

# STATE OF NEW YORK

8310

## 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:

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

4 (v) is hospitalized for medical treatment; ~~[ex]~~

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

10 (vii) has such other reasonable grounds that shall be determined by  
11 the commissioner upon application by such person.

12 § 2. Paragraph (1) of subdivision 2 of section 2 of chapter 274 of the  
13 laws of 1946, constituting the emergency housing rent control law, as  
14 amended by chapter 422 of the laws of 2010, is amended to read as  
15 follows:

16 (1) housing accommodations which are not occupied by the tenant in  
17 possession as his or her primary residence provided, however, that any  
18 such housing accommodation shall continue to be subject to rent control  
19 as provided herein unless the commission issues an order decontrolling  
20 such accommodation which the commission shall do upon application by the  
21 landlord, whenever it is established by any facts and circumstances  
22 which, in the judgment of the commission, may have a bearing upon the  
23 question of residence, that the tenant maintains his or her primary  
24 residence at some place other than at such housing accommodation. For  
25 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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1 shall be deemed to be occupying the unit as their primary residence: (i)  
2 a tenant who is a victim of domestic violence, as defined in section  
3 four hundred fifty-nine-a of the social services law, who has left the  
4 unit because of such violence, and who asserts an intent to return to  
5 the housing accommodation [~~shall be deemed to be occupying the unit as~~  
6 ~~his or her primary residence~~]; and (ii) a tenant who temporarily relo-  
7 cates from the unit between March seventh, two thousand twenty and the  
8 date of the expiration of the state disaster emergency, as such term is  
9 defined in section twenty of the executive law, declared pursuant to  
10 executive order two hundred two of two thousand twenty, as amended, and  
11 who asserts an intent to return to the housing accommodation.

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

16 Notwithstanding the foregoing, no local law or ordinance shall subject  
17 to such regulation and control any housing accommodation which is not  
18 occupied by the tenant in possession as his or her primary residence;  
19 provided, however, that such housing accommodation not occupied by the  
20 tenant in possession as his or her primary residence shall continue to  
21 be subject to regulation and control as provided for herein unless the  
22 city housing rent agency issues an order decontrolling such accommo-  
23 dation, which the agency shall do upon application by the landlord when-  
24 ever it is established by any facts and circumstances which, in the  
25 judgment of the agency, may have a bearing upon the question of resi-  
26 dence, that the tenant maintains his or her primary residence at some  
27 place other than at such housing accommodation. For the purposes of  
28 determining primary residency, the following individuals shall be deemed  
29 to be occupying the unit as their primary residence: (a) a tenant who is  
30 a victim of domestic violence, as defined in section four hundred  
31 fifty-nine-a of the social services law, who has left the unit because  
32 of such violence, and who asserts an intent to return to the housing  
33 accommodation [~~shall be deemed to be occupying the unit as his or her~~  
34 ~~primary residence~~]; and (b) a tenant who temporarily relocates from the  
35 unit between March seventh, two thousand twenty and the date of the  
36 expiration of the state disaster emergency, as such term is defined in  
37 section twenty of the executive law, declared pursuant to executive  
38 order two hundred two of two thousand twenty, as amended, and who  
39 asserts an intent to return to the housing accommodation.

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

44 (11) housing accommodations which are not occupied by the tenant, not  
45 including subtenants or occupants, as his or her primary residence, as  
46 determined by a court of competent jurisdiction. For the purposes of  
47 determining primary residency, the following individuals shall be deemed  
48 to be occupying the unit as their primary residence: (a) a tenant who is  
49 a victim of domestic violence, as defined in section four hundred  
50 fifty-nine-a of the social services law, who has left the unit because  
51 of such violence, and who asserts an intent to return to the housing  
52 accommodation [~~shall be deemed to be occupying the unit as his or her~~  
53 ~~primary residence~~]; and (b) a tenant who temporarily relocates from the  
54 unit between March seventh, two thousand twenty and the date of the  
55 expiration of the state disaster emergency, as such term is defined in  
56 section twenty of the executive law, declared pursuant to executive

1 order two hundred two of two thousand twenty, as amended, and who  
2 asserts an intent to return to the housing accommodation. For the  
3 purposes of this paragraph, where a housing accommodation is rented to a  
4 not-for-profit hospital for residential use, affiliated subtenants  
5 authorized to use such accommodations by such hospital shall be deemed  
6 to be tenants. For the purposes of this paragraph, where a housing  
7 accommodation is rented to a not-for-profit for providing, as of and  
8 after the effective date of the chapter of the laws of two thousand  
9 nineteen that amended this paragraph, permanent housing to individuals  
10 who are or were homeless or at risk of homelessness, affiliated subten-  
11 ants authorized to use such accommodations by such not-for-profit shall  
12 be deemed to be tenants. No action or proceeding shall be commenced  
13 seeking to recover possession on the ground that a housing accommodation  
14 is not occupied by the tenant as his or her primary residence unless the  
15 owner or lessor shall have given thirty days notice to the tenant of his  
16 or her intention to commence such action or proceeding on such grounds.

