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I N   A S S E M B L Y

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Introduced by M. of A. V. LOPEZ, LENTOL, MILLMAN, CYMBROWITZ, GOTTFRIED, KAVANAGH -- Multi-Sponsored by -- M. of A. ABBATE, BENJAMIN, COLTON, GLICK, JACOBS, ORTIZ, PERRY, ROSENTHAL -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the multiple dwelling law, in relation to interim multiple dwellings in a city of more than one million persons and to amend chapter 349 of the laws of 1982, amending the multiple dwelling law relating to legalization of interim multiple dwellings in cities over one million, in relation to the effectiveness of such chapter

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 281 of the multiple dwelling law is amended by  
2     adding a new subdivision 5 to read as follows:  
3     5. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (I), (III) AND (IV) OF  
4     SUBDIVISION TWO OF THIS SECTION, BUT SUBJECT TO PARAGRAPHS (I) AND (II)  
5     OF SUBDIVISION ONE OF THIS SECTION AND PARAGRAPH (II) OF SUBDIVISION TWO  
6     OF THIS SECTION, THE TERM "INTERIM MULTIPLE DWELLING" SHALL INCLUDE  
7     BUILDINGS, STRUCTURES OR PORTIONS THEREOF THAT ARE LOCATED IN A CITY OF  
8     MORE THAN ONE MILLION PERSONS WHICH WERE OCCUPIED FOR RESIDENTIAL  
9     PURPOSES AS THE RESIDENCE OR HOME OF ANY TWO OR MORE FAMILIES LIVING  
10    INDEPENDENTLY FROM ONE ANOTHER FOR A PERIOD OF TWELVE CONSECUTIVE MONTHS  
11    DURING THE PERIOD COMMENCING JANUARY FIRST, TWO THOUSAND EIGHT, AND  
12    ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND NINE. A REDUCTION IN THE  
13    NUMBER OF OCCUPIED RESIDENTIAL UNITS IN A BUILDING AFTER MEETING THE  
14    AFOREMENTIONED TWELVE CONSECUTIVE MONTH REQUIREMENT SHALL NOT ELIMINATE  
15    THE PROTECTIONS OF THIS SECTION FOR ANY REMAINING RESIDENTIAL OCCUPANTS

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

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1 QUALIFIED FOR SUCH PROTECTIONS. NON-RESIDENTIAL SPACE IN A BUILDING AS  
2 OF THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL BE OFFERED FOR RESIDEN-  
3 TIAL USE ONLY AFTER THE OBTAINING OF A RESIDENTIAL CERTIFICATE OF OCCU-  
4 PANCY FOR SUCH SPACE AND SUCH SPACE SHALL BE EXEMPT FROM THIS ARTICLE,  
5 EVEN IF A PORTION OF SUCH BUILDING MAY BE AN INTERIM MULTIPLE DWELLING.

6 S 2. Section 282 of the multiple dwelling law, as added by chapter 349  
7 of the laws of 1982, is amended to read as follows:

8 S 282. Establishment of special loft unit. In order to resolve  
9 complaints of owners of interim multiple dwellings and of residential  
10 occupants of such buildings qualified for the protection of this arti-  
11 cle, and to act upon hardship applications made pursuant to this arti-  
12 cle, a special loft unit referred to herein as the "loft board" shall be  
13 established which shall consist of from four to nine members represen-  
14 tative of the public, the real estate industry, loft residential  
15 tenants, and loft manufacturing interests, and a chairperson, all to be  
16 appointed by the mayor of the municipality and to serve such terms as he  
17 may designate. The compensation of the members of the loft board shall  
18 be fixed by the mayor. The members of the loft board shall not be  
19 considered employees of the state or the municipality, provided, howev-  
20 er, that state or municipal employees or officers may be named to the  
21 loft board. The mayor shall establish the loft board within ninety days  
22 of the effective date of [the act which added this article] CHAPTER  
23 THREE HUNDRED FORTY-NINE OF THE LAWS OF NINETEEN HUNDRED EIGHTY-TWO.  
24 The loft board shall have such office and staff as shall be necessary to  
25 carry out functions conferred upon it and may request and receive  
26 assistance from any state or municipal agency or department. The loft  
27 board shall have the following duties: (a) the determination of interim  
28 multiple dwelling status and other issues of coverage pursuant to this  
29 article; (b) the resolution of all hardship appeals brought under this  
30 article; (c) the determination of any claim for rent adjustment under  
31 this article by an owner or tenant; (d) the issuance, after a public  
32 hearing, and the enforcement of rules and regulations governing minimum  
33 housing maintenance standards in interim multiple dwellings (subject to  
34 the provisions of this chapter and any local building code), rent  
35 adjustments prior to legalization, compliance with this article and the  
36 hearing of complaints and applications made to it pursuant to this arti-  
37 cle; and (e) determination of controversies arising over the fair market  
38 value of a residential tenant's fixtures or reasonable moving expenses.  
39 The violation of any rule or regulation promulgated by the loft board  
40 shall be punishable by a civil penalty determined by the loft board not  
41 to exceed one thousand dollars which may be recovered by the munici-  
42 pality by a proceeding in any court of competent jurisdiction. The loft  
43 board may charge and collect reasonable fees in the execution of its  
44 responsibilities. The loft board may administer oaths, take affidavits,  
45 hear testimony, and take proof under oath at public or private hearings.

