

# STATE OF NEW YORK

7499

2025-2026 Regular Sessions

## IN ASSEMBLY

March 28, 2025

Introduced by M. of A. NOVAKHOV -- 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 determining primary residency; and to amend the tax law, in relation to verification of residence

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

1 Section 1. Clause 10 of subparagraph (i) of paragraph 2 of subdivision  
2 e of section 26-403 of the administrative code of the city of New York,  
3 as amended by chapter 422 of the laws of 2010, is amended to read as  
4 follows:

5 (10) Housing accommodations not occupied by the tenant, not including  
6 subtenants or occupants, as [~~his or her~~] such tenant's primary resi-  
7 dence, as determined by a court of competent jurisdiction. For purposes  
8 of determining primary residency, as used in this chapter, the failure  
9 to file a New York city resident income tax return for the two preceding  
10 calendar years (setting forth the housing accommodation as an individ-  
11 ual's residence) by an individual required by law to file such a return,  
12 shall result in a finding that the tenant does not occupy the unit as  
13 such tenant's primary residence; provided, however, that this provision  
14 shall not apply to an individual who has requested an extension of time  
15 for payment of tax, or who is not required to file a resident income tax  
16 return, or where any other factor exists which would excuse the timely  
17 filing of the return; provided further, that the timely filing of the  
18 return, alone, shall not result in a presumption that the individual  
19 does occupy the unit as such individual's primary residence or that the  
20 filing of an action to determine a tenant's primary residence shall not  
21 preclude such tenant from filing an amended tax return provided that  
22 such amended return is filed within sixty days of the commencement of  
23 the action. Further, for the purposes of determining primary residency,

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

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1 a tenant who is a victim of domestic violence, as defined in section  
2 four hundred fifty-nine-a of the social services law, who has left the  
3 unit because of such violence, and who asserts an intent to return to  
4 the housing accommodation shall be deemed to be occupying the unit as  
5 ~~[his or her]~~ such tenant's primary residence. No action or proceeding  
6 shall be commenced seeking to recover possession on the ground that a  
7 housing accommodation is not occupied by the tenant as ~~[his or her]~~ such  
8 tenant's primary residence unless the owner or lessor shall have given  
9 thirty days notice to the tenant of ~~[his or her]~~ such owner's or  
10 lessor's intention to commence such action or proceeding on such  
11 grounds.

12 § 2. Subparagraph (f) of paragraph 1 of subdivision a of section  
13 26-504 of the administrative code of the city of New York, as amended by  
14 chapter 422 of the laws of 2010, is amended to read as follows:

15 (f) not occupied by the tenant, not including subtenants or occupants,  
16 as ~~[his or her]~~ such tenant's primary residence, as determined by a  
17 court of competent jurisdiction~~[, provided, however that no]~~. For  
18 purposes of determining primary residency, as used in this chapter, the  
19 failure to file a New York city resident income tax return for the two  
20 preceding calendar years (setting forth the housing accommodation as an  
21 individual's residence) by an individual required by law to file such a  
22 return, shall result in a finding that the tenant does not occupy the  
23 unit as such tenant's primary residence; provided, however, that this  
24 provision shall not apply to an individual who has requested an exten-  
25 sion of time for payment of tax, or who is not required to file a resi-  
26 dent income tax return, or where any other factor exists which would  
27 excuse the timely filing of a return; provided further, that the timely  
28 filing of the return, alone, shall not result in a presumption that the  
29 individual does occupy the unit as such individual's primary residence  
30 or that the filing of an action to determine a tenant's primary resi-  
31 dence shall not preclude such tenant from filing an amended tax return  
32 provided that such amended return is filed within sixty days of the  
33 commencement of the action. Further, no action or proceeding shall be  
34 commenced seeking to recover possession on the ground that a housing  
35 accommodation is not occupied by the tenant as ~~[his or her]~~ such  
36 tenant's primary residence unless the owner or lessor shall have given  
37 thirty days notice to the tenant of ~~[his or her]~~ such owner's or  
38 lessor's intention to commence such action or proceeding on such  
39 grounds. For the purposes of determining primary residency, a tenant who  
40 is a victim of domestic violence, as defined in section four hundred  
41 fifty-nine-a of the social services law, who has left the unit because  
42 of such violence, and who asserts an intent to return to the housing  
43 accommodation shall be deemed to be occupying the unit as ~~[his or her]~~  
44 such tenant's primary residence. For the purposes of this subparagraph  
45 where a housing accommodation is rented to a not-for-profit hospital for  
46 residential use, affiliated subtenants authorized to use such accommo-  
47 dations by such hospital shall be deemed to be tenants, or