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

21 (10) Housing accommodations not occupied by the tenant, not including  
22 subtenants or occupants, as his or her primary residence, as determined  
23 by a court of competent jurisdiction. For the purposes of determining  
24 primary residency, the following individuals shall be deemed to be occu-  
25 pying the unit as their primary residence: (a) a tenant who is a victim  
26 of domestic violence, as defined in section four hundred fifty-nine-a of  
27 the social services law, who has left the unit because of such violence,  
28 and who asserts an intent to return to the housing accommodation ~~shall~~  
29 ~~be deemed to be occupying the unit as his or her primary residence~~; and  
30 (b) a tenant who temporarily relocates from the unit between March  
31 seventh, two thousand twenty and the date of the expiration of the state  
32 disaster emergency, as such term is defined in section twenty of the  
33 executive law, declared pursuant to executive order two hundred two of  
34 two thousand twenty, as amended, and who asserts an intent to return to  
35 the housing accommodation. No action or proceeding shall be commenced

36 seeking to recover possession on the ground that a housing accommodation  
37 is not occupied by the tenant as his or her primary residence unless the  
38 owner or lessor shall have given thirty days notice to the tenant of his  
39 or her intention to commence such action or proceeding on such grounds.

40 § 6. Subdivision a of section 26-504 of the administrative code of  
41 the city of New York, subparagraph (f) of paragraph 1, as amended by  
42 chapter 422 of the laws of 2010, is amended to read as follows:

43 a. Class A multiple dwellings not owned as a cooperative or as a  
44 condominium, except as provided in section three hundred fifty-two-eeee  
45 of the general business law, containing six or more dwelling units  
46 which:

47 (1) were completed after February first, nineteen hundred forty-seven,  
48 except dwelling units (a) owned or leased by, or financed by loans from,  
49 a public agency or public benefit corporation, (b) subject to rent regu-  
50 lation under the private housing finance law or any other state law, (c)  
51 aided by government insurance under any provision of the national hous-  
52 ing act, to the extent this chapter or any regulation or order issued  
53 thereunder is inconsistent therewith, or (d) located in a building for  
54 which a certificate of occupancy is obtained after March tenth, nineteen  
55 hundred sixty-nine; or (e) any class A multiple dwelling which on June  
56 first, nineteen hundred sixty-eight was and still is commonly regarded

1 as a hotel, transient hotel or residential hotel, and which customarily  
2 provides hotel service such as maid service, furnishing and laundering  
3 of linen, telephone and bell boy service, secretarial or desk service  
4 and use and upkeep of furniture and fixtures, or (f) not occupied by the  
5 tenant, not including subtenants or occupants, as his or her primary  
6 residence, as determined by a court of competent jurisdiction, provided,  
7 however that no action or proceeding shall be commenced seeking to  
8 recover possession on the ground that a housing accommodation is not  
9 occupied by the tenant as his or her primary residence unless the owner  
10 or lessor shall have given thirty days notice to the tenant of his or  
11 her intention to commence such action or proceeding on such grounds. For  
12 the purposes of determining primary residency, the following individuals  
13 shall be deemed to be occupying the unit as their primary residence: (i)  
14 a tenant who is a victim of domestic violence, as defined in section  
15 four hundred fifty-nine-a of the social services law, who has left the  
16 unit because of such violence, and who asserts an intent to return to  
17 the housing accommodation ~~shall be deemed to be occupying the unit as~~  
18 ~~his or her primary residence~~; and (ii) a tenant who temporarily relo-  
19 cates from the unit between March seventh, two thousand twenty and the  
20 date of the expiration of the state disaster emergency, as such term is  
21 defined in section twenty of the executive law, declared pursuant to  
22 executive order two hundred two of two thousand twenty, as amended, and  
23 who asserts an intent to return to the housing accommodation. For the  
24 purposes of this subparagraph where a housing accommodation is rented to  
25 a not-for-profit hospital for residential use, affiliated subtenants  
26 authorized to use such accommodations by such hospital shall be deemed  
27 to be tenants, or (g) became vacant on or after June thirtieth, nineteen  
28 hundred seventy-one, or become vacant, provided however, that this  
29 exemption shall not apply or become effective with respect to housing  
30 accommodations which the commissioner determines or finds became vacant  
31 because the landlord or any person acting on his or her behalf, with  
32 intent to cause the tenant to vacate, engaged in any course of conduct  
33 (including but not limited to, interruption or discontinuance of essen-  
34 tial services) which interfered with or disturbed or was intended to  
35 interfere with or disturb the comfort, repose, peace or quiet of the  
36 tenant in his or her use or occupancy of the housing accommodations and  
37 provided further that any housing accommodations exempted by this para-  
38 graph shall be subject to this law to the extent provided in subdivision  
39 b of this section; or (2) were decontrolled by the city rent agency  
40 pursuant to section 26-414 of this title; or (3) are exempt from control  
41 by virtue of item one, two, six or seven of subparagraph (i) of para-  
42 graph two of subdivision e of section 26-403 of this title; and

43 § 7. This act shall take effect immediately; provided, however, that:

44 (a) the amendments to clause 10 of subparagraph (i) of paragraph 2 of  
45 subdivision e of section 26-403 of the city rent and rehabilitation law  
46 made by section five of this act shall remain in full force and effect  
47 only as long as the public emergency requiring the regulation and  
48 control of residential rents and evictions continues, as provided in  
49 subdivision 3 of section 1 of the local emergency housing rent control  
50 act; and

51 (b) the amendments to subdivision a of section 26-504 of chapter 4 of  
52 title 26 of the administrative code of the city of New York made by  
53 section six of this act shall expire on the same date as such law  
54 expires and shall not affect the expiration of such law as provided  
55 under section 26-520 of such law.