

# STATE OF NEW YORK

2237--A

2009-2010 Regular Sessions

## IN SENATE

February 13, 2009

Introduced by Sens. STEWART-COUSINS, KRUEGER, ADAMS, ADDABBO, AUBERTINE, BRESLIN, DIAZ, DUANE, HASSELL-THOMPSON, HUNTLEY, MONSERRATE, MONTGOMERY, ONORATO, OPPENHEIMER, PADAVAN, PARKER, PERKINS, SAVINO, SCHNEIDERMAN, SERRANO, SQUADRON, STAVISKY, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to making conforming technical changes; and to repeal paragraph 13 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, and section 26-504.2 and subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, relating to vacancy decontrol

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

1 Section 1. Legislative findings and declaration of emergency. The  
 2 legislature hereby finds and declares that the serious public emergency  
 3 which led to the enactment of the existing laws regulating residential  
 4 rents and evictions continues to exist; that such laws would better  
 5 serve the public interest if certain changes were made thereto, includ-  
 6 ing the continued regulation of certain housing accommodations that  
 7 become vacant and the reinstatement of regulation of certain housing  
 8 accommodations that have been deregulated upon vacancy.  
 9 The legislature further recognizes that severe disruption of the  
 10 rental housing market has occurred and threatens to be exacerbated as a  
 11 result of the present state of the law in relation to the deregulation

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

LBD04270-04-9

S. 2237--A

2

1 of housing accommodations upon vacancy. The situation has permitted  
2 speculative and profiteering practices and has brought about the loss of  
3 vital and irreplaceable affordable housing for working persons and fami-  
4 lies.

5 The legislature therefore declares that in order to prevent uncertain-  
6 ty, potential hardship and dislocation of tenants living in housing  
7 accommodations subject to government regulations as to rentals and  
8 continued occupancy as well as those not subject to such regulation, the  
9 provisions of this act are necessary to protect the public health, safe-  
10 ty and general welfare. The necessity in the public interest for the  
11 provisions hereinafter enacted is hereby declared as a matter of legis-  
12 lative determination.

13 § 2. Paragraph (n) of subdivision 2 of section 2 of chapter 274 of the  
14 laws of 1946, constituting the emergency housing rent control law, is  
15 REPEALED.

16 § 3. Paragraph 13 of subdivision a of section 5 of section 4 of chap-  
17 ter 576 of the laws of 1974, constituting the emergency tenant  
18 protection act of nineteen seventy-four, is REPEALED.

19 § 4. Subparagraph (k) of paragraph 2 of subdivision e of section  
20 26-403 of the administrative code of the city of New York is REPEALED.

21 § 5. Section 26-504.2 of the administrative code of the city of New  
22 York is REPEALED.

23 § 6. Any housing accommodations that on or after January 1, 2007 were  
24 excluded from coverage from the emergency tenant protection act of nine-  
25 teen seventy-four, the emergency housing rent control law or the admin-  
26 istrative code of the city of New York pursuant to the provisions of law  
27 repealed by sections two, three, four and five of this act shall be  
28 subject to the provisions of such act, law or administrative code,  
29 respectively. Notwithstanding the provisions of any lease or rental  
30 agreement, the legal regulated rent or maximum collectible rent of any  
31 housing accommodation excluded from regulation on or after January 1,  
32 2007 by reason of the provisions repealed by sections two, three, four  
33 and five of this act shall be the legal regulated rent or maximum  
34 collectible rent applicable to such accommodation on December 31, 2006,  
35 subject to further adjustment in accordance with applicable provisions  
36 of law.

37 § 7. Any housing accommodations that prior to January 1, 2007 were  
38 excluded from coverage from the emergency tenant protection act of nine-  
39 teen seventy-four, the emergency housing rent control law or the admin-  
40 istrative code of the city of New York pursuant to the provisions of law  
41 repealed by sections two, three, four, and five of this act, and where  
42 such housing accommodations were located outside the city of New York  
43 and were rented to a tenant on or after January 1, 2007 for less than  
44 \$3,500 per month or were located within the city of New York and were  
45 rented to a tenant on or after January 1, 2007 for less than \$5,000.00  
46 per month, shall be subject to the provisions of such act, law or admin-  
47 istrative code, respectively. Notwithstanding the provisions of any  
48 lease or rental agreement, the legal regulated rent or maximum collect-  
49 ible rent of any housing accommodation excluded from regulation prior to  
50 January 1, 2007 by reason of the provisions repealed by sections two,  
51 three, four and five of this act and made subject to regulation shall be  
52 the actual rent applicable to such accommodations on January 1, 2007 or  
53 the first rent applicable to such accommodation after January 1, 2007,  
54 subject to further adjustment in accordance with applicable provisions  
55 of law.

