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I N   S E N A T E

June 3, 2010

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Introduced by Sen. ESPADA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to recovery of certain housing accommodations by a landlord

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph 1 of subdivision b of section 26-408 of the  
2 administrative code of the city of New York is amended to read as  
3 follows:  
4     (1) The landlord seeks in good faith to recover possession of a hous-  
5 ing accommodation because of immediate and compelling necessity for his  
6 or her own personal use and occupancy AS HIS OR HER PRIMARY RESIDENCE or  
7 for the use and occupancy of his or her immediate family AS THEIR PRIMA-  
8 RY RESIDENCE provided, however, that this subdivision shall not apply  
9 where a member of the household lawfully occupying the housing accommo-  
10 dation is sixty-two years of age or older, has been a tenant in a hous-  
11 ing accommodation in that building for twenty years or more, or has an  
12 impairment which results from anatomical, physiological or psychological  
13 conditions, other than addiction to alcohol, gambling, or any controlled  
14 substance, which are demonstrable by medically acceptable clinical and  
15 laboratory diagnostic techniques, and which are expected to be permanent  
16 and which prevent the tenant from engaging in any substantial gainful  
17 employment. ONLY ONE OF THE INDIVIDUAL OWNERS OF ANY BUILDING, WHETHER  
18 SUCH OWNERSHIP IS BY JOINT TENANCY, TENANCY IN COMMON, TENANCY BY THE  
19 ENTIRETY OR PARTNERSHIP BUT NOT INCLUDING A CORPORATION, A LIMITED  
20 LIABILITY PARTNERSHIP OR A LIMITED LIABILITY COMPANY, SHALL BE PERMITTED  
21 TO RECOVER POSSESSION OF ONE OR MORE DWELLING UNITS FOR THE USE AND  
22 OCCUPANCY OF A MEMBER OF HIS OR HER IMMEDIATE FAMILY AS HIS OR HER  
23 PRIMARY RESIDENCE; or

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

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1 S 2. Subparagraph (b) of paragraph 9 of subdivision c of section  
2 26-511 of the administrative code of the city of New York is amended to  
3 read as follows:

4 (b) where THE BUILDING CONTAINS EITHER (I) TWELVE OR FEWER DWELLING  
5 UNITS AND he or she seeks IN GOOD FAITH to recover possession of one or  
6 more dwelling units, OR (II) THIRTEEN OR MORE DWELLING UNITS AND BECAUSE  
7 OF IMMEDIATE AND COMPELLING NECESSITY HE OR SHE SEEKS IN GOOD FAITH TO  
8 RECOVER ONE OR MORE UNITS for his or her own personal use and occupancy  
9 as his or her primary residence [in the city of New York and/or] OR for  
10 the use and occupancy of a member of his or her immediate family as his  
11 or her primary residence [in the city of New York], provided however,  
12 that this subparagraph shall not apply where a tenant or the spouse of a  
13 tenant lawfully occupying the dwelling unit is sixty-two years of age or  
14 older, or has an impairment which results from anatomical, physiological  
15 or psychological conditions, other than addiction to alcohol, gambling,  
16 or any controlled substance, which are demonstrable by medically accept-  
17 able clinical and laboratory diagnostic techniques, and which are  
18 expected to be permanent and which prevent the tenant from engaging in  
19 any substantial gainful employment, unless such owner offers to provide  
20 and if requested, provides an equivalent or superior housing accommo-  
21 dation at the same or lower stabilized rent in a closely proximate area.  
22 The provisions of this subparagraph shall only permit one of the indi-  
23 vidual owners of any building, WHETHER SUCH OWNERSHIP IS BY JOINT TENAN-  
24 CY, TENANCY IN COMMON, TENANCY BY THE ENTIRETY OR PARTNERSHIP BUT NOT  
25 INCLUDING A CORPORATION, A LIMITED LIABILITY PARTNERSHIP OR A LIMITED  
26 LIABILITY COMPANY, to recover possession of one or more dwelling units  
27 for his or her own personal use and/or for that of his or her immediate  
28 family. Any dwelling unit recovered by an owner pursuant to this subpar-  
29 agraph shall not for a period of three years be rented, leased,  
30 subleased or assigned to any person other than a person for whose bene-  
31 fit recovery of the dwelling unit is permitted pursuant to this subpara-  
32 graph or to the tenant in occupancy at the time of recovery under the  
33 same terms as the original lease. This subparagraph shall not be deemed  
34 to establish or eliminate any claim that the former tenant of the dwell-  
35 ing unit may otherwise have against the owner. Any such rental, lease,  
36 sublease or assignment during such period to any other person may be  
37 subject to a penalty of a forfeiture of the right to any increases in  
38 residential rents in such building for a period of three years; or

39 S 3. Subdivision a of section 10 of section 4 of chapter 576 of the  
40 laws of 1974, constituting the emergency tenant protection act of nine-  
41 teen seventy-four, as amended by chapter 234 of the laws of 1984, is  
42 amended to read as follows:

43 a. For cities having a population of less than one million and towns  
44 and villages, the state division of housing and community renewal shall  
45 be empowered to implement this act by appropriate regulations. Such  
46 regulations may encompass such speculative or manipulative practices or  
47 renting or leasing practices as the state division of housing and commu-  
48 nity renewal determines constitute or are likely to cause circumvention  
49 of this act. Such regulations shall prohibit practices which are likely  
50 to prevent any person from asserting any right or remedy granted by this  
51 act, including but not limited to retaliatory termination of periodic  
52 tenancies and shall require owners to grant a new one or two year vacan-  
53 cy or renewal lease at the option of the tenant, except where a mortgage  
54 or mortgage commitment existing as of the local effective date of this  
55 act provides that the owner shall not grant a one-year lease; and shall  
56 prescribe standards with respect to the terms and conditions of new and

