

# STATE OF NEW YORK

5331

2019-2020 Regular Sessions

## IN ASSEMBLY

February 8, 2019

Introduced by M. of A. CYMBROWITZ, DE LA ROSA, WALKER, L. ROSENTHAL, BARRON -- 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~~] fifteen years or more, or has an  
13 impairment which results from anatomical, physiological or psychological  
14 conditions, 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 § 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

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

LBD09539-01-9

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

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

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

1 use and occupancy of his or her immediate family shall permit recovery  
2 of only one housing accommodation, shall require that an owner demon-  
3 strate immediate and compelling need and that the housing accommodation  
4 will be the proposed occupants' primary residence and shall not apply  
5 where a member of the housing accommodation is sixty-two years of age or  
6 older, has been a tenant in a housing accommodation in that building for  
7 [~~twenty~~] fifteen years or more, or has an impairment which results from  
8 anatomical, physiological or psychological conditions, other than  
9 addiction to alcohol, gambling, or any controlled substance, which are  
10 demonstrable by medically acceptable clinical and laboratory diagnostic  
11 techniques, and which are expected to be permanent and which prevent the  
12 tenant from engaging in any substantial gainful employment.

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

17 (a) the landlord seeks in good faith to recover possession of a hous-  
18 ing [~~accommodations~~] accommodation because of immediate and compelling  
19 necessity for his or her own personal use and occupancy as his or her  
20 primary residence or for the use and occupancy of his or her immediate  
21 family as their primary residence; provided, however, this subdivision  
22 shall permit recovery of only one housing accommodation and shall not  
23 apply where a member of the household lawfully occupying the housing  
24 accommodation is sixty-two years of age or older, has been a tenant in a  
25 housing accommodation in that building for [~~twenty~~] fifteen years or  
26 more, or has an impairment which results from anatomical, physiological  
27 or psychological conditions, other than addiction to alcohol, gambling,  
28 or any controlled substance, which are demonstrable by medically accept-  
29 able clinical and laboratory diagnostic techniques, and which are  
30 expected to be permanent and which prevent the tenant from engaging in  
31 any substantial gainful employment; or

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

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

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

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

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