S. 2237--A

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1 § 8. Paragraph 14 of subdivision c of section 26-511 of the adminis-  
2 trative code of the city of New York, as added by chapter 82 of the laws  
3 of 2003, is amended to read as follows:

4 (14) provides that where the amount of rent charged to and paid by the  
5 tenant is less than the legal regulated rent for the housing accommo-  
6 dation, the amount of rent for such housing accommodation which may be  
7 charged upon renewal or upon vacancy thereof may, at the option of the  
8 owner, be based upon such previously established legal regulated rent,  
9 as adjusted by the most recent applicable guidelines increases and any  
10 other increases authorized by law. [~~Where, subsequent to vacancy, such~~  
11 ~~legal regulated rent, as adjusted by the most recent applicable guide-~~  
12 ~~lines increases and any other increases authorized by law is two thou-~~  
13 ~~sand dollars or more per month, such housing accommodation shall be~~  
14 ~~excluded from the provisions of this law pursuant to section 26-504.2 of~~  
15 ~~this chapter.~~]

16 § 9. Subdivision a-2 of section 10 of section 4 of chapter 576 of the  
17 laws of 1974 constituting the emergency tenant protection act of nine-  
18 teen seventy-four, as added by chapter 82 of the laws of 2003, is  
19 amended to read as follows:

20 a-2. Provides that where the amount of rent charged to and paid by the  
21 tenant is less than the legal regulated rent for the housing accommo-  
22 dation, the amount of rent for such housing accommodation which may be  
23 charged upon renewal or upon vacancy thereof may, at the option of the  
24 owner, be based upon such previously established legal regulated rent,  
25 as adjusted by the most recent applicable guidelines increases and other  
26 increases authorized by law. [~~Where, subsequent to vacancy, such legal~~  
27 ~~regulated rent, as adjusted by the most recent applicable guidelines~~  
28 ~~increases and any other increases authorized by law is two thousand~~  
29 ~~dollars or more per month, such housing accommodation shall be excluded~~  
30 ~~from the provisions of this act pursuant to paragraph thirteen of subdi-~~  
31 ~~vision a of section five of this act.~~]

32 § 10. This act shall take effect immediately; provided, however, that:

33 (a) the amendments to section 26-511 of chapter 4 of title 26 of the  
34 administrative code of the city of New York made by section eight of  
35 this act shall expire on the same date as such law expires and shall not  
36 affect the expiration of such law as provided under section 26-520 of  
37 such law; and

38 (b) the amendments to subdivision a-2 of section 10 of section 4 of  
39 the emergency tenant protection act of nineteen seventy-four made by  
40 section nine of this act shall expire on the same date as such act  
41 expires and shall not affect the expiration of such act as provided in  
42 section 17 of chapter 576 of the laws of 1974.

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S2237A

SPONSOR: STEWART-COUSINS

TITLE OF BILL:

An act to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to making conforming technical changes; and to repeal paragraph 13 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, and section 26-504.2 and subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, relating to vacancy decontrol

PURPOSE OR GENERAL IDEA OF BILL:

This bill repeals provisions of New York State and New York City statutes that remove apartments from rent stabilization or rent control when such apartments are vacated and could be rented under such statutes for monthly rents of \$2,000 or more.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 of this bill sets forth legislative findings and declaration of emergency.

Section 2 would repeal paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency rent control law.

Section 3 of this bill would repeal paragraph 13 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of 1974.

Section 4 would repeal subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York.

Section 5 would repeal section 26-504.2 of the administrative code of the city of New York.

