

# STATE OF NEW YORK

4130

2019-2020 Regular Sessions

## IN SENATE

March 1, 2019

Introduced by Sen. KAVANAGH -- 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~~ 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  
24 his or her own personal use and occupancy as his or her primary resi-  
25 dence ~~in the city of New York and/or~~ or for the use and occupancy of a

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

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

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

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

strate immediate and compelling need and that the housing accommodation will be the proposed occupants' primary residence 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~~] fifteen 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.

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

(a) the landlord seeks in good faith to recover possession of a housing [~~accommodations~~] accommodation because of immediate and compelling necessity for his or her own personal use and occupancy as his or her primary residence or for the use and occupancy of his or her immediate family as their primary residence; provided, however, this subdivision shall permit recovery of only one housing accommodation and shall not apply where a member of the household lawfully occupying the housing accommodation is sixty-two years of age or older, has been a tenant in a housing accommodation in that building for [~~twenty~~] fifteen 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; or

§ 5. This act shall take effect immediately and shall apply to any tenant in possession at or after the time it takes effect, regardless of whether the landlord'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, provided that:

a. the amendments to section 26-408 of the city rent and rehabilitation law made by section one 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;

b. the amendments to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine made by section two 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;

c. the amendments to subdivision a of section 10 of section 4 of the emergency tenant protection act of nineteen seventy-four made by section three 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; and

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