STATE OF NEW YORK

7499

2025-2026 Regular Sessions

IN ASSEMBLY

March 28, 2025

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

AN ACT to amend the administrative code of the city of New York and the emergency tenant protection act of nineteen seventy-four, in relation to determining primary residency; and to amend the tax law, in relation to verification of residence

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

Section 1. 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~~] **such tenant's** primary residence, as determined by a court of competent jurisdiction. For **purposes of determining primary residency, as used in this chapter, the failure to file a New York city resident income tax return for the two preceding calendar years (setting forth the housing accommodation as an individual's residence) by an individual required by law to file such a return, shall result in a finding that the tenant does not occupy the unit as such tenant's primary residence; provided, however, that this provision shall not apply to an individual who has requested an extension of time for payment of tax, or who is not required to file a resident income tax return, or where any other factor exists which would excuse the timely filing of the return; provided further, that the timely filing of the return, alone, shall not result in a presumption that the individual does occupy the unit as such individual's primary residence or that the filing of an action to determine a tenant's primary residence shall not preclude such tenant from filing an amended tax return provided that such amended return is filed within sixty days of the commencement of the action. Further, for** the purposes of determining primary residency,

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

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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~~] **such tenant's** primary residence. 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~~] **such tenant's** primary residence unless the owner or lessor shall have given thirty days notice to the tenant of [~~his or her~~] **such owner's or lessor's** intention to commence such action or proceeding on such grounds.

§ 2. Subparagraph (f) of paragraph 1 of subdivision a of section 26-504 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:

(f) not occupied by the tenant, not including subtenants or occupants, as [~~his or her~~] **such tenant's** primary residence, as determined by a court of competent jurisdiction[~~, provided, however that no~~]**. For purposes of determining primary residency, as used in this chapter, the failure to file a New York city resident income tax return for the two preceding calendar years (setting forth the housing accommodation as an individual's residence) by an individual required by law to file such a return, shall result in a finding that the tenant does not occupy the unit as such tenant's primary residence; provided, however, that this provision shall not apply to an individual who has requested an extension of time for payment of tax, or who is not required to file a resident income tax return, or where any other factor exists which would excuse the timely filing of a return; provided further, that the timely filing of the return, alone, shall not result in a presumption that the individual does occupy the unit as such individual's primary residence or that the filing of an action to determine a tenant's primary residence shall not preclude such tenant from filing an amended tax return provided that such amended return is filed within sixty days of the commencement of the action. Further, 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~~] **such tenant's** primary residence unless the owner or lessor shall have given thirty days notice to the tenant of [~~his or her~~] **such owner's or lessor's** intention to commence such action or proceeding on such grounds. For the purposes of determining primary residency, 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~~] **such tenant's** primary residence. 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

§ 3. 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 of nineteen seventy-four, 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~~] **such tenant's** primary residence, as determined by a court of competent jurisdiction. For the purposes of determining primary residency, 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~~] such tenant's primary residence. Further, for purposes of determining primary residency, as used in this chapter, the failure to file a New York state resident income tax return for the two preceding calendar years (setting forth the housing accommodation as an individual's residence) by an individual required by law to file such a return, shall result in a finding that the tenant does not occupy the unit as such tenant's primary residence; provided, however, that this provision shall not apply to an individual who has requested an extension of time for payment of tax, or who is not required to file a resident income tax return, or where any other factor exists which would excuse the timely filing of the return; provided further, that the timely filing of the return, alone, shall not result in a presumption that the individual does occupy the unit as such individual's primary residence or that the filing of an action to determine a tenant's primary residence shall not preclude such tenant from filing an amended tax return provided that such amended return is filed within sixty days of the commencement of the action. 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~~] June fourteenth, two thousand nineteen, 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~~] such tenant's primary residence unless the owner or lessor shall have given thirty days notice to the tenant of [~~his or her~~] such owner's or lessor's intention to commence such action or proceeding on such grounds.

§ 4. The tax law is amended by adding a new section 171-bb to read as follows:

§ 171-bb. Verification of residence filing address. (1) The commissioner is authorized to verify to owners of multiple dwellings covered by the city rent and rehabilitation law, the rent stabilization law of nineteen hundred sixty-nine and/or the emergency tenant protection act of nineteen seventy-four whether or not, in a given calendar year, a New York city or New York state resident income tax return was filed by an individual who is a tenant in the owner's multiple dwelling and, if so, the residence address which is set forth on the tax return. Such verification shall be in writing and shall be considered a certificate or affidavit for the purposes of rule forty-five hundred twenty of the civil practice law and rules.

(2) The department may charge a reasonable fee, to be determined by the commissioner, in payment to the department for the expense incurred in verifying the filing and residence address.

(3) The commissioner shall promulgate such rules and regulations as it deems necessary to carry out the provisions of this section.

§ 5. This act shall take effect immediately; provided that the amendment to section 26-403 of the city rent and rehabilitation law made by section one of this act shall remain in full force and effect only so 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 provided further that the amendment to section 26-504 of chapter 4 of title 26 of the administrative code of the city of New York 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.