

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.

LBD16337-01-0

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.