46 S 3. Subdivision 1 of section 284 of the multiple dwelling law, as  
47 amended by section 2 of part BB of chapter 85 of the laws of 2002, para-  
48 graph (v) as amended by section 2 of part PP-1 of chapter 57 of the laws  
49 of 2008, is amended to read as follows:

50 1. (i) The owner of an interim multiple dwelling (A) shall file an  
51 alteration application within nine months from the effective date of  
52 [the act which added this article] CHAPTER THREE HUNDRED FORTY-NINE OF  
53 THE LAWS OF NINETEEN HUNDRED EIGHTY-TWO, and (B) shall take all reason-  
54 able and necessary action to obtain an approved alteration permit within  
55 twelve months from such effective date, and (C) shall achieve compliance  
56 with the standards of safety and fire protection set forth in article

1 seven-B of this chapter for the residential portions of the building  
2 within eighteen months from obtaining such alteration permit or eighteen  
3 months from such effective date, whichever is later, and (D) shall take  
4 all reasonable and necessary action to obtain a certificate of occupancy  
5 as a class A multiple dwelling for the residential portions of the  
6 building or structure within thirty-six months from such effective date.  
7 The loft board may, upon good cause shown, and upon proof of compliance  
8 with the standards of safety and fire protection set forth in article  
9 seven-B of this chapter, twice extend the time of compliance with the  
10 requirement to obtain a residential certificate of occupancy for periods  
11 not to exceed twelve months each.

12 (ii) An owner of an interim multiple dwelling who has not complied  
13 with the requirements of paragraph (i) of this subdivision by the effec-  
14 tive date of [the chapter of the laws of nineteen hundred ninety-two  
15 which added this paragraph] CHAPTER TWO HUNDRED TWENTY-SEVEN OF THE LAWS  
16 OF NINETEEN HUNDRED NINETY-TWO shall hereafter be deemed in compliance  
17 with this subdivision provided that such owner files an alteration  
18 application by October first, nineteen hundred ninety-two, takes all  
19 reasonable and necessary action to obtain an approved alteration permit  
20 by October first, nineteen hundred ninety-three, achieves compliance  
21 with the standards of safety and fire protection set forth in article  
22 seven-B of this chapter for the residential portions of the building by  
23 April first, nineteen hundred ninety-five, or within eighteen months  
24 from obtaining an approved alteration permit, whichever is later, and  
25 takes all reasonable and necessary action to obtain a certificate of  
26 occupancy as a class A multiple dwelling for the residential portions of  
27 the building or structure by October first, nineteen hundred ninety-five  
28 or within six months from achieving compliance with the aforementioned  
29 standards for the residential portions of the building, whichever is  
30 later.

31 (iii) An owner of an interim multiple dwelling who has not complied  
32 with the requirements of paragraph (i) or (ii) of this subdivision by  
33 the effective date of [the chapter of the laws of nineteen hundred nine-  
34 ty-six which added this paragraph] CHAPTER THREE HUNDRED NINE OF THE  
35 LAWS OF NINETEEN HUNDRED NINETY-SIX shall hereafter be deemed in compli-  
36 ance with this subdivision provided that such owner files an alteration  
37 application by October first, nineteen hundred ninety-six, takes all  
38 reasonable and necessary action to obtain an approved alteration permit  
39 by October first, nineteen hundred ninety-seven, achieves compliance  
40 with the standards of safety and fire protection set forth in article  
41 seven-B of this chapter for the residential portions of the building by  
42 April first, nineteen hundred ninety-nine or within eighteen months from  
43 obtaining an approved alteration permit whichever is later, and takes  
44 all reasonable and necessary action to obtain a certificate of occupancy  
45 as a class A multiple dwelling for the residential portions of the  
46 building or structure by June thirtieth, nineteen hundred ninety-nine or  
47 within three months from achieving compliance with the aforementioned  
48 standards for the residential portions of the building, whichever is  
49 later.

