

3033

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 21, 2011

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Introduced by M. of A. V. LOPEZ, GLICK, SILVER, ROSENTHAL, GOTTFRIED, KAVANAGH, O'DONNELL, FARRELL, ORTIZ, WRIGHT, COLTON, SPANO, BROOK-KRASNY -- Multi-Sponsored by -- M. of A. CASTRO, DINOWITZ, JACOBS, JEFFRIES, MILLMAN, PERRY -- 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 and the emergency housing rent control law, in relation to recovery of certain housing accommodations by a landlord

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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 of his or her immediate family AS THEIR PRIMA-  
8 RY RESIDENCE provided, however, that this subdivision shall PERMIT  
9 RECOVERY OF ONLY ONE HOUSING ACCOMMODATION AND SHALL not apply where a  
10 member of the household lawfully occupying the housing accommodation is  
11 sixty-two years of age or older, has been a tenant in a housing accommo-  
12 dation in that building for twenty years or more, or has an impairment  
13 which results from anatomical, physiological or psychological condi-  
14 tions, other than addiction to alcohol, gambling, or any controlled  
15 substance, which are demonstrable by medically acceptable clinical and  
16 laboratory diagnostic techniques, and which are expected to be permanent  
17 and which prevent the tenant from engaging in any substantial gainful  
18 employment; or

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

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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 to recover possession of one [or more]  
5 dwelling [units] UNIT 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] 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 PERMIT RECOVERY OF ONLY ONE DWELLING UNIT AND SHALL not apply  
11 where a tenant or the spouse of a tenant lawfully occupying the dwelling  
12 unit is sixty-two years of age or older, HAS BEEN A TENANT IN A DWELLING  
13 UNIT IN THAT BUILDING FOR TWENTY YEARS OR MORE, or has an impairment  
14 which results from anatomical, physiological or psychological condi-  
15 tions, other than addiction to alcohol, gambling, or any controlled  
16 substance, which are demonstrable by medically acceptable clinical and  
17 laboratory diagnostic techniques, and which are expected to be permanent  
18 and which prevent the tenant from engaging in any substantial gainful  
19 employment, unless such owner offers to provide and if requested,  
20 provides an equivalent or superior housing accommodation at the same or  
21 lower stabilized rent in a closely proximate area. The provisions of  
22 this subparagraph shall only permit one of the individual owners of any  
23 building to recover possession of one [or more] dwelling [units] UNIT  
24 for his or her own personal use and/or for that of his or her immediate  
25 family. [Any] A dwelling unit recovered by an owner pursuant to this  
26 subparagraph shall not for a period of three years be rented, leased,  
27 subleased or assigned to any person other than a person for whose bene-  
28 fit recovery of the dwelling unit is permitted pursuant to this subpara-  
29 graph or to the tenant in occupancy at the time of recovery under the  
30 same terms as the original lease. This subparagraph shall not be deemed  
31 to establish or eliminate any claim that the former tenant of the dwell-  
32 ing unit may otherwise have against the owner. Any such rental, lease,  
33 sublease or assignment during such period to any other person may be  
34 subject to a penalty of a forfeiture of the right to any increases in  
35 residential rents in such building for a period of three years; or

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

40 a. For cities having a population of less than one million and towns  
41 and villages, the state division of housing and community renewal shall  
42 be empowered to implement this act by appropriate regulations. Such  
43 regulations may encompass such speculative or manipulative practices or  
44 renting or leasing practices as the state division of housing and commu-  
45 nity renewal determines constitute or are likely to cause circumvention  
46 of this act. Such regulations shall prohibit practices which are likely  
47 to prevent any person from asserting any right or remedy granted by this  
48 act, including but not limited to retaliatory termination of periodic  
49 tenancies and shall require owners to grant a new one or two year vacan-  
50 cy or renewal lease at the option of the tenant, except where a mortgage  
51 or mortgage commitment existing as of the local effective date of this  
52 act provides that the owner shall not grant a one-year lease; and shall  
53 prescribe standards with respect to the terms and conditions of new and  
54 renewal leases, additional rent and such related matters as security  
55 deposits, advance rental payments, the use of escalator clauses in leas-  
56 es and provision for increase in rentals for garages and other ancillary

