

1381

2009-2010 Regular Sessions

I N S E N A T E

January 29, 2009

Introduced by Sens. STAVISKY, ADAMS, DIAZ, DUANE, ONORATO, PARKER --
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 housing rent control law and the emergency tenant protection
act of nineteen seventy-four, in relation to an owner's right to
recover an apartment for personal use

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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 AS A PRIMARY RESIDENCE FOR A MEMBER of his or
8 her immediate family provided, however, that this subdivision shall not
9 apply where a member of the household lawfully occupying the housing
10 accommodation is sixty-two years of age or older, has been a tenant in a
11 housing accommodation in that building for twenty years or more, or has
12 an impairment which results from anatomical, physiological or psycholog-
13 ical conditions, other than addiction to alcohol, gambling, or any
14 controlled substance, which are demonstrable by medically acceptable
15 clinical and laboratory diagnostic techniques, and which are expected to
16 be permanent and which [prevent the tenant from engaging in any substan-
17 tial gainful employment] SUBSTANTIALLY LIMIT ONE OR MORE OF SUCH
18 TENANT'S MAJOR LIFE ACTIVITIES AND PROVIDED FURTHER THAT A LANDLORD
19 SHALL NOT BE ENTITLED TO RECOVER POSSESSION OF A HOUSING ACCOMMODATION
20 FOR OTHER THAN RESIDENTIAL USE; or

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

LBD04879-01-9

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 he or she seeks IN GOOD FAITH to recover possession of one
5 or more dwelling units BECAUSE OF IMMEDIATE AND COMPELLING NECESSITY for
6 his or her own personal use and occupancy as his or her primary resi-
7 dence [in the city of New York] and/or for the use and occupancy of a
8 member of his or her immediate family as his or her primary residence
9 [in the city of New York], provided however, that this subparagraph
10 shall not apply where a tenant or the spouse of a tenant lawfully occu-
11 pying the dwelling unit is sixty-two years of age or older, 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,] SUBSTANTIALLY LIMIT ONE OR MORE OF SUCH TENANT'S MAJOR LIFE
18 ACTIVITIES unless such owner offers to provide and if requested,
19 provides an equivalent or superior housing accommodation at the same or
20 lower stabilized rent in a closely proximate area. The provisions of
21 this subparagraph shall only permit one of the individual owners of any
22 building to recover possession of one or more dwelling units for his or
23 her own personal use and/or for that of his or her immediate family. Any
24 dwelling unit recovered by an owner pursuant to this subparagraph shall
25 not for a period of three years be rented, leased, subleased or assigned
26 to any person other than a person for whose benefit recovery of the
27 dwelling unit is permitted pursuant to this subparagraph or to the
28 tenant in occupancy at the time of recovery under the same terms as the
29 original lease. This subparagraph shall not be deemed to establish or
30 eliminate any claim that the former tenant of the dwelling unit may
31 otherwise have against the owner. Any such rental, lease, sublease or
32 assignment during such period to any other person may be subject to a
33 penalty of a forfeiture of the right to any increases in residential
34 rents in such building for a period of three years. A LANDLORD SHALL
35 NOT BE ENTITLED TO RECOVER POSSESSION OF A DWELLING FOR OTHER THAN RESI-
36 DENTIAL USE; or

37 S 3. Paragraph (a) of subdivision 2 of section 5 of chapter 274 of the
38 laws of 1946, constituting the emergency housing rent control law, as
39 amended by chapter 234 of the laws of 1984, is amended to read as
40 follows:

41 (a) the landlord seeks in good faith to recover possession of housing
42 accommodations because of immediate and compelling necessity for his own
43 personal use and occupancy AS HIS PRIMARY RESIDENCE or for the use and
44 occupancy AS A PRIMARY RESIDENCE FOR A MEMBER of his immediate family;
45 provided, however, this subdivision shall not apply where a member of
46 the household lawfully occupying the housing accommodation is sixty-two
47 years of age or older, has been a tenant in a housing accommodation in
48 that building for twenty years or more, or has an impairment which
49 results from anatomical, physiological or psychological conditions,
50 other than addiction to alcohol, gambling, or any controlled substance,
51 which are demonstrable by medically acceptable clinical and laboratory
52 diagnostic techniques, and which are expected to be permanent and which
53 [prevent the tenant from engaging in any substantial gainful employment]
54 SUBSTANTIALLY LIMIT ONE OR MORE OF SUCH TENANT'S MAJOR LIFE ACTIVITIES
55 AND PROVIDED FURTHER THAT A LANDLORD SHALL NOT BE ENTITLED TO RECOVER
56 POSSESSION OF A HOUSING ACCOMMODATION FOR OTHER THAN RESIDENTIAL USE; or