50 (iv) An owner of an interim multiple dwelling who has not complied  
51 with the requirements of paragraph (i), (ii) or (iii) of this subdivi-  
52 sion by the effective date of this paragraph as provided in chapter four  
53 hundred fourteen of the laws of nineteen hundred ninety-nine which added  
54 this paragraph shall hereafter be deemed in compliance with this subdivi-  
55 sion provided that such owner files an alteration application by  
56 September first, nineteen hundred ninety-nine, takes all reasonable and

1 necessary action to obtain an approved alteration permit by March first,  
2 two thousand, achieves compliance with the standards of safety and fire  
3 protection set forth in article seven-B of this chapter for the residen-  
4 tial portions of the building by May first, two thousand two or within  
5 twelve months from obtaining an approved alteration permit whichever is  
6 later, and takes all reasonable and necessary action to obtain a certifi-  
7 cate of occupancy as a class A multiple dwelling for the residential  
8 portions of the building or structure by May thirty-first, two thousand  
9 two or within one month from achieving compliance with the aforemen-  
10 tioned standards for the residential portions of the building, whichever  
11 is later.

12 (v) An owner of an interim multiple dwelling who has not complied with  
13 the requirements of paragraph (i), (ii), (iii) or (iv) of this subdivi-  
14 sion by the effective date of this paragraph as provided in chapter  
15 eighty-five of the laws of two thousand two shall hereafter be deemed in  
16 compliance with this subdivision provided that such owner filed an  
17 alteration application by September first, nineteen hundred ninety-nine,  
18 took all reasonable and necessary action to obtain an approved alter-  
19 ation permit by March first, two thousand, achieves compliance with the  
20 standards of safety and fire protection set forth in article seven-B of  
21 this chapter for the residential portions of the building by May first,  
22 two thousand [ten] TWELVE or within twelve months from obtaining an  
23 approved alteration permit whichever is later, and takes all reasonable  
24 and necessary action to obtain a certificate of occupancy as a class A  
25 multiple dwelling for the residential portions of the building or struc-  
26 ture by May thirty-first, two thousand [ten] TWELVE or within one month  
27 from achieving compliance with the aforementioned standards for the  
28 residential portions of the building, whichever is later.

29 (vi) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (I) THROUGH (V) OF  
30 THIS SUBDIVISION THE OWNER OF AN INTERIM MULTIPLE DWELLING MADE SUBJECT  
31 TO THIS ARTICLE BY SUBDIVISION FIVE OF SECTION TWO HUNDRED EIGHTY-ONE OF  
32 THIS ARTICLE (A) SHALL FILE AN ALTERATION APPLICATION WITHIN NINE MONTHS  
33 FROM THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND TEN  
34 WHICH AMENDED THIS SUBPARAGRAPH, AND (B) SHALL TAKE ALL REASONABLE AND  
35 NECESSARY ACTION TO OBTAIN AN APPROVED ALTERATION PERMIT WITHIN TWELVE  
36 MONTHS FROM SUCH EFFECTIVE DATE, AND (C) SHALL ACHIEVE COMPLIANCE WITH  
37 THE STANDARDS OF SAFETY AND FIRE PROTECTION SET FORTH IN ARTICLE SEVEN-B  
38 OF THIS CHAPTER FOR THE RESIDENTIAL PORTIONS OF THE BUILDING WITHIN  
39 EIGHTEEN MONTHS FROM OBTAINING SUCH ALTERATION PERMIT OR EIGHTEEN MONTHS  
40 FROM SUCH EFFECTIVE DATE, WHICHEVER IS LATER, AND (D) SHALL TAKE ALL  
41 REASONABLE AND NECESSARY ACTION TO OBTAIN A CERTIFICATE OF OCCUPANCY AS  
42 A CLASS A MULTIPLE DWELLING FOR THE RESIDENTIAL PORTIONS OF THE BUILDING  
43 OR STRUCTURE WITHIN THIRTY-SIX MONTHS FROM SUCH EFFECTIVE DATE. THE LOFT  
44 BOARD MAY, UPON GOOD CAUSE SHOWN, AND UPON PROOF OF COMPLIANCE WITH THE  
45 STANDARDS OF SAFETY AND FIRE PROTECTION SET FORTH IN ARTICLE SEVEN-B OF  
46 THIS CHAPTER, TWICE EXTEND THE TIME OF COMPLIANCE WITH THE REQUIREMENT  
47 TO OBTAIN A RESIDENTIAL CERTIFICATE OF OCCUPANCY FOR PERIODS NOT TO  
48 EXCEED TWELVE MONTHS EACH.

