S T A T E O F N E W Y O R K

3062

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. BENJAMIN, FITZPATRICK -- Multi-Sponsored by -- M. of A. MAYERSOHN, McDONOUGH -- read once and referred to the Committee on Housing

AN ACT to amend the emergency housing rent control law, the emergency tenant protection act of nineteen seventy-four and the local emergency housing rent control act, in relation to clarifying the term "primary residence"

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

Section 1. Legislative findings. The appellate division of the supreme court for the first department, in the case of KATZ PARK AVENUE CORPORATION V. JAGGER (2007 NY Slip OP 07908), found that an alien present in the United States pursuant to a non-immigration B2 tourist visa, who has no intention of establishing a permanent residence in the United States, may not claim that a rent-regulated housing accommodation is his or her primary residence.

The legislature hereby declares that this court's decision establishes a prudent policy for this state. By means of this act, the legislature intends to codify and clarify such policy.

S 2. Section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, is amended by adding a new subdivision 13 to read as follows:

13. "PRIMARY RESIDENCE." IN ADDITION TO ITS CUSTOMARY MEANING, "PRIMARY RESIDENCE" SHALL MEAN AND INCLUDE "PRINCIPAL RESIDENCE" AS DEFINED BY THE FEDERAL IMMIGRATION AND NATIONALITY ACT.

S 3. Section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, is amended by adding a new section 4-a to read as follows:

S 4-A. DEFINITION. "PRIMARY RESIDENCE." IN ADDITION TO ITS CUSTOMARY MEANING, "PRIMARY RESIDENCE" SHALL MEAN AND INCLUDE "PRINCIPAL RESIDENCE" AS DEFINED BY THE FEDERAL IMMIGRATION AND NATIONALITY ACT.

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

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S 4. Subdivision 5 of section 1 of chapter 21 of the laws of 1962, constituting the local emergency housing rent control act, is amended by adding a new undesignated paragraph to read as follows:

THE TERM "PRIMARY RESIDENCE", IN ADDITION TO ITS CUSTOMARY MEANING, SHALL MEAN AND INCLUDE "PRINCIPAL RESIDENCE" AS DEFINED BY THE FEDERAL IMMIGRATION AND NATIONALITY ACT.

S 5. This act shall take effect immediately, provided that:

(a) the amendments to section 2 of the emergency housing rent control law made by section two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946;

(b) the amendments to section 4 of the emergency tenant protection act of nineteen seventy-four made by section three of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974; and

(c) the amendments to subdivision 5 of section 1 of the local emergency housing rent control act, made by section four of this act, shall not affect the effectiveness of such subdivision and shall cease to be in full force and effect pursuant to subdivision 3 of section 1 of such act.