1 facilities, so as to insure that the level of rent adjustments author-  
2 ized under this law will not be subverted and made ineffective. Any  
3 provision of the regulations permitting an owner to refuse to renew a  
4 lease on grounds that the owner seeks to recover possession of [the] A  
5 housing accommodation for his OR HER own use and occupancy or for the  
6 use and occupancy of his OR HER immediate family shall PERMIT RECOVERY  
7 OF ONLY ONE HOUSING ACCOMMODATION, SHALL require that an owner demon-  
8 strate immediate and compelling need AND THAT THE HOUSING ACCOMMODATION  
9 WILL BE THE PROPOSED OCCUPANTS' PRIMARY RESIDENCE and shall not apply  
10 where a member of the housing accommodation is sixty-two years of age or  
11 older, has been a tenant in a housing accommodation in that building for  
12 twenty years or more, or has an impairment which results from anatom-  
13 ical, physiological or psychological conditions, other than addiction to  
14 alcohol, gambling, or any controlled substance, which are demonstrable  
15 by medically acceptable clinical and laboratory diagnostic techniques,  
16 and which are expected to be permanent and which prevent the tenant from  
17 engaging in any substantial gainful employment.

18 S 4. Paragraph (a) of subdivision 2 of section 5 of chapter 274 of the  
19 laws of 1946, constituting the emergency housing rent control law, as  
20 amended by chapter 234 of the laws of 1984, is amended to read as  
21 follows:

22 (a) the landlord seeks in good faith to recover possession of A hous-  
23 ing [accommodations] ACCOMMODATION because of immediate and compelling  
24 necessity for his OR HER own personal use and occupancy AS HIS OR HER  
25 PRIMARY RESIDENCE or for the use and occupancy of his OR HER immediate  
26 family AS THEIR PRIMARY RESIDENCE; provided, however, this subdivision  
27 shall PERMIT RECOVERY OF ONLY ONE HOUSING ACCOMMODATION AND SHALL not  
28 apply where a member of the household lawfully occupying the housing  
29 accommodation is sixty-two years of age or older, has been a tenant in a  
30 housing accommodation in that building for twenty years or more, or has  
31 an impairment which results from anatomical, physiological or psycholog-  
32 ical conditions, other than addiction to alcohol, gambling, or any  
33 controlled substance, which are demonstrable by medically acceptable  
34 clinical and laboratory diagnostic techniques, and which are expected to  
35 be permanent and which prevent the tenant from engaging in any substan-  
36 tial gainful employment; or

37 S 5. This act shall take effect immediately and shall apply to any  
38 tenant in possession at or after the time it takes effect, regardless of  
39 whether the landlord's application for an order, refusal to renew a  
40 lease or refusal to extend or renew a tenancy took place before this act  
41 shall have taken effect, provided that:

42 a. the amendments to section 26-408 of the city rent and rehabili-  
43 tation law made by section one of this act shall remain in full force  
44 and effect only as long as the public emergency requiring the regulation  
45 and control of residential rents and evictions continues, as provided in  
46 subdivision 3 of section 1 of the local emergency housing rent control  
47 act;

48 b. the amendments to section 26-511 of the rent stabilization law of  
49 nineteen hundred sixty-nine made by section two of this act shall expire  
50 on the same date as such law expires and shall not affect the expiration  
51 of such law as provided under section 26-520 of such law;

52 c. the amendments to subdivision a of section 10 of section 4 of the  
53 emergency tenant protection act of nineteen seventy-four made by section  
54 three of this act shall expire on the same date as such act expires and  
55 shall not affect the expiration of such act as provided in section 17 of  
56 chapter 576 of the laws of 1974; and

1     d. the amendments to paragraph (a) of subdivision 2 of section 5 of  
2 the emergency housing rent control law made by section four of this act  
3 shall expire on the same date as such law expires and shall not affect  
4 the expiration of such law as provided in subdivision 2 of section 1 of  
5 chapter 274 of the laws of 1946.