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

2365

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. O'DONNELL, KAVANAGH, ROSENTHAL, KELLNER -- Multi-Sponsored by -- M. of A. ALFANO, GLICK, PHEFFER -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law and the local emergency housing rent control act, in relation to establishing primary residency for victims of domestic violence

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

Section 1. Clause 10 of subparagraph (i) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York is amended to read as follows:

(10) Housing accommodations not occupied by the tenant, not including subtenants or occupants, as his or her primary residence, as determined by a court of competent jurisdiction. FOR THE PURPOSES OF DETERMINING PRIMARY RESIDENCY, A TENANT WHO IS A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW, WHO HAS BEEN FORCED TO LEAVE THE UNIT BECAUSE OF SUCH VIOLENCE, AND WHO ASSERTS AN INTENT TO RETURN TO THE HOUSING ACCOMMODATION SHALL BE DEEMED TO BE OCCUPYING THE UNIT AS HIS OR HER PRIMARY RESIDENCE. No action or proceeding shall be commenced seeking to recover possession on the ground that a housing accommodation is not occupied by the tenant as his or her primary residence unless the owner or lessor shall have given thirty days notice to the tenant of his or her intention to commence such action or proceeding on such grounds.

S 2. Subparagraph (f) of paragraph 1 of subdivision a of section 26-504 of the administrative code of the city of New York is amended to read as follows:

(f) not occupied by the tenant, not including subtenants or occupants, as his OR HER primary residence, as determined by a court of competent

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

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jurisdiction, provided, however that no action or proceeding shall be commenced seeking to recover possession on the ground that a housing accommodation is not occupied by the tenant as his or her primary residence unless the owner or lessor shall have given thirty days notice to the tenant of his or her intention to commence such action or proceeding on such grounds. FOR THE PURPOSES OF DETERMINING PRIMARY RESIDENCY, A TENANT WHO IS A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW, WHO HAS BEEN FORCED TO LEAVE THE UNIT BECAUSE OF SUCH VIOLENCE, AND WHO ASSERTS AN INTENT TO RETURN TO THE HOUSING ACCOMMODATION SHALL BE DEEMED TO BE OCCUPYING THE UNIT AS HIS OR HER PRIMARY RESIDENCE. For the purposes of this subparagraph where a housing accommodation is rented to a not-for-profit hospital for residential use, affiliated subtenants authorized to use such accommodations by such hospital shall be deemed to be tenants, or

S 3. Paragraph 11 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 940 of the laws of 1984, is amended to read as follows:

(11) housing accommodations which are not occupied by the tenant, not including subtenants or occupants, as his OR HER primary residence, as determined by a court of competent jurisdiction. FOR THE PURPOSES OF DETERMINING PRIMARY RESIDENCY, A TENANT WHO IS A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW, WHO HAS BEEN FORCED TO LEAVE THE UNIT BECAUSE OF SUCH VIOLENCE, AND WHO ASSERTS AN INTENT TO RETURN TO THE HOUSING ACCOMMODATION SHALL BE DEEMED TO BE OCCUPYING THE UNIT AS HIS OR HER PRIMARY RESIDENCE. For the purposes of this paragraph, where a housing accommodation is rented to a not-for-profit hospital for residential use, affiliated subtenants authorized to use such accommodations by such hospital shall be deemed to be tenants. No action or proceeding shall be commenced seeking to recover possession on the ground that a housing accommodation is not occupied by the tenant as his OR HER primary residence unless the owner or lessor shall have given thirty days notice to the tenant of his OR HER intention to commence such action or proceeding on such grounds.

S 4. Paragraph (l) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as added by chapter 373 of the laws of 1971, is amended to read as follows:

(l) housing accommodations which are not occupied by the tenant in possession as his OR HER primary residence provided, however, that any such housing accommodation shall continue to be subject to rent control as provided herein unless the commission issues an order decontrolling such accommodation which the commission shall do upon application by the landlord, whenever it is established by any facts and circumstances which, in the judgment of the commission, may have a bearing upon the question of residence, that the tenant maintains his OR HER primary residence at some place other than at such housing accommodation. FOR THE PURPOSES OF DETERMINING PRIMARY RESIDENCY, A TENANT WHO IS A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW, WHO HAS BEEN FORCED TO LEAVE THE UNIT BECAUSE OF SUCH VIOLENCE, AND WHO ASSERTS AN INTENT TO RETURN TO THE HOUSING ACCOMMODATION SHALL BE DEEMED TO BE OCCUPYING THE UNIT AS HIS OR HER PRIMARY RESIDENCE.

S 5. The closing paragraph of subdivision 5 of section 1 of chapter 21 of the laws of 1962, constituting the local emergency housing rent

control act, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

Notwithstanding the foregoing, no local law or ordinance shall subject to such regulation and control any housing accommodation which is not occupied by the tenant in possession as his OR HER primary residence; provided, however, that such housing accommodation not occupied by the tenant in possession as his OR HER primary residence shall continue to be subject to regulation and control as provided for herein unless the city housing rent agency issues an order decontrolling such accommodation, which the agency shall do upon application by the landlord whenever it is established by any facts and circumstances which, in the judgment of the agency, may have a bearing upon the question of residence, that the tenant maintains his OR HER primary residence at some place other than at such housing accommodation. FOR THE PURPOSES OF DETERMINING PRIMARY RESIDENCY, A TENANT WHO IS A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW, WHO HAS BEEN FORCED TO LEAVE THE UNIT BECAUSE OF SUCH VIOLENCE, AND WHO ASSERTS AN INTENT TO RETURN TO THE HOUSING ACCOMMODATION SHALL BE DEEMED TO BE OCCUPYING THE UNIT AS HIS OR HER PRIMARY RESIDENCE.

S 6. This act shall take effect immediately, provided, however, that:

(a) the amendments to section 26-403 of the city rent and rehabilitation law made by section one of this act shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act;

(b) the amendments to section 26-504 of the administrative code of the city of New York made by section two of this act shall not affect the expiration of such section and shall be deemed to expire therewith;

(c) the amendment to section 5 of section 4 of chapter 576 of the laws of 1974 made by section three of this act, constituting the emergency tenant protection act of nineteen seventy-four, 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, as amended; and

(d) the amendments to paragraph (l) of subdivision 2 of section 2 of the emergency housing rent control law made by section four 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, as amended.