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

2994

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. V. LOPEZ, SILVER, BING, O'DONNELL, PERRY, ORTIZ, SPANO, WRIGHT, KAVANAGH -- Multi-Sponsored by -- M. of A. BROOK-KRASNY, FARRELL, JACOBS, JEFFRIES, ROSENTHAL -- 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 the declaration of emergencies for certain rental housing accommodations

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

Section 1. Subdivision a of section 26-504 of the administrative code of the city of New York, subparagraph (f) of paragraph 1 as amended by chapter 422 of the laws of 2010, is amended to read as follows:

a. Class A multiple dwellings not owned as a cooperative or as a condominium, except as provided in section three hundred fifty-two-eeee of the general business law, containing six or more dwelling units which: (1) were completed after February first, nineteen hundred forty-seven, except dwelling units (a) owned or leased by, or financed by loans from, a public agency or public benefit corporation, (b) subject to rent regulation under the private housing finance law or any other state law, (c) aided by government insurance under any provision of the national housing act, to the extent this chapter or any regulation or order issued thereunder is inconsistent therewith, or (d) located in a building for which a certificate of occupancy is obtained after March tenth, nineteen hundred sixty-nine[;], or (e) any class A multiple dwelling which on June first, nineteen hundred sixty-eight was and still is commonly regarded as a hotel, transient hotel or residential hotel, and which customarily provides hotel service such as maid service, furnishing and laundering of linen, telephone and bell boy service, secretarial or desk service and use and upkeep of furniture and 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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occupants, as his or her primary residence, as determined by a court of competent 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 left 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 (g) became vacant on or after June thirtieth, nineteen hundred seventy-one, or become vacant, provided however, that this exemption shall not apply or become effective with respect to housing accommodations which the commissioner determines or finds became vacant because the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including but not limited to, interruption or discontinuance of essential services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and provided further that any housing accommodations exempted by this paragraph shall be subject to this law to the extent provided in subdivision b of this section; or (2) were decontrolled by the city rent agency pursuant to section 26-414 of this title; or (3) are exempt from control by virtue of item one, two, six or seven of subparagraph (i) of paragraph two of subdivision e of section 26-403 of this title; OR (4) WERE COVERED BY A PROJECT BASED ASSISTANCE CONTRACT PURSUANT TO SECTION EIGHT OF THE UNITED STATES HOUSING ACT OF 1937 WHICH CONTRACT IS NO LONGER IN EFFECT, NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (D) OR (G) OF PARAGRAPH ONE OF THIS SUBDIVISION OR PARAGRAPH FIVE OF SUBDIVISION A OF SECTION FIVE OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PROVIDED HOWEVER, THAT ANY DWELLING UNIT WHICH BECOMES SUBJECT TO THIS LAW PURSUANT TO THIS PARAGRAPH SHALL NOT BE SUBJECT TO THE PROVISIONS OF SUBDIVISION A OF SECTION 26-513 OF THIS CHAPTER; and

S 2. 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 by adding a new subdivision c to read as follows:

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

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

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