

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1992

No. 40

Introduced by Council Member Harrison (by request of the Mayor) and Council Member Ognibene; also Council Members Castaneira-Colon, Malave-Dilan, Foster, Horwitz, Koslowitz, Linares, Pinkett, Ward, Robinson, Robles and Watkins.

A LOCAL LAW

To amend the Administrative Code of the City of New York in relation to jurisdiction of the department for the aging over the senior citizen rent increase exemption program.

Be it enacted by the Council as follows:

Section 1. Section 26-404 of the administrative code of the city of New York is amended to read as follows:

§ 26-404 City rent agency; division of housing and community renewal. The division of housing and community renewal shall have charge of and conduct through its own counsel any proceeding under this chapter of the code, except for the provisions of subdivision [n] m of section 26-405 and section 26-406 of this chapter which shall [remain] *be* under the jurisdiction of the department [of housing preservation and development] *for the aging*.

§ 2. Subparagraph (ii) of paragraph (2) of subdivision m of section 26-405 of such code, as amended by local law number 67 for the year 1988, is amended to read as follows:

(ii) The aggregate disposable income (as defined by regulation of the department [of housing preservation and development] *for the aging*) of all members of the household residing in the housing accommodation does not exceed fifteen thousand dollars per year, after deduction of federal, state and city income and social security taxes. For purposes of this subdivision, "aggregate disposable income" shall not include increases in benefits accorded pursuant to the social security act which take effect after the date of eligibility of a head of the household receiving benefits under this subdivision whether received by the head of the household or any other member of the household; and

§ 3. Clause (i) of subparagraph (a) of paragraph (3) of subdivision m of section 26-405 of such code is amended to read as follows:

(i) in the case of a head of the household who does not receive a monthly allowance for shelter pursuant to the social [law] services law, that the landlord may not collect from the tenant to whom it is issued rent at a rate in excess of one-third of the aggregate disposable income, or the maximum collectible rent in effect on December thirty-first of the year preceding the effective date of the order, whichever is greater; or

§ 4. Subparagraph (b) of paragraph (3) of subdivision m of section 26-405 of such code is amended to read as follows:

(b) Each such order shall expire upon termination of occupancy of the housing accommodation by the tenant to whom it is issued. The landlord shall notify the department [of

housing preservation and development] *for the aging*, on a form to be prescribed by such department, within thirty days of each such termination of occupancy.

§ 5. Paragraph (5) of subdivision m of section 26-405 of such code, as amended by local law number 67 for the year 1988, is amended to read as follows:

(5) A rent exemption order shall be issued to each tenant who applies to the New York City department [of housing preservation and development] *for the aging* in accordance with its regulations and who is found to be eligible under this subdivision. Such order shall take effect on the first day of the first month after receipt of such application, except that where the aggregate disposable income of all members of the household residing in the housing accommodation is greater than five thousand dollars per year but does not exceed fifteen thousand dollars per year pursuant to subparagraph (ii) of paragraph two of this subdivision m of this section on orders issued on application received before July first, nineteen hundred seventy-five, the effective date of such order shall be the later of (1) June thirty, nineteen hundred seventy-four or (2) the last day of the month in which a person becomes an eligible head of household in the housing accommodation in which such person resides at the time of filing the most recent application for a rent exemption order; and further, except that where any other application has been received within ninety days of the issuance of the order increasing the tenant's maximum rent pursuant to paragraph three, four or six of subdivision (a) of this section, or subparagraph (a), (b), (c), or (l) of paragraph (1) of subdivision (g) of this section or pursuant to court order, whichever is later, the rent exemption order shall without further order take effect as of the effective date of said order increasing the tenant's rent including any retroactive increments collectible pursuant to such orders.

§ 6. Paragraph (6) of subdivision m of section 26-405 of such code, as amended by chapter 651 of the laws of 1988, is amended to read as follows:

(6) A rent exemption order shall be valid for a period of two years and may be renewed for further two years periods upon application by the tenant; provided, that upon any such renewal application being made by the tenant, any rent exemption order then in effect with respect to such tenant shall be deemed renewed until such time as the department [of housing preservation and development] *for the aging* shall have found such tenant to be either eligible or ineligible for a rent exemption order but in no event for more than six additional months. If such tenant is found eligible, the order shall be deemed to have taken effect upon expiration of the exemption. In the event that any such tenant shall, subsequent to any such automatic renewal, not be granted a rent exemption order, such tenant shall be liable to his or her landlord for the difference between the amounts he or she has paid under the provisions of the automatically renewed order and the amounts which he or she would have been required to pay in the absence of such order. Any rent exemption order issued pursuant to this subdivision shall include provisions giving notice as to the contents of this paragraph relating to automatic renewals of rent exemption orders. Any application or renewal application for a rent exemption order shall also constitute an application for a tax abatement under such section. The department [of housing preservation and development] *for the aging* may, with respect to renewal applications by tenants whom it has found eligible for rent exemption orders, prescribe a simplified form including a certification of the applicant's continued eligibility in lieu of a detailed statement of income and other qualifications.

§ 7. Paragraph (9) of subdivision m of section 26-405 of such code, as amended by chapter 651 of the laws of 1988, is amended to read as follows:

(9) notwithstanding any other provision of law to the contrary, where a head of household holds a current, valid rent exemption order and, after the effective date of this paragraph, there is a permanent decrease in aggregate disposable income in an amount which

exceeds twenty percent of such aggregate disposable income as represented in such head of the household's last approved application for a rent exemption order or for renewal thereof, such head of the household may, upon renewal or one year after the issuance or renewal of such rent exemption order, apply for a redetermination of the amount set forth therein. Upon application, such amount shall be redetermined so as to re-establish the ratio of adjusted rent to aggregate disposable income which existed at the time of the approval of such eligible head of the household's last application for a rent exemption order or for renewal thereof; provided, however, that in no event shall the amount of the adjusted rent be redetermined to be (i) in the case of a head of the household who does not receive a monthly allowance for shelter pursuant to the social services law, less than one-third of the aggregate disposable income; or (ii) in the case of a head of the household who receives a monthly allowance for shelter pursuant to the social services law, less than the maximum allowance for shelter which such head of the household is entitled to receive pursuant to such law. For purposes of this paragraph, a decrease in aggregate disposable income shall not include any decrease in such income resulting from the manner in which such income is calculated pursuant to any amendment to paragraph c of subdivision one of section four hundred sixty-seven-b of the real property tax law or any amendment to the regulations of the department [of housing preservation and development] *for the aging* made on or after April first, nineteen hundred eighty-seven. For purposes of this paragraph, "adjusted rent" shall mean maximum rent less the amount set forth in a rent exemption order.

§ 8. Subdivisions a and b of section 26-406 of such code are amended to read as follows:

a. Tax abatement, pursuant to the provisions of section four hundred sixty-seven-b of the real property tax law, shall be granted with respect to any real property for which a rent exemption order is issued under subdivision [n] m of section 26-405 of this chapter to the tenant of any housing accommodation contained therein. The rent exemption order shall constitute the tax abatement certificate.

b. The real estate tax imposed upon any real property for which a rent exemption order is issued, shall be reduced and abated by an amount equal to the difference between (1) the sum of the maximum rents collectible under such orders, and (2) the sum of rents that would be collectible from the tenants of such housing accommodations if no exemption had been granted pursuant to subdivision [n] m of section 26-405 of this chapter.

§ 9. The opening paragraph of subdivision c of section 26-406 of such code is amended to read as follows:

For any individual housing accommodation, the tax abatement computed pursuant to subdivision b of this section shall be available with respect to a period commencing on the effective date of the initial rent exemption order, or January first, nineteen hundred seventy-two, whichever is later, and ending on the expiration date of such order or on the effective date of an order terminating the rent exemption. Notwithstanding any other provision of law, when a head of a household to whom a then current, valid tax abatement certificate has been issued under this chapter, chapter four or chapter seven of this title moves his or her principal residence to a subsequent dwelling unit subject to regulation under this chapter, the head of the household may apply to the department [of housing preservation and development] *for the aging* for a tax abatement certificate relating to the subsequent dwelling unit, and such certificate may provide that the head of the household shall be exempt from paying that portion of the maximum rent for the subsequent dwelling unit which is the least of the following:

§ 10. Subdivision d of section 26-406 of such code is amended to read as follows:

d. Prior to the commencement of each fiscal year, the department [of housing preservation and development] *for the aging* shall notify the department of finance of the total amount of taxes to be abated under this section with respect to each property for which rent exemption orders were in effect for all or any part of the preceding calendar year. The commissioner of finance shall make the appropriate adjustment in the real estate tax payable in such fiscal year.