49 (VII) An owner who is unable to satisfy any requirement specified in  
50 paragraph (ii), (iii), (iv) [or], (v), OR (VI) of this subdivision for  
51 reasons beyond his/her control, including, but not limited to, a  
52 requirement to obtain a certificate of appropriateness for modification  
53 of a landmarked building, a need to obtain a variance from a board of  
54 standards and appeals, or the denial of reasonable access to a residen-  
55 tial unit as required by paragraph [(x)] (XI) of this subdivision, may  
56 apply to the loft board for an extension of time to meet the requirement

specified in paragraph (ii), (iii), (iv) [or], (v), OR (VI) of this subdivision. The loft board may grant an extension of time to meet a requirement specified in paragraph (ii), (iii), (iv) [or], (v), OR (VI) of this subdivision provided that the owner demonstrates that he/she has made good faith efforts to satisfy the requirements.

[(vii)] (VIII) If there is a finding by the loft board that an owner has failed to satisfy any requirement specified in [paragraphs] PARAGRAPH (i), (ii), (iii), (iv) [and], (v), OR (VI) of this subdivision, such owner shall be subject to all penalties set forth in article eight of this chapter.

[(viii)] (IX) In addition to the penalties provided in article eight of this chapter, if there is a finding by the loft board that an owner has failed to satisfy any requirement specified in [paragraphs] PARAGRAPH (i), (ii), (iii), (iv) [and], (v), OR (VI) of this subdivision, a court may order specific performance to enforce the provisions of this article upon the application of three occupants of separate residential units, qualified for the protection of this article, or upon the application of the municipality.

[(ix)] (X) If, as a consequence of an owner's unlawful failure to comply with the provisions of [paragraphs] PARAGRAPH (i), (ii), (iii), (iv) [and], (v), OR (VI) of this subdivision, any residential occupant qualified for protection pursuant to this article is required to vacate his or her unit as a result of a municipal vacate order, such occupant may recover from the owner the fair market value of any improvements made by such tenant and reasonable moving costs. Any vacate order issued as to such unit by a local government shall be deemed an order to the owner to correct the non-compliant conditions, subject to the provisions of this article. Furthermore, when such correction has been made, such occupant shall have the right to re-occupy his or her unit and shall be entitled to all applicable tenant protections of this article.

[(x)] (XI) The occupants of a building shall, upon appropriate notice regarding the timing and scope of the work required, afford the owner reasonable access to their units so that the work necessary for compliance with this article can be carried out. Access shall also be afforded, upon reasonable prior notice, for the purpose of inspecting and surveying units as may be required to comply with the provisions of this article and article seven-B of this chapter. Failure to comply with an order of the loft board regarding access shall be grounds for eviction of a tenant.

S 4. Subdivision 2 of section 285 of the multiple dwelling law, as amended by chapter 466 of the laws of 1987, is amended to read as follows:

2. Notwithstanding any other provision of this article, an owner may apply to the loft board for exemption of a building or portion thereof from this article on the basis that compliance with this article in obtaining a legal residential certificate of occupancy would cause an unjustifiable hardship either because: (i) it would cause an unreasonably adverse impact on a non-residential conforming use tenant within the building or[,] (ii) the cost of compliance renders legal residential conversion infeasible. Residential and other tenants shall be given not less than sixty days notice in advance of the hearing date for such application. If the loft board approves such application, the building or portion thereof shall be exempt from this article, and may be converted to non-residential conforming uses, provided, however, that the owner shall, as a condition of approval of such application, agree to file an irrevocable recorded covenant in form satisfactory to the

1 loft board enforceable for fifteen years by the municipality, that the  
2 building will not be re-converted to residential uses during such time.  
3 The standard for granting such hardship application for a building or  
4 portion thereof shall be as follows: (a) the loft board shall only grant  
5 the minimum relief necessary to relieve any alleged hardship with the  
6 understanding if compliance is reasonably possible it should be achieved  
7 even if it requires alteration of units, relocation of tenants to vacant  
8 space within the building, re-design of space or application for a non-  
9 use-related variance, special permit, minor modification or administra-  
10 tive certification; (b) self-created hardship shall not be allowed; (c)  
11 the test for cost infeasibility shall be that of a reasonable return on  
12 the owner's investment not maximum return on investment; (d) the test  
13 for unreasonably adverse impact on a non-residential conforming use  
14 tenant shall be whether residential conversion would necessitate  
15 displacement. Such hardship applications shall be submitted to the loft  
16 board within nine months of the establishment of the loft board (or, in  
17 the case of interim multiple dwellings referred to in subdivision four  
18 of section two hundred eighty-one of this [chapter] ARTICLE, within nine  
19 months of the effective date of [that] SUCH subdivision FOUR OR IN THE  
20 CASE OF INTERIM MULTIPLE DWELLINGS MADE SUBJECT TO THIS ARTICLE BY  
21 SUBDIVISION FIVE OF SECTION TWO HUNDRED EIGHTY-ONE OF THIS ARTICLE,  
22 WITHIN NINE MONTHS OF THE EFFECTIVE DATE OF SUCH SUBDIVISION FIVE), but  
23 shall not be considered, absent a waiver by the loft board, unless the  
24 owner has also filed an alteration application. In determination of any  
25 such hardship application, the loft board may demand such information as  
26 it deems necessary. In approving any such hardship application, the loft  
27 board may fix reasonable terms and conditions for the vacating of resi-  
28 dential occupancy.

