or village determines the existence of a public
45 emergency pursuant to section three of the emergency tenant protection
46 act of nineteen seventy-four, as enacted by section four of this act,
47 and provided that the housing accommodations subject on the effective
48 date of this act to stabilization pursuant to the New York city rent
49 stabilization law of nineteen hundred sixty-nine shall remain subject to
50 such law upon the expiration of this act.
51 § 8. Subdivision 2 of section 1 of chapter 274 of the laws of 1946,
52 constituting the emergency housing rent control law, as amended by a
53 chapter of the laws of 2003, amending chapter 576 of the laws of 1974,
54 amending the emergency housing rent control law relating to the control
55 of and stabilization of rent in certain cases, and various other laws
56 relating to extending the dates upon which certain provisions thereof

S. 5693

7

1 expire, as proposed in legislative bills numbers S. 5675 and A. 9105, is
2 amended to read as follows:
3 2. The provisions of this act, and all regulations, orders and
4 requirements thereunder shall remain in full force and effect until and
5 including June [~~19, 2003~~] **15, 2011**.
6 § 9. Section 2 of chapter 329 of the laws of 1963, amending the emer-
7 gency housing rent control law relating to recontrol of rents in the
8 city of Albany, as amended by a chapter of the laws of 2003, amending
9 chapter 576 of the laws of 1974, amending the emergency housing rent
10 control law relating to the control of and stabilization of rent in
11 certain cases, and various other laws relating to extending the dates
12 upon which certain provisions thereof expire, as proposed in legislative
13 bills numbers S. 5675 and A. 9105, is amended to read as follows:
14 § 2. This act shall take effect immediately and the provisions of
15 subdivision 6 of section 12 of the emergency housing rent control law,
16 as added by this act, shall remain in full force and effect until and
17 including June [~~19, 2003~~] **15, 2011**.
18 § 10. Section 10 of chapter 555 of the laws of 1982, amending the
19 general business law and the administrative code of the city of New York
20 relating to conversion of residential property to cooperative or condo-
21 minium ownership in the city of New York, as amended by a chapter of the
22 laws of 2003, amending chapter 576 of the laws of 1974, amending the
23 emergency housing rent control law relating to the control of and

24 stabilization of rent in certain cases, and various other laws relating
25 to extending the dates upon which certain provisions thereof expire, as
26 proposed in legislative bills numbers S. 5675 and A. 9105, is amended to
27 read as follows:

28 § 10. This act shall take effect immediately; provided, that the
29 provisions of sections one, two and nine of this act shall remain in
30 full force and effect only until and including June [**19, 2003**] **15, 2011**;
31 provided further that the provisions of section three of this act shall
32 remain in full force and effect only so long as the public emergency
33 requiring the regulation and control of residential rents and evictions
34 continues as provided in subdivision 3 of section 1 of the local emer-
35 gency housing rent control act; provided further that the provisions of
36 sections four, five, six and seven of this act shall expire in accord-
37 ance with the provisions of section 26-520 of the administrative code of
38 the city of New York as such section of the administrative code is, from
39 time to time, amended; provided further that the provisions of section
40 26-511 of the administrative code of the city of New York, as amended by
41 this act, which the New York City Department of Housing Preservation and
42 Development must find are contained in the code of the real estate
43 industry stabilization association of such city in order to approve it,
44 shall be deemed contained therein as of the effective date of this act;
45 and provided further that any plan accepted for filing by the department
46 of law on or before the effective date of this act shall continue to be
47 governed by the provisions of section 352-eeee of the general business
48 law as they had existed immediately prior to the effective date of this
49 act.

50 § 11. Section 4 of chapter 402 of the laws of 1983, amending the
51 general business law relating to conversions of rental residential prop-
52 erty to cooperative or condominium ownership in certain municipalities
53 in the counties of Nassau, Westchester and Rockland, as amended by a
54 chapter of the laws of 2003, amending chapter 576 of the laws of 1974,
55 amending the emergency housing rent control law relating to the control
56 of and stabilization of rent in certain cases, and various other laws

S. 5693

8

1 relating to extending the dates upon which certain provisions thereof
2 expire, as proposed in legislative bills numbers S. 5675 and A. 9105, is
3 amended to read as follows:

4 § 4. This act shall take effect immediately; provided, that the
5 provisions of sections one and three of this act shall remain in full
6 force and effect only until and including June [**19, 2003**] **15, 2011**; and
7 provided further that any plan accepted for filing by the department of
8 law on or before the effective date of this act shall continue to be
9 governed by the provisions of section 352-eee of the general business
10 law as they had existed immediately prior to the effective date of this
11 act.

12 § 12. Subdivision 6 of section 46 of chapter 116 of the laws of 1997,
13 constituting the rent regulation reform act of 1997, as amended by a
14 chapter of the laws of 2003, amending chapter 576 of the laws of 1974,
15 amending the emergency housing rent control law relating to the control
16 of and stabilization of rent in certain cases, and various other laws

17 relating to extending the dates upon which certain provisions thereof
18 expire, as proposed in legislative bills numbers S. 5675 and A. 9105, is
19 amended to read as follows:

20 6. sections twenty-eight, twenty-eight-a, twenty-eight-b and twenty-
21 eight-c of this act shall expire and be deemed repealed after June [19,
22 2003] **15, 2011**;

23 § 13. This act shall take effect immediately, provided, that:

24 (a) the amendments to section 26-403 of the city rent and rehabili-
25 tation law made by section five of this act shall remain in full force
26 and effect only as long as the public emergency requiring the regulation
27 and control of residential rents and evictions continues, as provided in
28 subdivision 3 of section 1 of the local emergency housing rent control
29 act;

30 (b) the amendments to sections 26-504.2 and 26-511 of the rent
31 stabilization law of nineteen hundred sixty-nine made by sections four
32 and six of this act shall expire on the same date as such law expires
33 and shall not affect the expiration of such law as provided under
34 section 26-520 of such law;

35 (c) the amendments to sections 5 and 10 of the emergency tenant
36 protection act of nineteen seventy-four made by sections two and three
37 of this act shall expire on the same date as such act expires and shall
38 not affect the expiration of such act as provided in section 17 of chap-
39 ter 576 of the laws of 1974;

40 (d) the amendments to section 2 of the emergency housing rent control
41 law made by section six-a of this act shall expire on the same date as
42 such law expires and shall not affect the expiration of such law as
43 provided in subdivision 2 of section 1 of chapter 274 of the laws of
44 1946;

45 (e) the amendments to subdivision 5 of section 1 of the local emergen-
46 cy housing rent control act, made by section one of this act, shall not
47 affect the effectiveness of such subdivision and shall cease to be in
48 full force and effect pursuant to subdivision 3 of section 1 of such
49 act; and

50 (f) if this act shall become a law after June 19, 2003, sections seven
51 through twelve of this act shall be deemed to have been in full force
52 and effect on and after June 19, 2003, and provided, further that
53 sections seven through twelve of this act shall only take effect if a
54 chapter of the laws of 2003, amending chapter 576 of the laws of 1974,
55 amending the emergency housing rent control law relating to the control
56 of and stabilization of rent in certain cases, and various other laws

S. 5693

9

1 relating to extending the dates upon which certain provisions thereof
2 expire, as proposed in legislative bills numbers S. 5675 and A. 9105,
3 shall have become a law.