§ 11. The heading of section 26-509 of such code is amended to read as follows:

§ 26-509 Application to department [of housing preservation and development] *for the aging* for rent increase exemptions and equivalent tax abatement for rent regulated property occupied by certain senior citizens.

§ 12. Subdivision a of section 26-509 of such code is amended to read as follows:

a. Commencement of department [of housing preservation and development] *for the aging* jurisdiction.

(1) Notwithstanding any provisions of this chapter to the contrary, on and after [October first, nineteen hundred eighty] *July first, nineteen hundred ninety-two*, the department [of housing preservation and development] *for the aging* shall grant rent increase exemption orders or tax abatement certificates pursuant to this section and applications for such orders and certificates and renewal applications shall be made to the department [of housing preservation and development] *for the aging*.

(2) The department [of housing preservation and development] *for the aging* shall have the power, in relation to any application for a rent increase exemption order or tax abatement certificate, to determine the lawful stabilization rent, but it shall not receive applications for adjustment of the initial legal regulated rent pursuant to section 26-513 of this chapter.

(3) The department of finance, and the department [of housing preservation and development] *for the aging* may promulgate such rules and regulations as may be necessary to effectively carry out the provisions of this section.

§ 13. Subparagraph (ii) of paragraph (2) of subdivision b of section 26-509 of such code, as amended by local law number 67 for the year 1988, is amended to read as follows:

(ii) the aggregate disposable income (as defined by regulation of the department [of housing preservation and development] *for the aging*) of all members of the household residing in the housing accommodation does not exceed fifteen thousand dollars per year, after deduction of federal, state and city income and social security taxes. For purposes of this subdivision, "aggregate disposable income" shall not include increases in benefits accorded pursuant to the social security act which take effect after the eligibility date of a head of the household receiving benefits under this section whether received by the head of the household or any other member of the household.

§ 14. Subparagraph (ii) of paragraph (3) of subdivision b of section 26-509 of such code is amended to read as follows:

(ii) Each such order shall expire upon termination of occupancy of the housing accommodation by the tenant to whom it is issued. The landlord shall notify the department [of housing preservation and development] *for the aging*, on a form to be prescribed by such department, within thirty days of each such termination of occupancy.

§ 15. Paragraph (5) of subdivision b of section 26-509 of such code is amended to read as follows:

(5) A rent exemption order shall be issued to each tenant who applies to the department [of housing preservation and development] *for the aging* in accordance with its regulations and who is found to be eligible under this subdivision. Such order shall take effect on the first day of the first month after receipt of such application by the department [of housing

preservation and development] *for the aging*, except that where *there is* any other increase in the legal-regulated rent within ninety days of the issuance of the order increasing the tenant's maximum rent which a tenant is not exempted from paying, the rent exemption order shall without further order of the department [of housing preservation and development] *for the aging* take effect as of the effective date of said order increasing the tenant's rent including any retroactive increments collectible pursuant to such order.

§ 16. Paragraph (6) of subdivision b of section 26-509 of such code, as amended by chapter 823 of the laws of 1990, is amended to read as follows:

(6) A rent exemption order shall be valid for the period of the lease or renewal thereof upon application by the tenant; provided, that upon any such renewal application being made by the tenant, any rent exemption order then in effect with respect to such tenant shall be deemed renewed until such time as the department [of housing preservation and development] *for the aging* shall have found such tenant to be either eligible or ineligible for a rent exemption order but in no event for more than six additional months. If such tenant is found eligible, the order shall be deemed to have taken effect upon expiration of the exemption. In the event that any such tenant shall, subsequent to any such automatic renewal, not be granted a rent exemption order, such tenant shall be liable to the owner for the difference between the amounts the tenant has paid under the provisions of the automatically renewed order and the amounts which the tenant would have been required to pay in the absence of such order. Any rent exemption order issued pursuant to this subdivision shall include provisions giving notice as to the contents of this paragraph relating to automatic renewals of rent exemption orders and shall include provisions giving notice that the tenant must enter into either a one or two year renewal lease in order to be eligible for a rent exemption. The notice that each tenant receives from the owner relating to the right to a renewal lease shall contain similar information. Any application or renewal application for a rent exemption order shall also constitute an application for a tax abatement under such section. The department [of housing preservation and development] *for the aging* may, with respect to renewal applications by the tenants whom it has found eligible for rent exemption orders, prescribe a simplified form including a certification of the applicant's continued eligibility in lieu of a detailed statement of income and other qualifications.

