

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1991**

No. 26

Introduced by Council Members Harrison, Pinkett, Dear, Horwitz, Castaneira-Colon, Maloney, McCaffrey and the Speaker (Council Member Vallone); also Council Members Cerullo III, Ward, Berman, Greitzer, Spigner, Crispino, Leffler, Michels, Eisland, Dryfoos, O'Donovan, Robles, Fields, Fisher, Lisa, Povman, Williams, Wooten, Alter, DeMarco, Eldridge, Friedlander and Rivera.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to conforming provisions of state and local law on rent increase exemptions for low income elderly persons.

Be it enacted by the Council as follows:

Section one. Section 26-601 of chapter seven of title 26 of the administrative code of the city of New York, as last amended by local law 67 of 1988, is hereby amended to read as follows:

§ 26-601 Definitions. a. "Commissioner" means the commissioner of housing and community renewal of the state of New York.

b. "Dwelling unit" means that part of a dwelling in which an eligible head of the household resides and which is subject to the provisions of either article II, IV, V, or XI of the private housing finance law, or that part of a dwelling *which was or continues to be* subject to a mortgage insured *or initially insured* by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, in which an eligible head of the household resides.

c. "Eligibility date" means the later of (1) January first, nineteen hundred seventy-five, or (2) the last day of the month in which a person became an eligible head of a household in the dwelling unit in which such person resides at the time of filing the most recent application for benefits hereunder, or in the case of a dwelling subject to a mortgage insured *or initially insured* by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, "eligibility date" means the later of (1) July first, nineteen hundred seventy-seven, or (2) the last day of the month in which a person became an eligible head of a household in the dwelling unit in which such person resides at the time of filing the most recent application for benefits hereunder.

d. "Eligible head of the household" means a person or his or her spouse who is sixty-two years of age or older and is entitled to the possession or to the use and occupancy of a dwelling unit, *provided, however, with respect to a dwelling which was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended "eligible head of the household" shall be limited to that person or his or her spouse who was entitled to possession or the use and occupancy of such*

dwelling unit at the time of termination of such mortgage, and whose income when combined with the income of all other members of the household, does not exceed fifteen thousand dollars for the taxable period.

e. "Housing company" means any limited-profit housing company, limited dividend housing company, redevelopment company or housing development fund company incorporated pursuant to the private housing finance law and operated exclusively for the benefit of persons or families of low income, or any corporate owner of a dwelling *which is or was* subject to a mortgage insured *or initially insured* by the federal government pursuant to section two hundred thirteen of the national housing act, as amended.

f. "Income" means income received by the eligible head of the household combined with the income of all other members of the household from all sources after deduction of all income and social security taxes and includes without limitation, social security and retirement benefits, supplemental security income and additional state payments, public assistance benefits, interest, dividends, net rental income, salary and earnings, and net income from self-employment, but shall not include gifts or inheritances, nor increases in benefits accorded pursuant to the social security act which take effect after the eligibility date of an eligible head of the household or any other member of the household. When the eligible head of a household has retired on or after the commencement of the taxable period and prior to the date of making an application for a rent increase exemption order/tax abatement certificate pursuant to this chapter, such person's income shall be adjusted by excluding salary or earnings and projecting such person's retirement income over the entire taxable period.

g. "Income tax year" means a twelve month period for which the head of the household filed a federal personal income tax return, or if no such return is filed, the calendar year.

h. "Increase in maximum rent" means any increase in the maximum rent for the dwelling unit becoming effective on or after the eligibility date, including capital assessments and voluntary capital contributions but excluding any increase in maximum rent attributable to gas or electrical utility charges or an increase in dwelling space, services or equipment, provided, however, that with respect to any dwelling unit *in a dwelling which is or was* subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, "increase in maximum rent" shall not include any increase in maximum rent attributable to capital assessments or voluntary capital contributions.

i. "Maximum rent" means the maximum rent, excluding gas and electric utility charges, which has been authorized or approved by the commissioner or the supervising agency or the legal regulated rent established for the dwelling unit pursuant to the provisions of either article II, IV, V or XI of the private housing finance law, or the rental established for a cooperatively owned dwelling unit previously regulated pursuant to the provisions of article II, IV, V or XI of the private housing finance law, or the rental established for a dwelling unit, in a dwelling subject to a mortgage insured *or initially insured* by the federal government pursuant to section two hundred thirteen of the national housing act, as amended *or such rent established for a dwelling unit which was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended.*

j. "Members of the household" means the head of the household and any person, permanently residing in the dwelling unit.

k. "Supervising agency" means the department of housing preservation and development.

1. "Taxable period" means the income tax year immediately preceding the date of making application for a rent increase exemption order/tax abatement certificate.

§ 2. Subdivision (b) of section 26-605 of such chapter, title and code is hereby amended to read as follows:

(b) [When] *Notwithstanding any other provision of law, when a head of a household to whom the then current, valid tax abatement certificate has been issued under this chapter, chapter three or chapter four of this title moves his principal residence to a subsequent dwelling unit subject to this chapter, or which is or was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, the head of the household may apply to the supervising agency, subject to the terms and conditions imposed by this chapter, 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:*

1. the amount by which the rent for the subsequent dwelling unit exceeds the last rent, as reduced, which the head of the household was required to actually pay in the original dwelling unit;
2. the last amount deducted from the maximum rent or legal regulated rent meaning the most recent monthly deduction for the applicant in the original dwelling unit pursuant to this section, section 26-406 or section 26-409 of this title; or
3. where the eligible head of the household does not receive a monthly allowance pursuant to the social services law, the amount by which the maximum rent or legal regulated rent of the subsequent dwelling unit exceeds one-third of the combined income of all members of the household.

Such certificate shall be effective as of the first day of the month in which the tenant applied for such exemption or as of the date the tenant took occupancy of the subsequent dwelling unit, whichever is later, provided both occur after the effective date of this law.

§ 3. Chapter 7 of title 26 of such code is amended by adding a new section 26-616 to read as follows:

§ 26-616. Notification of termination of certain mortgage. The housing company which owns any dwelling subject to a mortgage insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, shall notify the supervising agency of the termination of such mortgage thirty days before such termination.

§ 4. In the event that a dwelling which was subject to a mortgage insured or initially insured pursuant to section 213 of the national housing act, as amended, and such mortgage terminated prior to the date this local law shall have become a law, each "eligible head of the household" of such dwelling as such term is defined in section 26-601 as amended by section one of this local law shall be issued a valid tax abatement certificate as if there had been no lapse in benefit.

§ 5. This local law shall take effect on the same day as the effective date of a chapter of the laws of 1991 amending paragraphs b, d, e, h and i of subdivision 1 and paragraph b of subdivision three of section 467-c of the real property tax law, relating to dwellings which were or continue to be subject to a mortgage insured or initially insured by the federal government pursuant to section 213 of the national housing act, as amended.

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 April 10, 1991, and approved by the Mayor on April 24, 1991.

CARLOS CUEVAS, City Clerk, Clerk of the Council

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 26 of 1991, Council Int. No. 480A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on April 10, 1991: 32 for, 0 against.

Was approved by the Mayor on April 24, 1991.

Was returned to the City Clerk on April 26, 1991.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel