

2572

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 19, 2011

---

Introduced by M. of A. FITZPATRICK -- read once and referred to the  
Committee on Housing

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 the eviction of tenants  
on grounds of landlord's 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  
6 his or her own personal use and occupancy or for the use and occupancy  
7 of his or her immediate family [provided, however, that this subdivision  
8 shall not apply where a member of the household lawfully occupying the  
9 housing accommodation is sixty-two years of age or older, has been a  
10 tenant in a housing accommodation in that building for twenty years or  
11 more, or has an impairment which results from anatomical, physiological  
12 or psychological conditions, other than addiction to alcohol, gambling,  
13 or any controlled substance, which are demonstrable by medically accept-  
14 able clinical and laboratory diagnostic techniques, and which are  
15 expected to be permanent and which prevent the tenant from engaging in  
16 any substantial gainful employment]; or  
17     S 2. Paragraph (a) of subdivision 2 of section 5 of chapter 274 of the  
18 laws of 1946, constituting the emergency housing rent control law, as  
19 amended by chapter 234 of the laws of 1984, is amended to read as  
20 follows:  
21     (a) the landlord seeks in good faith to recover possession of housing  
22 accommodations [because of immediate and compelling necessity] for his  
23 own personal use and occupancy or for the use and occupancy of his imme-

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

LBD02711-01-1

1 diate family[]; provided, however, this subdivision shall not apply where  
2 a member of the household lawfully occupying the housing accommodation  
3 is sixty-two years of age or older, has been a tenant in a housing  
4 accommodation in that building for twenty years or more, or has an  
5 impairment which results from anatomical, physiological or psychological  
6 conditions, other than addiction to alcohol, gambling, or any controlled  
7 substance, which are demonstrable by medically acceptable clinical and  
8 laboratory diagnostic techniques, and which are expected to be permanent  
9 and which prevent the tenant from engaging in any substantial gainful  
10 employment[]; or

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

15 a. For cities having a population of less than one million and towns  
16 and villages, the state division of housing and community renewal shall  
17 be empowered to implement this act by appropriate regulations. Such  
18 regulations may encompass such speculative or manipulative practices or  
19 renting or leasing practices as the state division of housing and commu-  
20 nity renewal determines constitute or are likely to cause circumvention  
21 of this act. Such regulations shall prohibit practices which are likely  
22 to prevent any person from asserting any right or remedy granted by this  
23 act, including but not limited to retaliatory termination of periodic  
24 tenancies and shall require owners to grant a new one or two year vacan-  
25 cy or renewal lease at the option of the tenant, except where a mortgage  
26 or mortgage commitment existing as of the local effective date of this  
27 act provides that the owner shall not grant a one-year lease; and shall  
28 prescribe standards with respect to the terms and conditions of new and  
29 renewal leases, additional rent and such related matters as security  
30 deposits, advance rental payments, the use of escalator clauses in leas-  
31 es and provision for increase in rentals for garages and other ancillary  
32 facilities, so as to insure that the level of rent adjustments author-  
33 ized under this law will not be subverted and made ineffective. [Any  
34 provision of the regulations permitting an owner to refuse to renew a  
35 lease on grounds that the owner seeks to recover possession of the hous-  
36 ing accommodation for his own use and occupancy or for the use and occu-  
37 pancy of his immediate family shall require that an owner demonstrate  
38 immediate and compelling need and shall not apply where a member of the  
39 housing accommodation is sixty-two years of age or older, has been a  
40 tenant in a housing accommodation in that building for twenty years or  
41 more, or has an impairment which results from anatomical, physiological  
42 or psychological conditions, other than addiction to alcohol, gambling,  
43 or any controlled substance, which are demonstrable by medically accept-  
44 able clinical and laboratory diagnostic techniques, and which are  
45 expected to be permanent and which prevent the tenant from engaging in  
46 any substantial gainful employment.]

47 S 4. This act shall take effect immediately; provided that the amend-  
48 ment to section 26-408 of the city rent and rehabilitation law, made by  
49 section one of this act, shall remain in full force and effect only as  
50 long as the public emergency requiring the regulation and control of  
51 residential rents and evictions continues, as provided in subdivision 3  
52 of section 1 of the local emergency housing rent control act. The amend-  
53 ment to section 5 of the emergency housing rent control law, made by  
54 section two of this act, shall expire on the same date as such law  
55 expires and shall not affect the expiration of such law as provided in  
56 subdivision 2 of section 1 of chapter 274 of the laws of 1946. The

1 amendment to section 10 of the emergency tenant protection act of nine-  
2 teen seventy-four, made by section three of this act, shall expire on  
3 the same date as such act expires and shall not affect the expiration of  
4 such act as provided in section 17 of chapter 576 of the laws of 1974,  
5 as amended.