1 renewal leases, additional rent and such related matters as security  
2 deposits, advance rental payments, the use of escalator clauses in leas-  
3 es and provision for increase in rentals for garages and other ancillary  
4 facilities, so as to insure that the level of rent adjustments author-  
5 ized under this law will not be subverted and made ineffective. Any  
6 provision of the regulations permitting an owner to refuse to renew a  
7 lease on grounds that the owner seeks to recover possession of the hous-  
8 ing accommodation for his OR HER own use and occupancy or for the use  
9 and occupancy of his OR HER immediate family shall require that an owner  
10 demonstrate immediate and compelling need AND THAT THE HOUSING ACCOMMO-  
11 DATION WILL BE THE PROPOSED OCCUPANTS' PRIMARY RESIDENCE and shall not  
12 apply where a member of the housing accommodation is sixty-two years of  
13 age or older, has been a tenant in a housing accommodation in that  
14 building for twenty years or more, or has an impairment which results  
15 from anatomical, physiological or psychological conditions, other than  
16 addiction to alcohol, gambling, or any controlled substance, which are  
17 demonstrable by medically acceptable clinical and laboratory diagnostic  
18 techniques, and which are expected to be permanent and which prevent the  
19 tenant from engaging in any substantial gainful employment. ONLY ONE OF  
20 THE INDIVIDUAL OWNERS OF ANY BUILDING, WHETHER SUCH OWNERSHIP IS BY  
21 JOINT TENANCY, TENANCY IN COMMON, TENANCY BY THE ENTIRETY OR PARTNERSHIP  
22 BUT NOT INCLUDING A CORPORATION, LIMITED LIABILITY PARTNERSHIP OR A  
23 LIMITED LIABILITY COMPANY, SHALL BE PERMITTED TO RECOVER POSSESSION OF  
24 ONE OR MORE DWELLING UNITS FOR THE USE AND OCCUPANCY OF A MEMBER OF HIS  
25 OR HER IMMEDIATE FAMILY AS HIS OR HER PRIMARY RESIDENCE.

26 S 4. Paragraph (a) of subdivision 2 of section 5 of chapter 274 of the  
27 laws of 1946, constituting the emergency housing rent control law, as  
28 amended by chapter 234 of the laws of 1984, is amended to read as  
29 follows:

30 (a) the landlord seeks in good faith to recover possession of A hous-  
31 ing [accommodations] ACCOMMODATION because of immediate and compelling  
32 necessity for his OR HER own personal use and occupancy AS HIS OR HER  
33 PRIMARY RESIDENCE or for the use and occupancy of his OR HER immediate  
34 family AS THEIR PRIMARY RESIDENCE; provided, however, this subdivision  
35 shall not apply where a member of the household lawfully occupying the  
36 housing accommodation is sixty-two years of age or older, has been a  
37 tenant in a housing accommodation in that building for twenty years or  
38 more, or has an impairment which results from anatomical, physiological  
39 or psychological conditions, other than addiction to alcohol, gambling,  
40 or any controlled substance, which are demonstrable by medically accept-  
41 able clinical and laboratory diagnostic techniques, and which are  
42 expected to be permanent and which prevent the tenant from engaging in  
43 any substantial gainful employment. ONLY ONE OF THE INDIVIDUAL OWNERS OF  
44 ANY BUILDING, WHETHER SUCH OWNERSHIP IS BY JOINT TENANCY, TENANCY IN  
45 COMMON, TENANCY BY THE ENTIRETY OR PARTNERSHIP BUT NOT INCLUDING A  
46 CORPORATION, LIMITED LIABILITY PARTNERSHIP OR A LIMITED LIABILITY COMPA-  
47 NY, SHALL BE PERMITTED TO RECOVER POSSESSION OF ONE OR MORE DWELLING  
48 UNITS FOR THE USE AND OCCUPANCY OF A MEMBER OF HIS OR HER IMMEDIATE  
49 FAMILY AS HIS OR HER PRIMARY RESIDENCE; or

50 S 5. This act shall take effect immediately and shall apply to any  
51 tenant in possession at or after the time this act takes effect, regard-  
52 less of whether the landlord's application for an order, refusal to  
53 renew a lease or refusal to extend or renew a tenancy took place before  
54 this act takes effect, provided that:

55 a. the amendments to section 26-408 of the city rent and rehabili-  
56 tation law made by section one of this act shall remain in full force

1 and effect only as long as the public emergency requiring the regulation  
2 and control of residential rents and evictions continues, as provided in  
3 subdivision 3 of section 1 of the local emergency housing rent control  
4 act;

5 b. the amendments to section 26-511 of the rent stabilization law of  
6 nineteen hundred sixty-nine made by section two of this act shall expire  
7 on the same date as such law expires and shall not affect the expiration  
8 of such law as provided under section 26-520 of such law;

9 c. the amendments to subdivision a of section 10 of section 4 of the  
10 emergency tenant protection act of nineteen seventy-four made by section  
11 three of this act shall expire on the same date as such act expires and  
12 shall not affect the expiration of such act as provided in section 17 of  
13 chapter 576 of the laws of 1974; and

14 d. the amendments to paragraph (a) of subdivision 2 of section 5 of  
15 the emergency housing rent control law made by section four of this act  
16 shall expire on the same date as such law expires and shall not affect  
17 the expiration of such law as provided in subdivision 2 of section 1 of  
18 chapter 274 of the laws of 1946.