INTRODUCED IN SENATE
May 11, 2020

Introduced by Sen. HOYLMAN — 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 public housing law, chapter 274 of the laws of 1946, constituting the emergency housing rent control law, chapter 21 of the laws of 1962, constituting the local emergency housing rent control act, chapter 576 of the laws of 1974, constituting the emergency tenant protection act, and the administrative code of the city of New York, in relation to temporary relocation due to the COVID-19 state disaster emergency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Clauses (v) and (vi) of paragraph (a) of subdivision 4 of section 14 of the public housing law, as added by chapter 116 of the laws of 1997, are amended to read as follows:

(v) is hospitalized for medical treatment; or

(vi) is not in residence at the housing accommodation between March seventh, two thousand twenty and the date of the expiration of the state disaster emergency, as such term is defined in section twenty of the executive law, declared pursuant to executive order two hundred two of two thousand twenty, as amended; or

has such other reasonable grounds that shall be determined by the commissioner upon application by such person.

§ 2. Paragraph (l) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 422 of the laws of 2010, is amended to read as follows:

(l) housing accommodations which are not occupied by the tenant in possession as his or her primary residence provided, however, that any such housing accommodation shall continue to be subject to rent control as provided herein unless the commission issues an order decontrolling such accommodation which the commission shall do upon application by the landlord, whenever it is established by any facts and circumstances which, in the judgment of the commission, may have a bearing upon the question of residence, that the tenant maintains his or her primary residence at some place other than at such housing accommodation. For the purposes of determining primary residency, the following individuals

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

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shall be deemed to be occupying the unit as their primary residence: (i) 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; and (ii) a tenant who temporarily relocates from the unit between March seventh, two thousand twenty and the date of the expiration of the state disaster emergency, as such term is defined in section twenty of the executive law, declared pursuant to executive order two hundred twenty of two thousand twenty, as amended, and who asserts an intent to return to the housing accommodation.

§ 3. The closing paragraph of subdivision 5 of section 1 of chapter 21 of the laws of 1962, constituting the local emergency housing rent control act, as amended by chapter 422 of the laws of 2010, is amended to read as follows:

Notwithstanding the foregoing, no local law or ordinance shall subject to such regulation and control any housing accommodation which is not occupied by the tenant in possession as his or her primary residence; provided, however, that such housing accommodation not occupied by the tenant in possession as his or her primary residence shall continue to be subject to regulation and control as provided for herein unless the city housing rent agency issues an order decontrolling such accommodation, which the agency shall do upon application by the landlord whenever it is established by any facts and circumstances which, in the judgment of the agency, may have a bearing upon the question of residence, that the tenant maintains his or her primary residence at some place other than at such housing accommodation. For the purposes of determining primary residency, the following individuals shall be deemed to be occupying the unit as their primary residence: (a) 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; and (b) a tenant who temporarily relocates from the unit between March seventh, two thousand twenty and the date of the expiration of the state disaster emergency, as such term is defined in section twenty of the executive law, declared pursuant to executive order two hundred twenty of two thousand twenty, as amended, and who asserts an intent to return to the housing accommodation.

§ 4. Paragraph 11 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act, as amended by section 1 of part J of chapter 36 of the laws of 2019, is amended to read as follows:

(11) housing accommodations which are not occupied by the tenant, not including subtenants or occupants, as his or her primary residence, as determined by a court of competent jurisdiction. For the purposes of determining primary residency, the following individuals shall be deemed to be occupying the unit as their primary residence: (a) 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; and (b) a tenant who temporarily relocates from the unit between March seventh, two thousand twenty and the date of the expiration of the state disaster emergency, as such term is defined in section twenty of the executive law, declared pursuant to executive
order two hundred two of two thousand twenty, as amended, and who asserts an intent to return to the housing accommodation. For the purposes of this paragraph, 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. For the purposes of this paragraph, where a housing accommodation is rented to a not-for-profit for providing, as of and after the effective date of the chapter of the laws of two thousand nineteen that amended this paragraph, permanent housing to individuals who are or were homeless or at risk of homelessness, affiliated subtenants authorized to use such accommodations by such not-for-profit shall be deemed to be tenants. 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.

§ 5. Clause 10 of subparagraph (i) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, as amended by chapter 422 of the laws of 2010, is amended to read as follows:

(10) Housing accommodations not occupied by the tenant, not including subtenants or occupants, as his or her primary residence, as determined by a court of competent jurisdiction. For the purposes of determining primary residency, the following individuals shall be deemed to be occupying the unit as their primary residence: (a) 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; and (b) a tenant who temporarily relocates from the unit between March seventh, two thousand twenty and the date of the expiration of the state disaster emergency, as such term is defined in section twenty of the executive law, declared pursuant to executive order two hundred two of two thousand twenty, as amended, and who asserts an intent to return to the housing accommodation. 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.

§ 6. 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-eee 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 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, the following individuals
shall be deemed to be occupying the unit as their primary residence: (i)
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]; and (ii) a tenant who temporarily relo-
cates from the unit between March seventh, two thousand twenty and the
date of the expiration of the state disaster emergency, as such term is
defined in section twenty of the executive law, declared pursuant to
executive order two hundred two of two thousand twenty, as amended, and
who asserts an intent to return to the housing accommodation. 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 essen-
tial 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 para-
graph 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 para-
graph two of subdivision e of section 26-403 of this title; and
§ 7. This act shall take effect immediately; provided, however, that:
(a) the amendments to clause 10 of subparagraph (i) of paragraph 2 of
subdivision e of section 26-403 of the city rent and rehabilitation law
made by section five of this act shall remain in full force and effect
only as long as the public emergency requiring the regulation and
control of residential rents and evictions continues, as provided in
subdivision 3 of section 1 of the local emergency housing rent control
act; and
(b) the amendments to subdivision a of section 26-504 of chapter 4 of
title 26 of the administrative code of the city of New York made by
section six of this act shall expire on the same date as such law
expires and shall not affect the expiration of such law as provided
under section 26-520 of such law.