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Title: A Local Law to amend the administrative code of the city of New York, in relation to administration of the senior citizen rent increase exemption program.

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Indexes:

Attachments: 1. Memo In Support, 2. Committee Report, 3. Hearing Transcript, 4. Press Release, 5. Fiscal Impact Statement, 6. Hearing Testimony, 7. Hearing Transcript - Stated Meeting 6/19/09, 8. Local Law

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6/10/2009	*	City Council	Referred to Comm by Council	
6/19/2009	*	Committee on Finance	Hearing Held by Committee	
6/19/2009	*	Committee on Finance	Approved by Committee	Pass
6/19/2009	*	City Council	Approved by Council	Pass
6/19/2009	*	City Council	Sent to Mayor by Council	
6/29/2009	*	Mayor	Hearing Held by Mayor	
6/29/2009	*	Mayor	Signed Into Law by Mayor	
6/29/2009	*	City Council	Recved from Mayor by Council	

Int. No. 1026

By Council Members Weprin, Arroyo, Fidler, Gentile, Jackson, James, Mark-Viverito, Mealy, Nelson, Palma, Seabrook and Gerson (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to administration of 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, as amended by local law number 76 for the year 2005, 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 m of section 26-405 and section 26-406 of this chapter which shall be under the jurisdiction of the department [for the aging] of finance and such other agency as the mayor shall designate.

§2. Subparagraph (ii) of paragraph (2) of subdivision m of section 26-405 of such code, as amended by local law 95 for the year 2005, is amended to read as follows:

(ii) [The] the aggregate disposable income (as defined by regulation of the department [for the aging] of finance) of all members of the household residing in the housing accommodation whose head of household is sixty-two years of age or older does not exceed twenty-five thousand dollars beginning July first, two thousand five, twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, and twenty-nine thousand dollars beginning July first, two thousand nine, per year, after deduction of federal, state and city income and social security taxes. For purposes of this subparagraph, “aggregate disposable income” shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the social security act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (all items United States city average) for such year 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[;].

§3. Subparagraph b of paragraph (3) of subdivision m of section 26-405 of such code, as amended by local law 76 for the year 2005, is amended to read as follows:

(b) Each 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 [for the aging] of finance, in the case of a household whose eligibility for such order is based on the fact that the head of such household is sixty-two

years of age or older, or such agency as the mayor shall designate, in the case of a household whose eligibility for such order is based on the fact that the head of such household is a person with a disability, on a form to be prescribed by such department or agency, within thirty days of each such termination of occupancy.

§4. Paragraphs (5), (6) and (9) of subdivision m of section 26-405 of such code, paragraph (5) as separately amended by local laws number 75 and number 76 for the year 2005, and paragraphs (6) and (9) as amended by local law number 76 for the year 2005, are amended to read as follows:

(5) A rent exemption order shall be issued to each tenant who applies to the [New York City] department [for the aging] of finance or such [other] agency as the mayor shall designate (which agency may also be the department of finance) in accordance with such [department] department's or agency's 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 whose head of the household is sixty-two years of age or older is greater than five thousand dollars per year but does not exceed twenty-five thousand dollars beginning July first, two thousand five, twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, and twenty-nine thousand dollars beginning July first, two thousand nine, per year pursuant to subparagraph (ii) of paragraph two of subdivision m of this section on orders issued on applications received before July first, nineteen hundred seventy-five, the effective date of such order shall be the later of (1) June thirtieth, 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) A rent exemption order shall be valid for a period of two years and may be renewed for further two year 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 [for the aging] of finance or such other agency as the mayor shall designate 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 [for the aging] of finance and such other agency as the mayor shall designate may, with respect to renewal applications by tenants who have been 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.

(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 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, any amendment to the regulations of the department [for the aging made on or after April first, nineteen hundred eighty-seven] of finance made on or after the effective date of the local law that added this clause, or any amendment to the regulations of such other agency as the mayor shall designate made on or after [the effective date of the local law that amended this section] October tenth, two thousand five. For purposes of this paragraph, "adjusted rent" shall mean maximum rent less the amount set forth in a rent exemption order.

§5. The opening paragraph of subdivision c of section 26-406 of such code, as amended by local law number 76 for the year 2005, 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 [for the aging] of finance or such other agency as the mayor shall designate 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:

§6. Subdivision d of section 26-406 of such code, as amended by local law number 76 for the year 2005, is amended to read as follows:

d. Prior to the commencement of each fiscal year, the department [for the aging or such other agency as the mayor shall designate] of finance shall determine the total amount of taxes to be abated under this section with respect to each property for which rent exemption orders granted to persons sixty-two years of age or older were in effect for all or any part of the preceding calendar year. Prior to the commencement of each fiscal year, such agency as the mayor shall designate shall determine and, if such agency is not the department of finance, 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 granted to persons with disabilities 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.

§7. Subdivision a of section 26-509 of such code, as amended by local law number 76 for the year 2005, is amended to read as follows:

a. Commencement of agency jurisdiction.

