

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, DIAZ, HASSELL-THOMPSON, KRUEGER, 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 and the
emergency tenant protection act of nineteen seventy-four, in relation
to the declaration of emergencies for certain rental housing accommo-
dations

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

1 Section 1. Subdivision a of section 26-504 of the administrative code
2 of the city of New York, subparagraph (f) of paragraph 1 as amended by
3 chapter 422 of the laws of 2010, is amended to read as follows:
4 a. Class A multiple dwellings not owned as a cooperative or as a
5 condominium, except as provided in section three hundred fifty-two-eeee
6 of the general business law, containing six or more dwelling units
7 which: (1) were completed after February first, nineteen hundred
8 forty-seven, except dwelling units (a) owned or leased by, or financed
9 by loans from, a public agency or public benefit corporation, (b)
10 subject to rent regulation under the private housing finance law or any
11 other state law, (c) aided by government insurance under any provision
12 of the national housing act, to the extent this chapter or any regu-
13 lation or order issued thereunder is inconsistent therewith, or (d)
14 located in a building for which a certificate of occupancy is obtained
15 after March tenth, nineteen hundred sixty-nine[;], or (e) any class A
16 multiple dwelling which on June first, nineteen hundred sixty-eight was
17 and still is commonly regarded as a hotel, transient hotel or residen-
18 tial hotel, and which customarily provides hotel service such as maid
19 service, furnishing and laundering of linen, telephone and bell boy
20 service, secretarial or desk service and use and upkeep of furniture and
21 fixtures, or (f) not occupied by the tenant, not including subtenants or

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

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1 occupants, as his or her primary residence, as determined by a court of
2 competent jurisdiction, provided, however that no action or proceeding
3 shall be commenced seeking to recover possession on the ground that a
4 housing accommodation is not occupied by the tenant as his or her prima-
5 ry residence unless the owner or lessor shall have given thirty days
6 notice to the tenant of his or her intention to commence such action or
7 proceeding on such grounds. For the purposes of determining primary
8 residency, a tenant who is a victim of domestic violence, as defined in
9 section four hundred fifty-nine-a of the social services law, who has
10 left the unit because of such violence, and who asserts an intent to
11 return to the housing accommodation shall be deemed to be occupying the
12 unit as his or her primary residence. For the purposes of this subpara-
13 graph where a housing accommodation is rented to a not-for-profit hospi-
14 tal for residential use, affiliated subtenants authorized to use such
15 accommodations by such hospital shall be deemed to be tenants, or (g)
16 became vacant on or after June thirtieth, nineteen hundred seventy-one,
17 or become vacant, provided however, that this exemption shall not apply
18 or become effective with respect to housing accommodations which the
19 commissioner determines or finds became vacant because the landlord or
20 any person acting on his or her behalf, with intent to cause the tenant
21 to vacate, engaged in any course of conduct (including but not limited
22 to, interruption or discontinuance of essential services) which inter-
23 fered with or disturbed or was intended to interfere with or disturb the
24 comfort, repose, peace or quiet of the tenant in his or her use or occu-
25 pancy of the housing accommodations and provided further that any hous-
26 ing accommodations exempted by this paragraph shall be subject to this
27 law to the extent provided in subdivision b of this section; or (2) were
28 decontrolled by the city rent agency pursuant to section 26-414 of this
29 title; or (3) are exempt from control by virtue of item one, two, six or
30 seven of subparagraph (i) of paragraph two of subdivision e of section
31 26-403 of this title; OR (4) WERE COVERED BY A PROJECT BASED ASSISTANCE
32 CONTRACT PURSUANT TO SECTION EIGHT OF THE UNITED STATES HOUSING ACT OF
33 1937 WHICH CONTRACT IS NO LONGER IN EFFECT, NOTWITHSTANDING THE
34 PROVISIONS OF SUBPARAGRAPH (D) OR (G) OF PARAGRAPH ONE OF THIS SUBDIVI-
35 SION OR PARAGRAPH FIVE OF SUBDIVISION A OF SECTION FIVE OF THE EMERGENCY
36 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PROVIDED HOWEVER, THAT
37 ANY DWELLING UNIT WHICH BECOMES SUBJECT TO THIS LAW PURSUANT TO THIS
38 PARAGRAPH SHALL NOT BE SUBJECT TO THE PROVISIONS OF SUBDIVISION A OF
39 SECTION 26-513 OF THIS CHAPTER; and

40 S 2. Section 5 of section 4 of chapter 576 of the laws of 1974 consti-
41 tuting the emergency tenant protection act of nineteen seventy-four is
42 amended by adding a new subdivision c to read as follows:

43 C. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH FIVE OF SUBDIVISION A
44 OF THIS SECTION BUT SUBJECT TO ANY OTHER APPLICABLE EXCEPTIONS IN SUCH
45 SUBDIVISION, NOTHING SHALL PREVENT THE DECLARATION OF AN EMERGENCY
46 PURSUANT TO SECTION THREE OF SECTION FOUR OF THIS ACT FOR RENTAL HOUSING
47 ACCOMMODATIONS LOCATED IN A BUILDING WHICH WAS COVERED BY A PROJECT
48 BASED ASSISTANCE CONTRACT PURSUANT TO SECTION EIGHT OF THE UNITED STATES
49 HOUSING ACT OF 1937 WHICH CONTRACT IS NO LONGER IN EFFECT PROVIDED
50 HOWEVER, THAT ANY HOUSING ACCOMMODATION WHICH BECOMES SUBJECT TO THIS
51 ACT PURSUANT TO THIS SUBDIVISION SHALL NOT BE SUBJECT TO THE PROVISIONS
52 OF SUBDIVISION A OF SECTION NINE OF SECTION FOUR OF THIS ACT.

53 S 3. This act shall take effect immediately and shall apply to all
54 buildings which are covered by a project based assistance contract
55 pursuant to section eight of the United States housing act of 1937 which
56 contract ceased to be effective on or after such date; provided, howev-

1 er, that the amendment to subdivision a of section 26-504 of the admin-
2 istrative code of the city of New York made by section one of this act
3 shall not affect the expiration of such section pursuant to section
4 26-520 of such code and shall expire therewith; and provided, further,
5 that the amendment to section 5 of the emergency tenant protection act
6 of nineteen seventy-four made by section two of this act shall not
7 affect the expiration of such act as provided in section 17 of chapter
8 576 of the laws of 1974, as amended, and shall expire therewith.