Section 6 and section 7 also subject accommodations to regulation under such laws which were deregulated upon vacancy on or after January 1, 2007 or which were deregulated upon vacancy prior to January 1, 2007 and which rented for less than \$5,000 per month in New York city or less than \$3,500 per month in the counties of Westchester, Nassau, and Rockland on or after January 1, 2007.

Section 8 and 9 repeal vacancy decontrol provisions of the New York City Administrative Code and the Emergency Tenant Protection Act that relate to preferential rents, respectively.

Section 10 provides for an immediate date.

**JUSTIFICATION:**

The shortage of affordable housing in New York City, in the suburban counties of Westchester, Nassau, and Rockland and in many other areas of the state is an acute crisis. The systems of rent regulation presently existing are the single most effective program of state and local governments to preserve the supply of affordable housing. These programs have been seriously eroded by the vacancy apartment rents to the \$2,000 threshold for vacancy decontrol laws. Available data and several studies suggest that over 300,000 rent stabilized apartments have been removed from regulation in New York City and the counties of Westchester, Nassau, and Rockland under vacancy decontrol. The pace at which vacancy decontrol removes affordable housing units from regulation is accelerating with each passing year. Vacancy decontrol is an incentive for owners of rental housing to withhold services and to use forms of harassment to induce regulated tenants to vacate their rental units. In some instances, costs of renovation have been inflated or even falsified in order to drive apartment rents to the \$2,000 threshold for vacancy decontrol. In other cases no renovations at all are done to vacant apartments and such apartments are treated as deregulated regardless of the legal rent. Such abuses are made possible by the existence of the vacancy decontrol laws. Repeal of vacancy decontrol is essential to restore the integrity of the rent regulation systems and to protect the state's precious supply of affordable housing.

**PRIOR LEGISLATIVE HISTORY:**

Similar to: 2008: A.7416A-passed Assembly/S.5149B Referred to Housing  
2007: A.7416A - Passed Assembly 2006: A.6916 - Housing 2005: A.6916 -  
Third reading calendar 2004: A.10845 - Passed Assembly 2002: A.1101-  
Passed Assembly

**FISCAL IMPLICATIONS:**

Some costs may be incurred by DHCR.

**EFFECTIVE DATE:**

Immediately.

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# STATE OF NEW YORK

2005

2009-2010 Regular Sessions

## IN ASSEMBLY

January 14, 2009

Introduced by M. of A. ROSENTHAL, SILVER, BRENNAN, V. LOPEZ, LENTOL, WRIGHT, DIAZ, JEFFRIES, BING, LATIMER, CAMARA, BROOK-KRASNY, PERALTA, BOYLAND, GREENE, KELLNER, LANCMAN, SCHIMEL, MAISEL, KAVANAGH, GOTTFRIED, DINOWITZ, MILLMAN, MAYERSOHN, POWELL, LAVINE, COLTON, NOLAN, O'DONNELL, TITUS, FARRELL, ORTIZ, ESPAILLAT, BENEDETTO, HOOPER, JACOBS, ROBINSON, N. RIVERA, ZEBROWSKI -- Multi-Sponsored by -- M. of A. BENJAMIN, BRADLEY, BRODSKY, COOK, GLICK, JAFFEE, MARKEY, MENG, PEOPLES, PERRY, PHEFFER, PRETLOW, J. RIVERA, SPANO, WEISENBERG -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to making conforming technical changes; and to repeal paragraph 13 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, and section 26-504.2 and subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, relating to vacancy decontrol

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 5 serve the public interest if certain changes were made thereto, includ-  
 6 ing the continued regulation of certain housing accommodations that  
 7 become vacant and the reinstatement of regulation of certain housing  
 8 accommodations that have been deregulated upon vacancy.  
 9 The legislature further recognizes that severe disruption of the  
 10 rental housing market has occurred and threatens to be exacerbated as a

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A. 2005

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1 result of the present state of the law in relation to the deregulation  
2 of housing accommodations upon vacancy. The situation has permitted  
3 speculative and profiteering practices and has brought about the loss of  
4 vital and irreplaceable affordable housing for working persons and fami-  
5 lies.