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

(ii) Notwithstanding any provisions of this chapter to the contrary, such agency as the mayor

shall designate (which agency may also be the department of finance) shall grant rent increase exemption orders or tax abatement certificates to persons with disabilities pursuant to this section and applications for such orders and certificates and renewal applications shall be made to such agency.

(2) The department [for the aging] of finance and such other agency as the mayor shall designate shall have the power, in relation to any application for a rent increase exemption order or tax abatement certificate under such [department] department's or agency's jurisdiction, to determine the lawful stabilization rent, but 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[, the department for the aging] and such other agency as the mayor shall designate may promulgate such rules and regulations as may be necessary to effectively carry out the provisions of this section.

§8. Subparagraph (ii) of paragraph (2) of subdivision b of section 26-509 of such code, as amended by local law number 95 for the year 2005, is amended to read as follows:

(ii) the aggregate disposable income (as defined by regulation of the department [for the aging] of finance) of all members of the household residing in the housing accommodation whose head of the household is sixty-two years of age or older does not exceed twenty-five thousand dollars beginning July first, two thousand five, twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, and twenty-nine thousand dollars beginning July first, two thousand nine, per year, after deduction of federal, state and city income and social security taxes. For purposes of this subparagraph, "aggregate disposable income" shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the social security act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (all items United States city average) for

such year which take effect after the eligibility date of the head of the household receiving benefits under this section whether received by the head of the household or any other member of the household;

§9. Subparagraph (ii) of paragraph (3) of subdivision b of section 26-509 of such code, as amended by local law number 76 for the year 2005, 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 [for the aging] of finance in the case of a household whose eligibility for such order is based on the fact that the head of such household is sixty-two years of age or older, or such agency as the mayor shall designate in the case of a household whose eligibility for such order is based on the fact that the head of such household is a person with a disability, on a form to be prescribed by such department or agency, within thirty days of each such termination of occupancy.

§10. Paragraphs (5) and (6) of subdivision b of section 26-509 of such code, as amended by local law number 76 for the year 2005, are amended to read as follows:

(5) A rent exemption order shall be issued to each tenant who applies to the department [for the aging] of finance in the case of a tenant who is sixty-two years of age or older or to such agency as the mayor shall designate in the case of a tenant who is a person with a disability, in accordance with such [department] department's or agency's applicable 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 [for the aging] of finance or such agency as the mayor shall designate, 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 [for the aging] of finance or such agency as the mayor shall designate take effect as of the effective date of said order increasing the tenant's rent including any retroactive increments collectible pursuant to such order.

(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 [for the aging] of finance or such agency as the mayor shall designate 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 [for the aging] of finance and such other agency as the mayor shall designate may, with respect to renewal applications by the tenants who have been 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.

§11. The opening paragraph of paragraph (7) of subdivision b of section 26-509 of such code, as amended by local law number 76 for the year 2005, is amended to read as follows:

Notwithstanding any other provisions 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 [for the aging] of finance or such other agency as the

mayor shall designate 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:

§12. Paragraph (9) of subdivision b of section 26-509 of such code, as amended by local law number 76 for the year 2005, 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 apply for a redetermination of the amount set forth therein. Upon application, such amount shall be redetermined so as to reestablish the ratio of adjusted rent to aggregate disposable income which existed at the time of approval of such 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 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 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 property tax law, any amendment to the regulations of the department [for the aging made on or after April first, nineteen hundred eighty-seven] of finance made on or after the effective date of the local law that added this clause, or any amendment to the regulations of such other agency as the mayor shall designate made on or after [the effective date of the local law that amended this section] October tenth, two

thousand five. For purposes of this paragraph, "adjusted rent" shall mean legal regulated rent less the amount set forth in a rent exemption order.

§13. Paragraph (4) of subdivision c of section 26-509 of such code, as amended by local law number 76 for the year 2005, is amended to read as follows:

(4) Prior to the commencement of each fiscal year, the department [for the aging shall notify the department] of finance [of] shall determine the total amount of taxes to be abated under this section with respect to each property for which rent exemption orders granted to persons sixty-two years of age or older were in effect for all or any part of the preceding calendar year. Prior to the commencement of each fiscal year, such agency as the mayor shall designate shall determine and, if such agency is not the department of finance, 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 granted to persons with disabilities 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.

§14. Any agency or officer to whom are assigned by this local law any powers or 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 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 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.

§15. No civil, criminal, or administrative action or proceeding pending at the time when this local law shall take effect, brought by or against the city or any agency or officer of the city, shall be affected or abated by the enactment of this local law or by anything contained herein; but any or all such actions and proceedings previously involving the department for the aging may be assigned to the department of finance, at the department of finance's request. Provided, further, that in that event the same may be prosecuted or defended by the commissioner of finance.

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

§17. This local law shall take effect 60 days after it is enacted into law, provided that for an additional period of 60 days following such effective date the department of finance may by written agreement between the agencies delegate to the department for the aging responsibilities necessary for the efficient administration of the senior citizen rent increase exemption program.