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

4649

2009-2010 Regular Sessions

I N A S S E M B L Y

February 5, 2009

Introduced by M. of A. V. LOPEZ -- 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 conversion of garden-type maisonette multiple dwellings

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

Section 1. Section 26-505 of the administrative code of the city of New York is amended to read as follows:

S 26-505 Application to multiple family complex. For purposes of this chapter a class A multiple dwelling shall be deemed to include a multiple family garden-type maisonette dwelling complex containing six or more dwelling units having common facilities such as sewer line, water main, and heating plant, and operated as a unit under a single ownership on May sixth, nineteen hundred sixty-nine, notwithstanding that certificates of occupancy were issued for portions thereof as one- or two-family dwellings.

THE SUBDIVISION OF A PORTION OF SUCH MULTIPLE FAMILY GARDEN-TYPE MAISONETTE DWELLING COMPLEX INTO A STRUCTURE CONTAINING LESS THAN SIX UNITS THROUGH ALTERATIONS INCLUDING, BUT NOT LIMITED TO, THE INSTALLATION OF SEPARATE SEWER OR WATER LINES OR THE INSTALLATION OF A SEPARATE HEATING SYSTEM, SHALL NOT RESULT IN THE REMOVAL OF INDIVIDUAL UNITS FROM THE PROVISIONS OF THIS LAW. PROVIDED, HOWEVER, THAT ANY SUCH UNIT SHALL BE REMOVED FROM REGULATION UNDER THIS LAW IF SUCH UNIT HAS BECOME VACANT AFTER ALTERATIONS OF SUCH UNIT HAVE BEEN COMPLETED.

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

(b) where he or she seeks to recover possession of one or more dwelling units for his or her own personal use and occupancy as his or her primary residence in the city of New York and/or for the use and occupancy of a member of his or her immediate family as his or her primary residence in the city of New York, provided however, that this subparagraph shall not apply where a tenant or the spouse of a tenant lawfully

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

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occupying the dwelling unit is sixty-two years of age or older, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment, unless such owner offers to provide and if requested, provides an equivalent or superior housing accommodation at the same or lower stabilized rent in a closely proximate area. AN OWNER ALSO MAY NOT COMMENCE AN ACTION TO RECOVER POSSESSION OF A DWELLING UNIT FROM A TENANT ON THE GROUNDS THAT HE OR SHE SEEKS THE DWELLING UNIT FOR THE USE AND OCCUPANCY OF HIMSELF OR HERSELF OR HIS OR HER IMMEDIATE FAMILY IF SUCH DWELLING UNIT HAD BEEN PART OF A MULTIPLE FAMILY GARDEN-TYPE MAISONETTE DWELLING COMPLEX SUBJECT TO THE PROVISIONS OF SECTION 26-505 OF THIS CODE AND HAD SINCE BEEN SUBDIVIDED INTO A STRUCTURE CONTAINING LESS THAN SIX UNITS THROUGH ALTERATIONS INCLUDING, BUT NOT LIMITED TO, THE INSTALLATION OF NEW SEWER OR WATER LINES OR THE INSTALLATION OF NEW HEATING SYSTEMS. The provisions of this subparagraph shall only permit one of the individual owners of any building to recover possession of one or more dwelling units for his or her own personal use and/or for that of his or her immediate family. Any dwelling unit recovered by an owner pursuant to this subparagraph shall not for a period of three years be rented, leased, subleased or assigned to any person other than a person for whose benefit recovery of the dwelling unit is permitted pursuant to this subparagraph or to the tenant in occupancy at the time of recovery under the same terms as the original lease. This subparagraph shall not be deemed to establish or eliminate any claim that the former tenant of the dwelling unit may otherwise have against the owner. Any such rental, lease, sublease or assignment during such period to any other person may be subject to a penalty of a forfeiture of the right to any increases in residential rents in such building for a period of three years; or

S 3. Subparagraph (b) of paragraph 4 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, is amended to read as follows:

(b) for purposes of this paragraph four, a building shall be deemed to contain six or more dwelling units if it is part of a multiple family garden-type maisonette dwelling complex containing six or more dwelling units having common facilities such as a sewer line, water main or heating plant and operated as a unit under common ownership, notwithstanding that certificates of occupancy were issued for portions thereof as one- or two-family dwellings. THE SUBDIVISION OF SUCH MULTIPLE FAMILY GARDEN-TYPE MAISONETTE DWELLING COMPLEX INTO STRUCTURES CONTAINING LESS THAN SIX UNITS THROUGH ALTERATIONS INCLUDING, BUT NOT LIMITED TO, THE INSTALLATION OF SEPARATE SEWER OR WATER LINES OR THE INSTALLATION OF SEPARATE HEATING SYSTEMS, SHALL NOT RESULT IN THE REMOVAL OF INDIVIDUAL UNITS FROM THE PROVISIONS OF THIS ACT. PROVIDED, HOWEVER, THAT ANY SUCH UNIT SHALL BE REMOVED FROM REGULATION UNDER THIS ACT, IF SUCH UNIT HAS BECOME VACANT AFTER ALTERATIONS OF SUCH UNIT HAVE BEEN COMPLETED.

S 4. Subdivision a of section 10 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 234 of the laws of 1984, is amended to read as follows:

a. For cities having a population of less than one million and towns and villages, the state division of housing and community renewal shall

be empowered to implement this act by appropriate regulations. Such regulations may encompass such speculative or manipulative practices or renting or leasing practices as the state division of housing and community renewal determines constitute or are likely to cause circumvention of this act. Such regulations shall prohibit practices which are likely to prevent any person from asserting any right or remedy granted by this act, including but not limited to retaliatory termination of periodic tenancies and shall require owners to grant a new one or two year vacancy or renewal lease at the option of the tenant, except where a mortgage or mortgage commitment existing as of the local effective date of this act provides that the owner shall not grant a one-year lease; and shall prescribe standards with respect to the terms and conditions of new and renewal leases, additional rent and such related matters as security deposits, advance rental payments, the use of escalator clauses in leases and provision for increase in rentals for garages and other ancillary facilities, so as to insure that the level of rent adjustments authorized under this law will not be subverted and made ineffective. Any provision of the regulations permitting an owner to refuse to renew a lease on grounds that the owner seeks to recover possession of the housing accommodation for his own use and occupancy or for the use and occupancy of his immediate family shall require that an owner demonstrate immediate and compelling need and shall not apply where a member of the housing accommodation is sixty-two years of age or older, has been a tenant in a housing accommodation in that building for twenty years or more, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment. AN OWNER ALSO MAY NOT COMMENCE AN ACTION TO RECOVER POSSESSION OF A DWELLING UNIT FROM A TENANT ON THE GROUNDS THAT HE OR SHE SEEKS THE DWELLING UNIT FOR THE USE AND OCCUPANCY OF HIMSELF OR HERSELF OR HIS OR HER IMMEDIATE FAMILY IF SUCH DWELLING UNIT HAD BEEN PART OF A MULTIPLE FAMILY GARDEN-TYPE MAISONETTE DWELLING COMPLEX SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (B) OF PARAGRAPH FOUR OF SUBDIVISION A OF SECTION FIVE OF THIS ACT AND HAD SINCE BEEN SUBDIVIDED INTO A STRUCTURE CONTAINING LESS THAN SIX UNITS THROUGH ALTERATIONS INCLUDING, BUT NOT LIMITED TO, THE INSTALLATION OF NEW SEWER OR WATER LINES OR THE INSTALLATION OF NEW HEATING SYSTEMS.

S 5. This act shall take effect immediately, and shall apply to any tenant in possession at or after the time this act takes effect, regardless of whether an owner's refusal to renew a lease or refusal to extend or renew a tenancy that took place before this act shall have taken effect; provided that the amendments to sections 26-505 and 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by sections one and 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 under section 26-520 of such law and provided further that the amendments to sections 5 and 10 of section 4 of the emergency tenant protection act of nineteen seventy-four made by sections three and four of this act shall expire on the same date as such act expires and shall not affect the expiration of such act provided for in section 17 of chapter 576 of the laws of 1974, as from time to time amended.