

STATE OF NEW YORK

5521

2021-2022 Regular Sessions

IN ASSEMBLY

February 19, 2021

Introduced by M. of A. FITZPATRICK -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York, the emergency housing rent control law and the emergency tenant protection act of nineteen seventy-four, in relation to the eviction of tenants on grounds of landlord's personal use

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

Section 1. Paragraph 1 of subdivision b of section 26-408 of the administrative code of the city of New York, as amended by section 1 of part I of chapter 36 of the laws of 2019, is amended to read as follows:

(1) The landlord seeks in good faith to recover possession of a housing 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, that 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 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~~]; provided, further, that a tenant required to surrender a housing accommodation by virtue of the operation of subdivision g or h of this section shall have a cause of action in any court of competent jurisdiction for damages, declaratory, and injunctive relief against a landlord or purchaser of the premises who makes a fraudulent statement regarding a proposed use of the housing accommodation. In any action or

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

LBD08172-01-1

1 proceeding brought pursuant to this paragraph a prevailing tenant shall
2 be entitled to recovery of actual damages, and reasonable attorneys'
3 fees; or

4 § 2. Paragraph (a) of subdivision 2 of section 5 of chapter 274 of the
5 laws of 1946, constituting the emergency housing rent control law, as
6 amended by section 16 of part Q of chapter 39 of the laws of 2019, is
7 amended to read as follows:

8 (a) the landlord seeks in good faith to recover possession of a hous-
9 ing accommodation [~~because of immediate and compelling necessity~~] for
10 his or her own personal use and occupancy as his or her primary resi-
11 dence or for the use and occupancy of his or her immediate family as
12 their primary residence[, ~~provided, however, this subdivision shall~~
13 ~~permit recovery of only one housing accommodation and shall not apply~~
14 ~~where a member of the household lawfully occupying the housing accommo-~~
15 ~~dation is sixty-two years of age or older, has been a tenant in a hous-~~
16 ~~ing accommodation in that building for fifteen years or more, or has an~~
17 ~~impairment which results from anatomical, physiological or psychological~~
18 ~~conditions, other than addiction to alcohol, gambling, or any controlled~~
19 ~~substance, which are demonstrable by medically acceptable clinical and~~
20 ~~laboratory diagnostic techniques, and which are expected to be permanent~~
21 ~~and which prevent the tenant from engaging in any substantial gainful~~
22 ~~employment~~]; provided, however, that a tenant required to surrender a
23 housing accommodation under this paragraph shall have a cause of action
24 in any court of competent jurisdiction for damages, declaratory, and
25 injunctive relief against a landlord or purchaser of the premises who
26 makes a fraudulent statement regarding a proposed use of the housing
27 accommodation. In any action or proceeding brought pursuant to this
28 paragraph a prevailing tenant shall be entitled to recovery of actual
29 damages, and reasonable attorneys' fees; or

30 § 3. Subdivision a of section 10 of section 4 of chapter 576 of the
31 laws of 1974, constituting the emergency tenant protection act of nine-
32 teen seventy-four, as amended by section 15 of part Q of chapter 39 of
33 the laws of 2019, is amended to read as follows:

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

~~one housing accommodation, shall require that an owner demonstrate 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 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, provided]~~ Provided,

however, that a tenant required to surrender a housing accommodation under this subdivision shall have a cause of action in any court of competent jurisdiction for damages, declaratory, and injunctive relief against a landlord or purchaser of the premises who makes a fraudulent statement regarding a proposed use of the housing accommodation. In any action or proceeding brought pursuant to this subdivision a prevailing tenant shall be entitled to recovery of actual damages, and reasonable attorneys' fees.

§ 4. This act shall take effect immediately; provided that the amendment 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.