48 § 3. Paragraph 11 of subdivision a of section 5 of section 4 of chap-  
49 ter 576 of the laws of 1974, constituting the emergency tenant  
50 protection act of nineteen seventy-four, as amended by section 1 of part  
51 J of chapter 36 of the laws of 2019, is amended to read as follows:

52 (11) housing accommodations which are not occupied by the tenant, not  
53 including subtenants or occupants, as ~~[his or her]~~ such tenant's primary  
54 residence, as determined by a court of competent jurisdiction. For the  
55 purposes of determining primary residency, a tenant who is a victim of  
56 domestic violence, as defined in section four hundred fifty-nine-a of

1 the social services law, who has left the unit because of such violence,  
2 and who asserts an intent to return to the housing accommodation shall  
3 be deemed to be occupying the unit as [~~his or her~~] such tenant's primary  
4 residence. Further, for purposes of determining primary residency, as  
5 used in this chapter, the failure to file a New York state resident  
6 income tax return for the two preceding calendar years (setting forth  
7 the housing accommodation as an individual's residence) by an individual  
8 required by law to file such a return, shall result in a finding that  
9 the tenant does not occupy the unit as such tenant's primary residence;  
10 provided, however, that this provision shall not apply to an individual  
11 who has requested an extension of time for payment of tax, or who is not  
12 required to file a resident income tax return, or where any other factor  
13 exists which would excuse the timely filing of the return; provided  
14 further, that the timely filing of the return, alone, shall not result  
15 in a presumption that the individual does occupy the unit as such indi-  
16 vidual's primary residence or that the filing of an action to determine  
17 a tenant's primary residence shall not preclude such tenant from filing  
18 an amended tax return provided that such amended return is filed within  
19 sixty days of the commencement of the action. For the purposes of this  
20 paragraph, where a housing accommodation is rented to a not-for-profit  
21 hospital for residential use, affiliated subtenants authorized to use  
22 such accommodations by such hospital shall be deemed to be tenants. For  
23 the purposes of this paragraph, where a housing accommodation is rented  
24 to a not-for-profit for providing, as of and after [~~the effective date~~  
25 ~~of the chapter of the laws of two thousand nineteen that amended this~~  
26 ~~paragraph~~] June fourteenth, two thousand nineteen, permanent housing to  
27 individuals who are or were homeless or at risk of homelessness, affil-  
28 iated subtenants authorized to use such accommodations by such not-for-  
29 profit shall be deemed to be tenants. No action or proceeding shall be  
30 commenced seeking to recover possession on the ground that a housing  
31 accommodation is not occupied by the tenant as [~~his or her~~] such  
32 tenant's primary residence unless the owner or lessor shall have given  
33 thirty days notice to the tenant of [~~his or her~~] such owner's or  
34 lessor's intention to commence such action or proceeding on such  
35 grounds.

36 § 4. The tax law is amended by adding a new section 171-bb to read as  
37 follows:

38 § 171-bb. Verification of residence filing address. (1) The commis-  
39 sioner is authorized to verify to owners of multiple dwellings covered  
40 by the city rent and rehabilitation law, the rent stabilization law of  
41 nineteen hundred sixty-nine and/or the emergency tenant protection act  
42 of nineteen seventy-four whether or not, in a given calendar year, a New  
43 York city or New York state resident income tax return was filed by an  
44 individual who is a tenant in the owner's multiple dwelling and, if so,  
45 the residence address which is set forth on the tax return. Such  
46 verification shall be in writing and shall be considered a certificate  
47 or affidavit for the purposes of rule forty-five hundred twenty of the  
48 civil practice law and rules.

49 (2) The department may charge a reasonable fee, to be determined by  
50 the commissioner, in payment to the department for the expense incurred  
51 in verifying the filing and residence address.

52 (3) The commissioner shall promulgate such rules and regulations as it  
53 deems necessary to carry out the provisions of this section.

54 § 5. This act shall take effect immediately; provided that the amend-  
55 ment to section 26-403 of the city rent and rehabilitation law made by  
56 section one of this act shall remain in full force and effect only so

1 long as the public emergency requiring the regulation and control of  
2 residential rents and evictions continues, as provided in subdivision 3  
3 of section 1 of the local emergency housing rent control act; and  
4 provided further that the amendment to section 26-504 of chapter 4 of  
5 title 26 of the administrative code of the city of New York made by  
6 section two of this act shall expire on the same date as such law  
7 expires and shall not affect the expiration of such law as provided  
8 under section 26-520 of such law.