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

5 a. For cities having a population of less than one million and towns
6 and villages, the state division of housing and community renewal shall
7 be empowered to implement this act by appropriate regulations. Such
8 regulations may encompass such speculative or manipulative practices or
9 renting or leasing practices as the state division of housing and commu-
10 nity renewal determines constitute or are likely to cause circumvention
11 of this act. Such regulations shall prohibit practices which are likely
12 to prevent any person from asserting any right or remedy granted by this
13 act, including but not limited to retaliatory termination of periodic
14 tenancies and shall require owners to grant a new one or two year vacan-
15 cy or renewal lease at the option of the tenant, except where a mortgage
16 or mortgage commitment existing as of the local effective date of this
17 act provides that the owner shall not grant a one-year lease; and shall
18 prescribe standards with respect to the terms and conditions of new and
19 renewal leases, additional rent and such related matters as security
20 deposits, advance rental payments, the use of escalator clauses in leas-
21 es and provision for increase in rentals for garages and other ancillary
22 facilities, so as to insure that the level of rent adjustments author-
23 ized under this law will not be subverted and made ineffective. Any
24 provision of the regulations permitting an owner to refuse to renew a
25 lease on grounds that the owner seeks to recover possession of the hous-
26 ing accommodation for his own use and occupancy or for the use and occu-
27 pancy of his immediate family shall require that an owner demonstrate
28 immediate and compelling need AND GOOD FAITH and shall not apply where a
29 member of the housing accommodation is sixty-two years of age or older,
30 has been a tenant in a housing accommodation in that building for twenty
31 years or more, or has an impairment which results from anatomical, phys-
32 iological or psychological conditions, other than addiction to alcohol,
33 gambling, or any controlled substance, which are demonstrable by
34 medically acceptable clinical and laboratory diagnostic techniques, and
35 which are expected to be permanent and which [prevent the tenant from
36 engaging in any substantial gainful employment] SUBSTANTIALLY LIMIT ONE
37 OR MORE OF SUCH TENANT'S MAJOR LIFE ACTIVITIES. ANY PROVISION OF THE
38 REGULATIONS PERMITTING AN OWNER TO REFUSE TO RENEW A LEASE ON THE
39 GROUNDS THAT THE OWNER SEEKS TO RECOVER THE UNIT FOR HIS OWN PERSONAL
40 USE, SHALL REQUIRE THAT DWELLING UNITS RECOVERED SHALL BE FOR THE
41 OWNER'S OWN USE AND OCCUPANCY AS HIS PRIMARY RESIDENCE OR FOR THE USE
42 AND OCCUPANCY OF A MEMBER OF HIS IMMEDIATE FAMILY AS HIS PRIMARY RESI-
43 DENCE AND THAT A UNIT MAY NOT BE RECOVERED BY AN OWNER FOR OTHER THAN
44 RESIDENTIAL USE.

45 S 5. This act shall take effect immediately and shall apply to any
46 tenant in possession at or after such effective date, regardless of
47 whether the landlord's application for an order, refusal to renew a
48 lease or refusal to extend or renew a tenancy took place before such
49 effective date; provided, however, the amendment to section 26-408 of
50 the city rent and rehabilitation law made by section one of this act
51 shall remain in full force and effect only so long as the public emer-
52 gency requiring the regulation and control of residential rents and
53 evictions continues, as provided in subdivision 3 of section 1 of the
54 local emergency housing rent control act; provided, further the amend-
55 ment to section 26-511 of the rent stabilization law of nineteen hundred
56 sixty-nine made by section two of this act shall expire on the same date

1 as such law expires and shall not affect the expiration of such law as
2 provided under section 26-520 of such law; provided further the amend-
3 ment to section 5 of the emergency housing rent control law made by
4 section three of this act shall expire on the same date as such law
5 expires and shall not affect the expiration of such law as provided in
6 subdivision 2 of section 1 of such law, as amended; provided further the
7 amendment to section 10 of the emergency tenant protection act of nine-
8 teen seventy-four made by section four of this act shall expire on the
9 same date as such act expires and shall not affect the expiration of
10 such act as provided in section 17 of chapter 576 of the laws of 1974,
11 as amended.