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

3638

2011-2012 Regular Sessions

I N  A S S E M B L Y

January 26, 2011

Introduced by M. of A. GOTTFRIED, GLICK, DINOWITZ, COLTON, WRIGHT -- Multi-Sponsored by -- M. of A. V. LOPEZ -- read once and referred to the Committee on Housing

AN ACT to amend the emergency tenant protection act of nineteen seventy-four, in relation to protecting the home of a tenant sought by a landlord for personal use; and repealing certain provisions of the administrative code of the city of New York and the emergency housing rent control law relating to evictions for personal use

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

Section 1. Paragraph 1 of subdivision b of section 26-408 of the administrative code of the city of New York is REPEALED.

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(b) of paragraph 9 of subdivision c of section 26-511 of the administrative code of the city of New York is REPEALED.

S 3. Paragraph (a) of subdivision 2 of section 5 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, is REPEALED.

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 vacan-

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

LBD05352-01-1

cy 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] NO provision of the regulations [permitting] SHALL PERMIT an owner to refuse to renew a lease on grounds that the owner seeks to recover possession of the housing accommodation for his OR HER own use [and] OR occupancy or for the use [and] OR occupancy of his OR HER 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].

S 5. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, that shall not affect the validity or effectiveness of any other provision of this act, any other application of any provision of this act, or any other provision of any law or code amended by this act.

S 6. This act shall take effect immediately; and

a. shall apply to any tenant in possession of a housing accommodation at or after the effective date of this act, regardless of whether the landlord's or owner's application for an order, refusal to renew a lease, or refusal to extend or renew a tenancy took place before this act shall have taken effect;

b. the repeal of provisions of law made by this act shall not affect the availability of any right or remedy relating to any housing accommodation where the landlord or owner recovered possession under such provision prior to the taking effect of this act; and

c. the amendments to section 10 of the emergency tenant protection act of nineteen seventy-four made by section four of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974, as amended.

REPEAL NOTE.--The provisions of law proposed to be repealed by this act allow a landlord of a rent controlled or rent stabilized apartment to evict a tenant where the landlord seeks the apartment for the use and occupancy of the landlord or the landlord's immediate family.