§ 17. The opening clause of paragraph (7) of subdivision b of section 26-509 of such code is amended to read as follows:

Notwithstanding any other provision of law, when a head of a household to whom a then current, valid rent exemption order has been issued under this chapter, chapter three or chapter seven of this title moves his or her principal residence to a subsequent dwelling unit subject to regulation under this chapter, the head of the household may apply to the department [of housing preservation and development] *for the aging* for a rent exemption order relating to the subsequent dwelling unit, and such order may provide that the head of the household shall be exempt from paying that portion of the legal regulated rent for the subsequent dwelling unit which is the least of the following:

§ 18. Subparagraph (ii) of paragraph (9) of subdivision b of section 26-509 of such code, as amended by chapter 651 of the laws of 1988, is amended to read as follows:

(ii) in the case of a head of the household who receives a monthly allowance for shelter pursuant to such law, less than the maximum allowance for shelter which such head of the household is entitled to receive pursuant to the social services law. For purposes of this paragraph, a decrease in aggregate disposable income shall not include any decrease in such income resulting from the manner in which such income is calculated pursuant to any amendment to paragraph c of subdivision one of section four hundred sixty-seven-b of the real prop-

erty tax law or any amendment to the regulations of the department [of housing preservation and development] *for the aging* made on or after April first, nineteen hundred eighty-seven. For purposes of this paragraph, "adjusted rent" shall mean legal regulated rent less the amount set forth in a rent exemption order.

§ 19. Paragraph (4) of subdivision c of section 26-509 of such code is amended to read as follows:

(4) Prior to the commencement of each fiscal year, the department [of housing preservation and development] *for the aging* shall notify the department of finance of the total amount of taxes to be abated under this section with respect to each property for which rent exemption orders were in effect for all or any part of the preceding calendar year. The commissioner of finance shall make the appropriate adjustment in the real estate tax payable in such fiscal year.

§ 20. Any agency or officer to whom are assigned by this local law any powers and duties shall exercise such powers and duties in continuation of their exercise by the agency or officer by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter commenced by the agency or officer by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to the subject-matter of such powers or duties and applicable to the agency or officer formerly exercising such powers and duties shall, so far as not inconsistent with the provisions of this local law, apply to the agency or officer to which such powers and duties are assigned by this local law. Any rule in force upon the effective date of this local law and promulgated by an agency or officer whose power to promulgate such rule is assigned by this local law to another agency or officer shall continue in force as the rule of the agency or officer to whom such power is assigned, unless and until such rule is superseded, amended, or repealed.

§ 21. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or any agency or officer, shall be affected or abated by the enactment of this local law or by anything therein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer party thereto may be this local law be assigned or transferred to another agency or officer, but in that event the same may be prosecuted or defended by the head of the agency to which such functions, powers and duties have been assigned or transferred by this local law.

§ 22. Nothing contained in this local law shall affect or impair the rights or privileges of officers or employees of the city or of any agency existing at the time when this local law shall take effect, or any provision of law in force at the time when this local law shall take effect and not inconsistent with the provisions of this local law, in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city generally or officers or employees of any agency.

§ 23. Wherever by any provision of this local law functions, powers or duties are assigned to any agency or officer which have been heretofore exercised by any other agency or officer, all officers and employees in the classified municipal civil service who at the time when such local law provisions shall take effect are engaged in the performance of such functions, powers or duties shall be transferred to the agency to which such functions, powers or duties are assigned by this local law, without examination and without affecting existing compensation or pension or retirement rights, privileges or obligations of such officers and employees.

§ 24. No existing right or remedy of any character shall be lost or impaired or affected by reason of the enactment of this local law.

~~§ 25. All records, property and equipment whatsoever of any agency or part thereof, the powers and duties of which are assigned to any other agency by this local law, shall be transferred and delivered to the agency to which such powers and duties are so assigned.~~

§ 26. This local law shall take effect July 1, 1992.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 1, 1992, and approved by the Mayor on June 17, 1992.

RAYMOND TEATUM, First Deputy and Acting City Clerk

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 40 of 1992, Council Int. No. 430) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 1, 1992: 51 for, 0 against.

Was approved by the Mayor on June 17, 1992.

Was returned to the City Clerk on June 17, 1992.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel