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**COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITY, ALCOHOLISM,
SUBSTANCE ABUSE & DISABILITY SERVICES**

Hon. Andrew Cohen, Chair

January 12, 2017

INT. NO. 1309

By Council Members Chin, Cohen, Salamanca, Gentile,
Levin, and Vallone (by request of the Mayor)

TITLE

Local Law to amend local law number 19 for the year 2014, amending the administrative code of the city of New York relating to increasing the maximum income level qualifying for exemption for rent increases granted to certain senior citizens, and to amend local law number 39 for the year 2014, amending the administrative code of the city of New York relating to increasing the maximum income level qualifying for exemption for rent increases granted to certain persons with disabilities, in relation to extending certain provisions thereof

I. INTRODUCTION

On Thursday, January 12, 2017, the Committees on Finance, the Committee on Aging and the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse & Disability Services will hear Int. No. 1309, A Local Law to amend local law number 19 for the year 2014, amending the administrative code of the city of New York relating to increasing the maximum income level qualifying for exemption for rent increases granted to certain senior citizens, and to amend local law number 39 for the year 2014, amending the administrative code of the city of New York relating to increasing the maximum income level qualifying for exemption for rent increases granted to certain persons with disabilities, in relation to extending certain provisions thereof. Those invited to testify include the Department of Finance (“DOF”), the Department of Housing Preservation and Development (“HPD”), the Department for the Aging (“DFTA”), advocates and members of the public.

II. BACKGROUND

A. New York City Rent Freeze Program

The senior citizen rent increase exemption (“SCRIE”) program protects eligible renters from certain rent increases imposed by their landlords, effectively freezing their rents at the amount the tenant pays at the time he or she enters the program.¹ The disability rent increase exemption (“DRIE”) program does the same for renters with disabilities. In return, the landlords receive a tax abatement equal to the difference in the amount paid by the tenant and the total legal rent. Collectively, these programs are now referred to as the NYC Rent Freeze Program.²

In order to qualify for SCRIE a tenant must:

¹ See Chapter 689 of the Laws of 1972.

² See <http://www1.nyc.gov/site/finance/benefits/benefits-for-tenants.page> (last accessed on January 6, 2017).

- be 62 years of age or older;
- be the leaseholder of a rent-controlled, rent-stabilized,³ or Mitchell-Lama apartment, or a rent-regulated hotel unit;
- have a total household income of no more than \$50,000;⁴ and
- have a maximum rent or legal regulated rent that is more than one-third of the total household income.⁵

The current eligibility criteria for the DRIE program are that a tenant must:

- be at least 18 years old,
- be listed on the lease agreement or have succession rights to a rent stabilized, or rent controlled apartment or Mitchell-Lama Housing Development.⁶
- have a total household income of \$50,000 or less;
- spend at least one-third of their monthly income on rent; and
- be the recipient of one of the following: Federal Supplemental Security Income (“SSI”), Federal Social Security Disability Income (“SSDI”), U.S Department of

³ See Chapters 3 and 4 of Title 26 of the New York City Administrative Code. Rent control generally applies to residential buildings constructed before February 1947 in municipalities for which an end to the postwar rental housing emergency has not been declared. For an apartment to be rent-controlled, the tenant must generally have been living there continuously since before July 1, 1971 or for less time as a successor to a rent-controlled tenant. When a rent-controlled apartment becomes vacant, it either becomes rent-stabilized or is removed from regulation. Rent-stabilized apartments are generally those apartments in buildings of six or more units built between February 1, 1947 and January 1, 1974. Similar to rent control, stabilization provides other protections to tenants besides regulation of rental amounts. Tenants are entitled to receive required services, to have their leases renewed, and not to be evicted except on grounds allowed by law. Leases may be entered into and renewed for one- or two-year terms, at the tenant's choice.

⁴ The total household income includes the income of every person who lives in the household less deductions for federal taxes paid, State taxes paid, local income taxes paid, Social Security taxes paid, and Medicare taxes paid.

⁵ See §467-c of the New York Real Property Tax Law and §§26-405(m), 26-406, and 26-509 of the New York City Administrative Code.

⁶ Local Law 76 of 2005

Veterans Affairs disability pension or security income, or disability-related Medicaid if that person has already received SSI or SSDI.⁷

B. Legislative History

The SCRIE program was first established by New York State law in 1970, for tenants living in rent-controlled and rent-stabilized apartments. Since 2009, as a result of a local law passed by the Council,⁸ the Department of Finance (“DOF”) has administered the SCRIE program with respect to these types of apartments.⁹ In 1976, eligibility for the SCRIE program was extended to tenants of Mitchell-Lama apartments which are administered by the Department of Housing Preservation and Development (“HPD”).¹⁰

In 2005, the DRIE program was established. DRIE, modeled after the SCRIE program and designed for tenants with disabilities, is administered solely by DOF.¹¹

Prior to State legislative action in 2014, in order to be eligible for SCRIE, the total household income of an eligible senior citizen could not exceed \$29,000. For DRIE, the total household income could not exceed \$20,412 for a single-person household or \$29,484 for households comprised of two or more people. In March 2014, the State passed a law authorizing the City of New York to increase the income threshold to \$50,000 per household for each program.¹² On May 14, 2014, the City Council passed a local law authorizing such an increase

⁷ Id.

⁸ See Local Law 44 of 2009.

⁹ Prior to 2009, the Department of Aging (“DFTA”) administered the program for these apartments.

¹⁰ NYC Department of Finance: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households (2014) Available at:

https://www1.nyc.gov/assets/finance/downloads/pdf/scrie/scrie_drie_report.pdf

¹¹ Int. 667-2005, L.L. 2005/076.

¹² See Chapter 55 of the Laws of 2014.

for SCRIE.¹³ On July 24, 2014, the City Council passed a local law authorizing such an increase for DRIE.¹⁴

However, due to sunset language within the State's authorizing law, the income threshold for both programs reverted back to the \$29,000 maximum on July 1, 2016.¹⁵

C. 2014 Department of Finance Report

A. Eligible Population

On December 10, 2014, DOF issued a report titled, *Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households*. The report contains DOF's best efforts at generating an estimate of the number of eligible SCRIE households in the City. The report also breaks down the SCRIE eligible population by neighborhood and language and proposes a detailed outreach plan for enrolling more eligible senior citizens.¹⁶

Since 2012, DOF has communicated to the Committee that it has been working with other agencies to investigate reliable datasets and analytic methods for targeting tenants who could be eligible for SCRIE or DRIE, but who have not yet enrolled. With the increase in the income threshold from \$29,000 to \$50,000, identifying these households has become even more pressing and relevant.

Currently, DOF estimates that there are approximately 121,729 households in New York City eligible for SCRIE and 33,637 households eligible for DRIE.¹⁷ For SCRIE, it is estimated that 111,412 households have less than \$29,000 in income and that there are an additional 10,317 eligible households with income is between \$29,000 and \$50,000. This represents an increase in

¹³ See Local Law 19 of 2014.

¹⁴ See Local Law 39 of 2014.

¹⁵ See Local Law 19 of 2014 and Local Law 39 of 2014.

¹⁶ NYC Department of Finance: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households (2014) Available at:

https://www1.nyc.gov/assets/finance/downloads/pdf/scrie/scrie_drie_report.pdf

¹⁷ See *id.*

eligible households of approximately 9% as a result of the income threshold increase that the Council passed in May 2014.¹⁸ For DRIE, it is estimated that 30,551 households have less than \$29,000 in income, and there are an additional 3,086 eligible households with income between \$29,000 and \$50,000. This represents an increase in eligible households of approximately 10% as a result of the income threshold increase.¹⁹

The breakdown of eligible households by borough and income category is estimated to be as follows (for SCRIE and DRIE combined):

SCRIE/DRIE Total		Total Income Categories		Total
		<=29,000	>29,000 & <=50,000	
Borough	Bronx	27,505	4,075	31,580
	Brooklyn	43,348	3,358	46,706
	Manhattan	40,081	2,954	43,035
	Queens	29,836	3,016	32,852
	Staten Island	1,193	-	1,193
Total		141,963	13,403	155,366

Source: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households

B. Enrollment

As of November 2014, there were 52,171 households enrolled in SCRIE and 9,148 households enrolled in DRIE. The breakdown by borough is as follows:

		Benefit Type		Total
		SCRIE	DRIE	
Borough	Bronx	9,015	2,821	11,836
	Brooklyn	14,582	2,051	16,633
	Manhattan	17,212	2,779	19,991
	Queens	10,995	1,429	12,424
	Staten Island	367	68	435
Total		52,171	9,148	61,319

Source: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households

For SCRIE, the current enrollment number of 52,171 households means that there are potentially 69,558 eligible SCRIE households not enrolled in the program – roughly 57% of the

¹⁸ See *id.*

¹⁹ See *id.*

eligible SCRIE population. For DRIE, the current enrollment number of 9,148 households means that there are potentially 24,489 eligible DRIE households not enrolled, around 73% of the eligible DRIE population. The breakdown of eligible, but unenrolled households by borough is as follows:

		Benefit Type		Total
		SCRIE	DRIE	
Borough	Bronx	12,166	7,578	19,744
	Brooklyn	20,488	9,585	30,073
	Manhattan	18,423	4,621	23,044
	Queens	18,053	2,375	20,428
	Staten Island	428	330	758
Total		69,558	24,489	94,047

Source: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households

		Benefit Type		Total
		SCRIE	DRIE	
Borough	Bronx	57%	73%	63%
	Brooklyn	58%	82%	64%
	Manhattan	52%	62%	54%
	Queens	62%	62%	62%
	Staten Island	54%	83%	64%
Total		57%	73%	61%

Source: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households

D. Update on Enrollment

A. Department of Finance Testimony from City Council Hearing June 22, 2016

According to testimony from the Department of Finance at the City Council’s June 2016 hearing, from July 1, 2014 to the time of the hearing, the Department received 24,522 SCRIE applications, resulting in 13,336 participants.²⁰ This represented 19% of the potentially eligible population and reduced the number of potential participants to 56,220. Currently, 51,175 New

²⁰ N.Y.C Council Hearing June 22,2016, Testimony of Timothy Sheares, Deputy Commissioner Property Tax Division at the New York City Department of Finance. Available at: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2080731&GUID=70E7E1FB-699C-468E-9FA7-3A60EABD57F0&Options=&Search=>

Yorkers are enrolled in the SCRIE program.²¹ The growth of new participants is offset by the natural attrition of current participants. Every month on average, 164 participants fail to renew, 101 fail to meet eligibility requirements and 31 fail to submit documents to prove eligibility, representing a loss of about 296 households per month.²²

In Fiscal Year 2015, DOF received an average of 764 new applications per month. In Fiscal Year 2016, trends suggest that the Department received 404 applications per month on average. DOF attributed the increase in applications during Fiscal Year 2015 as the result of the qualifying income being increased to \$50,000. Fiscal Year 2016 saw the application rate return to historic average rate.²³ With respect to the DRIE program 13,762 New Yorkers are currently enrolled.²⁴

On October 6, 2016, Mayor Bill de Blasio announced that since July 2014 (when the income cap was increased) more than 20,000 seniors and disabled New Yorkers enrolled in SCRIE and DRIE.²⁵

E. Legislative Update

Over the past two years, the New York State Legislature has passed, and the Governor has signed, several significant bills into law designed to make the SCRIE/DRIE application process more efficient and streamlined:

²¹ Id.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Press Release, Mayor de Blasio Announces More Help for Tenants: 20,000 More Seniors and New Yorkers with Disabilities Secure Rent Freeze Through Expanded SCRIE/DRIE program. October 6, 2016 available at: <http://www1.nyc.gov/office-of-the-mayor/news/799-16/mayor-de-blasio-more-help-tenants-20-000-more-seniors-new-yorkers-with#/0>

- Chapter 343 (S06214/A8228-A) was signed by the Governor in 2016 and will allow SCRIE/DRIE participants to get back their previous frozen rent if they reapply after a non-recurring item of income causes them to be ineligible for SCRIE/DRIE for a one-year period. As a result of this change in law, a SCRIE/DRIE participant could return to the program at their frozen rent if they lose the benefit for one lease term due to a one-time increase in income such as payment from a pension or retirement account.²⁶
- Chapter 442 (S8063/A6702-A) was signed into law in 2016. This now provides for short-form application for Rent Freeze participants who have been enrolled for five consecutive lease terms. This law will require local law adoption.²⁷
- In 2015, the Governor enacted Chapter 580, which allows for eligible household members to take over the Rent Freeze benefit of a deceased tenant or a tenant that permanently moves out of the home. Prior to this legislation there was no mechanism for the benefit to be transferred, which is critical for remaining household members.²⁸
 - Chapter 31 of 2016 was signed into law, which amends Chapter 580 of 2015 to clarify the specific instances a person was to receive the benefit if they were to inherit the tax exemption if the head of household dies or leaves the household permanently.²⁹
- The New York City Council enacted, and the Mayor signed into law, Local Law 40 of 2015, which requires a report by the SCRIE and DRIE Ombudsperson by

²⁶ NY State Chapter 343 of 2016

²⁷ NY State Chapter 442 of 2016

²⁸ NY State Chapter 580 of 2015

²⁹ NY State Chapter 31 of 2016

October 1st of every year. The first report was released on October 3, 2016. The report includes statistics and inquiries to the Ombudsperson, summary of changes in the SCRIE and DRIE program for the year, and the Ombudsperson’s recommendations for the programs.³⁰

Furthermore, the 2016 state budget authorized the City to continue offering SCRIE & DRIE benefits to eligible individuals earning up to \$50,000 per year, however the State’s expenditures are limited to \$1.2 Million for the entirety of the program.³¹ According to the Council’s Finance Division, the cost to the city to maintain this portion of the SCRIE & DRIE programs is projected to increase from between \$12 / \$14 Million in 2017 to \$23.1 / \$28.6 Million by 2020, depending on the rate of growth of participation. See the below chart for more detailed information.

	Projected Cost for Participants between \$29K and \$50K		
	Participants¹	Rent Growth 3% per year	Slower Rent Growth²
2017	6,967	\$14.0M	\$12.0M
2018	7,601	\$18.4M	\$14.1M
2019	8,234	\$23.3M	\$18.4M
2020	8,868	\$28.6M	\$23.1M

¹ Projection assumes: 10% increase in new participants a year

² Slower rent growth assumes 1% increases in 2017 and 2018 and 3% increases in 2019 and 2020.

The State’s liability is capped at \$1.2 Million for the entirety of the SCRIE & DRIE extensions, and based on the numbers offered by the Finance Division the city has already spent significantly more annually. The city’s Department of Finance has been continuing renewals for

³⁰ Local Law 40 of 2015

³¹ See DIVISION OF THE BUDGET, BUDGET OF THE STATE OF NEW YORK 2016 SESS. CH. 54 PT.EE §§ 1-3 (“the state’s liability and amount of reimbursement pursuant to this act shall not exceed one million two hundred thousand dollars”).

participants enrolled in the program in the \$29,000-\$50,000 bracket even though state authorization lapsed on July 1, 2016. The city had not anticipated a reimbursement for Fiscal Year 2017 or beyond and the costs for the program are already reflected in the city's financial plan.

III. Analysis of Int. 1309

Section 1 of Int. 1309 would extend the duration of the maximum household income allowed to qualify for the of the SCRIE program to \$50,000 until June 30, 2020.

Section 2 of Int. No. 1309 would extend the maximum household income allowed to qualify for the DRIE program to \$50,000 until June 30, 2020.

Section 3 of Int. No. 1309 would provide that the local law takes effect immediately and is deemed to be in full force and effect as of July 1, 2016.

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Int. No. 1309

By Council Members Chin, Cohen, Salamanca, Gentile, Levin, and Vallone (by request of the Mayor)

A LOCAL LAW

to amend local law number 19 for the year 2014, amending the administrative code of the city of New York relating to increasing the maximum income level qualifying for exemption for rent increases granted to certain senior citizens, and to amend local law number 39 for the year 2014, amending the administrative code of the city of New York relating to increasing the maximum income level qualifying for exemption for rent increases granted to certain persons with disabilities, in relation to extending certain provisions thereof

Be it enacted by the Council as follows:

Section 1. Section 5 of local law number 19 for the year 2014, amending the administrative code of the city of New York relating to increasing the maximum income level qualifying for exemption for rent increases granted to certain senior citizens, is amended to read as follows:

§ 5. This local law shall take effect July 1, 2014 and shall expire and be deemed repealed [two years after the effective date thereof] June 30, 2020; provided that the amendment to section 26-509 of the administrative code of the city of New York made by section three of this local law shall not affect the expiration of such section and shall be deemed to expire therewith.

§ 2. Section 5 of local law number 39 for the year 2014, amending the administrative code of the city of New York relating to increasing the maximum income level qualifying for exemption for rent increases granted to certain persons with disabilities, is amended to read as follows:

§ 5. This local law shall take effect on the same date as a chapter of the laws of 2014 amending the real property tax law relating to the tax abatement and exemption for rent regulated and rent controlled property occupied by persons with disabilities; and providing for the repeal of

certain provisions upon expiration thereof, as proposed in legislative bill number A. 9744, takes effect, and shall expire and be deemed repealed on [July 1, 2016] June 30, 2020; provided that, notwithstanding any other provision of law, any renewal application that was received before the effective date of this local law and that would have been timely if received on or after such effective date, pursuant to paragraph (6) of subdivision m of section 26-405, paragraph (6) of subdivision b of section 26-509, or subdivision (c) of section 26-605 of the administrative code of the city of New York, shall be deemed to have been received on or after such effective date; and provided further that the amendment to section 26-509 of the administrative code of the city of New York made by section two of this local law shall not affect the expiration of such section and shall be deemed to expire therewith.

§ 3. This local law takes effect immediately and is retroactive to and deemed to have been in full force and effect as of July 1, 2016.