29 S 5. Subparagraphs (A) and (B) of paragraph (ii) and paragraph (iii)  
30 of subdivision 2 of section 286 of the multiple dwelling law, subpara-  
31 graphs (A) and (B) of paragraph (ii) as amended by section 3 of part BB  
32 of chapter 85 of the laws of 2002 and paragraph (iii) as amended by  
33 chapter 414 of the laws of 1999, are amended to read as follows:

34 (A) Upon the owners' filing of an alteration application, as required  
35 by paragraph (ii), (iii), (iv) [or], (v), OR (VI) of subdivision one of  
36 section two hundred eighty-four of this article, an adjustment equal to  
37 six percent of the rent in effect at the time the owner files the alter-  
38 ation application.

39 (B) Upon obtaining an alteration permit, as required by paragraph  
40 (ii), (iii), (iv) [or], (v), OR (VI) of subdivision one of section two  
41 hundred eighty-four of this article, an adjustment equal to eight  
42 percent of the rent in effect at the time the owner obtains the alter-  
43 ation permit.

44 (iii) Any rent adjustments pursuant to paragraph (ii) of this subdivi-  
45 sion shall not apply to units which were rented at market value after  
46 June twenty-first, nineteen hundred eighty-two and prior to June twen-  
47 ty-first, nineteen hundred ninety-two. THIS PARAGRAPH SHALL NOT APPLY  
48 TO UNITS MADE SUBJECT TO THIS ARTICLE BY SUBDIVISION FIVE OF SECTION TWO  
49 HUNDRED EIGHTY-ONE OF THIS ARTICLE.

50 S 6. Subdivision 3 of section 286 of the multiple dwelling law, as  
51 added by chapter 349 of the laws of 1982, is amended to read as follows:

52 3. Upon or after compliance with the safety and fire protection stand-  
53 ards of article seven-B of this chapter, an owner may apply to the loft  
54 board for an adjustment of rent based upon the cost of such compliance.  
55 Upon approval by the loft board of such compliance, the loft board shall  
56 set the initial legal regulated rent, and each residential occupant

1 qualified for protection pursuant to this article shall be offered a  
2 residential lease subject to the provisions regarding evictions and  
3 regulation of rent set forth in the emergency tenant protection act of  
4 nineteen seventy-four, except to the extent the provisions of this arti-  
5 cle are inconsistent with such act. [At such time, the owners of such  
6 buildings shall join a real estate industry stabilization association in  
7 accordance with such act.]

8 S 7. Section 3 of chapter 349 of the laws of 1982, amending the multi-  
9 ple dwelling law relating to legalization of interim multiple dwellings  
10 in cities over one million, as amended by a chapter of the laws of 2010  
11 amending chapter 405 of the laws of 1999 amending the real property tax  
12 law relating to improving the administration of the school tax relief  
13 (STAR) program, relating to the lottery game of Quick Draw; to amend  
14 chapter 349 of the laws of 1982 amending the multiple dwelling law  
15 relating to legalization of interim multiple dwellings in cities over  
16 one million, relating to the effectiveness thereof; to amend the multi-  
17 ple dwelling law, relating to owner obligations; relating to providing  
18 for the administration of certain funds and accounts relating to the  
19 2010-2011 budget; and to amend the private housing finance law, relating  
20 to authorizing certain deposits and transfers, as proposed in legisla-  
21 tive bills numbers S. 7925 and A. 11174, is amended to read as follows:

22 S 3. [Effective date and termination.] This act shall take effect  
23 immediately. [The provisions of this act and all regulations, orders and  
24 requirements thereunder shall terminate at the close of the calendar day  
25 June 18, 2010.]

26 S 8. This act shall take effect immediately.