

# STATE OF NEW YORK

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5557

2017-2018 Regular Sessions

## IN ASSEMBLY

February 10, 2017

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Introduced by M. of A. CYMBROWITZ -- read once and referred to the  
Committee on Housing

AN ACT to amend the local emergency housing rent control act, in  
relation to rent regulation laws

The People of the State of New York, represented in Senate and Assem-  
bly, 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, as  
3 amended by chapter 82 of the laws of 2003 and the closing paragraph as  
4 amended by chapter 422 of the laws of 2010, is amended to read as  
5 follows:

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

23 Notwithstanding any local law or ordinance, housing accommodations  
24 which became vacant on or after July first, nineteen hundred seventy-one  
25 or which hereafter become vacant shall be subject to the provisions of

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

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1 the emergency tenant protection act of nineteen seventy-four, provided,  
2 however, that this provision shall not apply or become effective with  
3 respect to housing accommodations which, by local law or ordinance, are  
4 made directly subject to regulation and control by a city housing rent  
5 agency and such agency determines or finds that the housing accommo-  
6 dations became vacant because the landlord or any person acting on his  
7 behalf, with intent to cause the tenant to vacate, engaged in any course  
8 of conduct (including but not limited to, interruption or discontinuance  
9 of essential services) which interfered with or disturbed or was  
10 intended to interfere with or disturb the comfort, repose, peace or  
11 quiet of the tenant in his use or occupancy of the housing accommo-  
12 dations. The removal of any housing accommodation from regulation and  
13 control of rents pursuant to the vacancy exemption provided for in this  
14 paragraph shall not constitute or operate as a ground for the subjection  
15 to more stringent regulation and control of any housing accommodation in  
16 such property or in any other property owned by the same landlord,  
17 notwithstanding any prior agreement to the contrary by the landlord. The  
18 vacancy exemption provided for in this paragraph shall not arise with  
19 respect to any rented plot or parcel of land otherwise subject to the  
20 provisions of this act, by reason of a transfer of title and possession  
21 occurring on or after July first, nineteen hundred seventy-one of a  
22 dwelling located on such plot or parcel and owned by the tenant where  
23 such transfer of title and possession is made to a member of the  
24 tenant's immediate family provided that the member of the tenant's im-  
25 mediate family occupies the dwelling with the tenant prior to the transfer  
26 of title and possession for a continuous period of two years.

27 The term "immediate family" shall include a husband, wife, son, daugh-  
28 ter, stepson, stepdaughter, father, mother, father-in-law or mother-in-  
29 law.

30 [Notwithstanding the foregoing, no local law or ordinance shall here-  
31 after provide for the regulation and control of residential rents and  
32 eviction in respect of any housing accommodations which are (1) present-  
33 ly exempt from such regulation and control or (2) hereafter decontrolled  
34 either by operation of law or by a city housing rent agency, by order or  
35 otherwise. No housing accommodations presently subject to regulation and  
36 control pursuant to local laws or ordinances adopted or amended under  
37 authority of this subdivision shall hereafter be by local law or ordi-  
38 nance or by rule or regulation which has not been theretofore approved  
39 by the state commissioner of housing and community renewal subjected to  
40 more stringent or restrictive provisions of regulation and control than  
41 those presently in effect.

42 Notwithstanding any other provision of law, on and after the effective  
43 date of this paragraph, a city having a population of one million or  
44 more shall not, either through its local legislative body or otherwise,  
45 adopt or amend local laws or ordinances with respect to the regulation  
46 and control of residential rents and eviction, including but not limited  
47 to provision for the establishment and adjustment of rents, the classi-  
48 fication of housing accommodations, the regulation of evictions, and the  
49 enforcement of such local laws or ordinances, or otherwise adopt laws or  
50 ordinances pursuant to the provisions of this act, the emergency tenant  
51 protection act of nineteen seventy-four, the New York city rent and  
52 rehabilitation law or the New York city rent stabilization law, except  
53 to the extent that such city for the purpose of reviewing the continued  
54 need for the existing regulation and control of residential rents or to  
55 remove a classification of housing accommodation from such regulation  
56 and control adopts or amends local laws or ordinances pursuant to subdi-

1 vision three of section one of this act, section three of the emergency  
2 tenant protection act of nineteen seventy-four, section 26-415 of the  
3 New York city rent and rehabilitation law, and sections 26-502 and  
4 26-520 of the New York city rent stabilization law of nineteen hundred  
5 sixty-nine.]

6 Notwithstanding any provision of this act to the contrary, any local  
7 law adopted pursuant to this act shall provide that notwithstanding any  
8 provision of such local law in the case where all tenants occupying the  
9 housing accommodation on the effective date of this paragraph have  
10 vacated the housing accommodation and a family member of such vacating  
11 tenant or tenants is entitled to and continues to occupy the housing  
12 accommodation subject to the protections of such act, if such accommo-  
13 dation continues to be subject to such act after such family member  
14 vacates, on the occurrence of such vacancy the maximum collectable rent  
15 shall be increased by a sum equal to the allowance then in effect for  
16 vacancy leases for housing accommodations covered by the rent stabiliza-  
17 tion law of nineteen hundred sixty-nine, including the amount allowed by  
18 paragraph (5-a) of subdivision c of section 26-511 of such law. This  
19 increase shall be in addition to any other increases provided for in  
20 this act and shall be applicable in like manner to each second subse-  
21 quent succession.

22 Notwithstanding the foregoing, no local law or ordinance shall subject  
23 to such regulation and control any housing accommodation which is not  
24 occupied by the tenant in possession as his or her primary residence;  
25 provided, however, that such housing accommodation not occupied by the  
26 tenant in possession as his or her primary residence shall continue to  
27 be subject to regulation and control as provided for herein unless the  
28 city housing rent agency issues an order decontrolling such accommo-  
29 dation, which the agency shall do upon application by the landlord when-  
30 ever it is established by any facts and circumstances which, in the  
31 judgment of the agency, may have a bearing upon the question of resi-  
32 dence, that the tenant maintains his or her primary residence at some  
33 place other than at such housing accommodation. For the purposes of  
34 determining primary residency, a tenant who is a victim of domestic  
35 violence, as defined in section four hundred fifty-nine-a of the social  
36 services law, who has left the unit because of such violence, and who  
37 asserts an intent to return to the housing accommodation shall be deemed  
38 to be occupying the unit as his or her primary residence.

39 § 2. This act shall take effect immediately; provided, however, that  
40 the amendments to subdivision 5 of section 1 of chapter 21 of the laws  
41 of 1962 made by section one of this act shall remain in full force and  
42 effect only so long as the public emergency requiring the regulation and  
43 control of residential rents and evictions continues, as provided in  
44 subdivision 3 of section 1 of the local emergency housing rent control  
45 act; provided further, however, that the amendment to the second unde-  
46 signated paragraph of subdivision 5 of section 1 of chapter 21 of the  
47 laws of 1962 made by section one of this act shall not affect the expi-  
48 ration of such paragraph and shall be deemed to expire therewith.