6 The legislature therefore declares that in order to prevent uncertain-  
7 ty, potential hardship and dislocation of tenants living in housing  
8 accommodations subject to government regulations as to rentals and  
9 continued occupancy as well as those not subject to such regulation, the  
10 provisions of this act are necessary to protect the public health, safe-  
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12 provisions hereinafter enacted is hereby declared as a matter of legis-  
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19 protection act of nineteen seventy-four, is REPEALED.

20 § 4. Subparagraph (k) of paragraph 2 of subdivision e of section  
21 26-403 of the administrative code of the city of New York is REPEALED.

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32 housing accommodation excluded from regulation on or after January 1,  
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49 lease or rental agreement, the legal regulated rent or maximum collect-  
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53 the actual rent applicable to such accommodations on January 1, 2007 or  
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55 subject to further adjustment in accordance with applicable provisions  
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A. 2005

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1 § 8. Paragraph 14 of subdivision c of section 26-511 of the adminis-  
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8 owner, be based upon such previously established legal regulated rent,  
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10 other increases authorized by law. [~~Where, subsequent to vacancy, such  
11 legal regulated rent, as adjusted by the most recent applicable guide-  
12 lines increases and any other increases authorized by law is two thou-  
13 sand dollars or more per month, such housing accommodation shall be  
14 excluded from the provisions of this law pursuant to section 26-504.2 of  
15 this chapter.~~]

16 § 9. Subdivision a-2 of section 10 of section 4 of chapter 576 of the  
17 laws of 1974 constituting the emergency tenant protection act of nine-  
18 teen seventy-four, as added by chapter 82 of the laws of 2003, is  
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34 administrative code of the city of New York made by section eight of  
35 this act shall expire on the same date as such law expires and shall not  
36 affect the expiration of such law as provided under section 26-520 of  
37 such law; and

38 (b) the amendments to subdivision a-2 of section 10 of section 4 of  
39 the emergency tenant protection act of nineteen seventy-four made by  
40 section nine of this act shall expire on the same date as such act  
41 expires and shall not affect the expiration of such act as provided in  
42 section 17 of chapter 576 of the laws of 1974.

**NEW YORK STATE ASSEMBLY  
MEMORANDUM IN SUPPORT OF LEGISLATION  
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A2005

SPONSOR: Rosenthal (MS)

TITLE OF BILL: An act to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to making conforming technical changes; and to repeal paragraph 13 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, and section 26-504.2 and subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, relating to vacancy decontrol

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Section 2 would repeal paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency rent control law

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Section 5 would repeal section 26-504.2 of the administrative code of the city of New York

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Section 8 and 9 repeal vacancy decontrol provisions of the New York City Administrative Code and the Emergency Tenant Protection Act that relate to preferential rents, respectively.

Section 10 provides for an immediate effective date.

JUSTIFICATION: The shortage of affordable housing in New York City, in the suburban counties of Westchester, Nassau, and Rockland and in many other areas of the state is an acute crisis. The systems of rent regulation presently existing are the single most effective program of state and local governments to preserve the supply of affordable housing. These programs have been seriously eroded by the vacancy decontrol laws. Available data and several studies suggest that over 300,000 rent stabilized apartments have been removed from regulation in New York City and the counties of Westchester, Nassau, and Rockland under vacancy decontrol. The pace at which vacancy decontrol removes affordable housing units from regulation is accelerating with each passing year. Vacancy decontrol is an incentive for owners of rental housing to withhold services and to use forms of harassment to induce regulated tenants to vacate their rental units. In some instances, costs of renovation have been inflated or even falsified in order to drive apartment rents to the \$2,000 threshold for vacancy decontrol. In other cases no renovations at all are done to vacant apartments and such apartments are treated as deregulated regardless of the legal rent. Such abuses are made possible by the existence of the vacancy decontrol laws. Repeal of vacancy decontrol is essential to restore the integrity of the rent regulation systems and to protect the state's precious supply of affordable housing.

PRIOR LEGISLATIVE HISTORY:

Similar to: 2008: A7416A-Passed Assembly/S5149B Referred to Housing  
2007: A7416A - Passed Assembly 2006: A6916 - Housing 2005: A6916 - Third reading calendar 2004: A10845 - Passed Assembly 2002: A1101- Passed Assembly

FISCAL IMPLICATIONS: Some costs may be incurred by DHCR.

EFFECTIVE DATE: Immediately.

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