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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. SQUADRON -- 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, 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

19 S 2. Subparagraph (b) of paragraph 9 of subdivision c of section
20 26-511 of the administrative code of the city of New York is amended to
21 read as follows:

22 (b) where he or she seeks to recover possession of one [or more]
23 dwelling [units] UNIT BECAUSE OF IMMEDIATE AND COMPELLING NECESSITY for
24 his or her own personal use and occupancy as his or her primary resi-

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

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

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

34 a. For cities having a population of less than one million and towns
35 and villages, the state division of housing and community renewal shall
36 be empowered to implement this act by appropriate regulations. Such
37 regulations may encompass such speculative or manipulative practices or
38 renting or leasing practices as the state division of housing and commu-
39 nity renewal determines constitute or are likely to cause circumvention
40 of this act. Such regulations shall prohibit practices which are likely
41 to prevent any person from asserting any right or remedy granted by this
42 act, including but not limited to retaliatory termination of periodic
43 tenancies and shall require owners to grant a new one or two year vacan-
44 cy or renewal lease at the option of the tenant, except where a mortgage
45 or mortgage commitment existing as of the local effective date of this
46 act provides that the owner shall not grant a one-year lease; and shall
47 prescribe standards with respect to the terms and conditions of new and
48 renewal leases, additional rent and such related matters as security
49 deposits, advance rental payments, the use of escalator clauses in leas-
50 es and provision for increase in rentals for garages and other ancillary
51 facilities, so as to insure that the level of rent adjustments author-
52 ized under this law will not be subverted and made ineffective. Any
53 provision of the regulations permitting an owner to refuse to renew a
54 lease on grounds that the owner seeks to recover possession of [the] A
55 housing accommodation for his OR HER own use and occupancy or for the
56 use and occupancy of his OR HER immediate family shall PERMIT RECOVERY

1 OF ONLY ONE HOUSING ACCOMMODATION, SHALL require that an owner demon-
2 strate immediate and compelling need AND THAT THE HOUSING ACCOMMODATION
3 WILL BE THE PROPOSED OCCUPANTS' PRIMARY RESIDENCE and shall not apply
4 where a member of the housing accommodation is sixty-two years of age or
5 older, has been a tenant in a housing accommodation in that building for
6 twenty years or more, or has an impairment which results from anatom-
7 ical, physiological or psychological conditions, other than addiction to
8 alcohol, gambling, or any controlled substance, which are demonstrable
9 by medically acceptable clinical and laboratory diagnostic techniques,
10 and which are expected to be permanent and which prevent the tenant from
11 engaging in any substantial gainful employment.

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

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

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

36 a. the amendments to section 26-408 of the city rent and rehabili-
37 tation law made by section one of this act shall remain in full force
38 and effect only as long as the public emergency requiring the regulation
39 and control of residential rents and evictions continues, as provided in
40 subdivision 3 of section 1 of the local emergency housing rent control
41 act;

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

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

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