

# FACT SHEET



George E. Pataki, Governor  
Joseph H. Holland, Commissioner

A PUBLICATION OF NEW YORK STATE  
DIVISION OF HOUSING AND COMMUNITY RENEWAL  
OFFICE OF RENT ADMINISTRATION

## # 30 Succession Rights

For rent stabilized and rent controlled apartments throughout New York State, any "family member" of the tenant (see definition of "family member" below) may have the right to a renewal lease (rent stabilization) or protection from eviction (rent control) when the tenant dies or permanently leaves the apartment.

The family member's right to a renewal lease or protection from eviction is dependent upon such family member having resided with the tenant as a primary resident in the apartment for two (2) years immediately prior to the death of, or permanent leaving of, the apartment by the tenant (1 year for family members who are senior citizens or disabled persons - see definitions below). The family member may also have the right to a renewal lease or protection from eviction if he/she resided with the tenant from the inception of the tenancy or from the commencement of the relationship.

### **Family Member**

"Family member" is defined as a husband, wife, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, nephew, niece, uncle, aunt, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law or daughter-in-law of the tenant or permanent tenant.

The definition of "family member" also includes any other person(s) residing with the tenant or permanent tenant in the housing accommodation as a primary resident, who can prove emotional and financial commitment and interdependence between such person(s) and the tenant.

The following are to be considered in determining whether emotional and financial commitment and interdependence between the tenant and such other occupants existed:

- (a) longevity of the relationship;
- (b) sharing of or relying upon each other for payment of household or family expenses, and/or other common necessities of life;

- (c) intermingling of finances as evidenced by, among other things, joint ownership of bank accounts, personal and real property, credit cards, and loan obligations, sharing a household budget for purposes of receiving government benefits, etc.;
- (d) engaging in family-type activities by jointly attending family functions, holidays and celebrations, social and recreational activities, etc.;
- (e) formalizing of legal obligations, intentions, and responsibilities to each other by such means as executing wills, naming each other as executor and/or beneficiary, granting each other a power of attorney and/or conferring upon each other authority to make health care decisions each for the other, entering into a personal relationship contract, making a domestic partnership declaration, or serving as a representative payee for purposes of public benefits, etc.;
- (f) holding themselves out as family members to other family members, friends, members of the community or religious institutions, or society in general, through their works or actions;
- (g) regularly performing family functions, such as caring for each other's extended family members and/or relying upon each other for daily family services.

The determination is not limited to any one factor, and in no event would evidence of a sexual relationship between such persons be required or considered.

"Tenant" relates to any person or persons named on a lease or rental agreement who is or are obligated to pay rent for the use of the housing accommodation.

"Permanent tenant" relates to individuals who have continuously resided in housing

accommodations located in hotels as a primary residence for a period of at least six months, or a hotel tenant in occupancy pursuant to or entitled to a lease.

### **Disabled Person**

"Disabled person" is defined as a person who 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 substantially limit one or more of such person's major life activities.

### **Senior Citizen**

"Senior citizen" is defined as a person who is sixty-two years of age or older.

The minimum periods of required residency will not be considered interrupted by any period during which the "family member" temporarily relocates because he or she:

- (i) is engaged in active military duty;
- (ii) is enrolled as a full-time student;
- (iii) is not in residence at the housing accommodation in accordance with a court order not involving any term or provision of the lease and not involving any grounds specified in the Real Property Actions and Proceedings Law;
- (iv) is engaged in employment requiring temporary relocation from the housing accommodation;
- (v) is hospitalized for medical treatment; or
- (vi) has such other reasonable grounds that shall be determined by DHCR upon application by the family member.

On the *Notice To Owner Of Family Members Residing With The Named Tenant In The Apartment Who May Be Entitled To Succession Rights/Protection From Eviction* (DHCR Form RA-23.5), the tenant may at any time, inform the owner of the names of all persons (other than the tenant), who are residing in the apartment. Or, the owner may request from the tenant the names of all such persons at the time a renewal lease is offered.

For rent controlled apartments, the owner may request this information at any time.

The following information pertaining to such persons should accompany the names:

- (1) if the person is a family member as defined above;
- (2) if the person may become entitled to be named as a tenant on a renewal lease or become entitled to protection from eviction upon the passage of the applicable minimum period of required residency;
- (3) the date of the commencement of such person's primary residence with the tenant; and
- (4) if the person is a senior citizen or disabled person as defined above.

Failure of the tenant to provide such information to the owner, regardless of whether the owner requests the information, shall place upon all such persons whose names were not submitted, and who seek to exercise the right to be named as a tenant on a renewal lease or to protection from eviction, the affirmative obligation to establish such right.

*For more information or assistance, call the DHCR Rent InfoLine, or visit your Borough or County Rent Office.*

**Central**  
92-31 Union Hall Street  
4th Floor  
Jamaica, NY 11433  
(718) 739-6400

**Brooklyn**  
250 Schermerhorn Street  
3rd Floor  
Brooklyn, NY 11201

**Upper Manhattan**  
163 W. 125th Street  
5th Floor  
New York, NY 10027  
North side of 110th St. and above

**Nassau County**  
50 Clinton Street  
6th Floor  
Hempstead, NY 11550

**Westchester County**  
55 Church Street  
White Plains, NY 10601

**Lower Manhattan**  
156 William Street  
9th Floor  
New York, NY 10038  
South side of 110th St. and below

**Bronx**  
1 Fordham Plaza  
2nd Floor  
Bronx, NY 10458

**Staten Island**  
60 Bay Street  
7th Floor  
Staten Island, NY 10301

**Rockland County**  
94-96 North Main Street  
Spring Valley, NY 10977