

7178--A

I N S E N A T E

March 18, 2010

Introduced by Sens. DILAN, DIAZ, HASSELL-THOMPSON, HUNTLEY, KRUEGER, MONTGOMERY, ONORATO, PARKER, PERALTA, SCHNEIDERMAN, SERRANO, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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

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

45 1. (i) The owner of an interim multiple dwelling (A) shall file an
46 alteration application within nine months from the effective date of
47 [the act which added this article] CHAPTER THREE HUNDRED FORTY-NINE OF
48 THE LAWS OF NINETEEN HUNDRED EIGHTY-TWO, and (B) shall take all reason-
49 able and necessary action to obtain an approved alteration permit within
50 twelve months from such effective date, and (C) shall achieve compliance
51 with the standards of safety and fire protection set forth in article
52 seven-B of this chapter for the residential portions of the building
53 within eighteen months from obtaining such alteration permit or eighteen
54 months from such effective date, whichever is later, and (D) shall take
55 all reasonable and necessary action to obtain a certificate of occupancy
56 as a class A multiple dwelling for the residential portions of the

1 building or structure within thirty-six months from such effective date.
2 The loft board may, upon good cause shown, and upon proof of compliance
3 with the standards of safety and fire protection set forth in article
4 seven-B of this chapter, twice extend the time of compliance with the
5 requirement to obtain a residential certificate of occupancy for periods
6 not to exceed twelve months each.

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

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

45 (iv) An owner of an interim multiple dwelling who has not complied
46 with the requirements of paragraph (i), (ii) or (iii) of this subdivision
47 by the effective date of this paragraph as provided in chapter four
48 hundred fourteen of the laws of nineteen hundred ninety-nine which added
49 this paragraph shall hereafter be deemed in compliance with this subdivision
50 provided that such owner files an alteration application by
51 September first, nineteen hundred ninety-nine, takes all reasonable and
52 necessary action to obtain an approved alteration permit by March first,
53 two thousand, achieves compliance with the standards of safety and fire
54 protection set forth in article seven-B of this chapter for the residential
55 portions of the building by May first, two thousand two or within
56 twelve months from obtaining an approved alteration permit whichever is

1 later, and takes all reasonable and necessary action to obtain a certifi-
2 cate of occupancy as a class A multiple dwelling for the residential
3 portions of the building or structure by May thirty-first, two thousand
4 two or within one month from achieving compliance with the aforemen-
5 tioned standards for the residential portions of the building, whichever
6 is later.

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

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

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

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

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

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

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

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

38 2. Notwithstanding any other provision of this article, an owner may
39 apply to the loft board for exemption of a building or portion thereof
40 from this article on the basis that compliance with this article in
41 obtaining a legal residential certificate of occupancy would cause an
42 unjustifiable hardship either because: (i) it would cause an unreason-
43 ably adverse impact on a non-residential conforming use tenant within
44 the building or[,] (ii) the cost of compliance renders legal residential
45 conversion infeasible. Residential and other tenants shall be given not
46 less than sixty days notice in advance of the hearing date for such
47 application. If the loft board approves such application, the building
48 or portion thereof shall be exempt from this article, and may be
49 converted to non-residential conforming uses, provided, however, that
50 the owner shall, as a condition of approval of such application, agree
51 to file an irrevocable recorded covenant in form satisfactory to the
52 loft board enforceable for fifteen years by the municipality, that the
53 building will not be re-converted to residential uses during such time.
54 The standard for granting such hardship application for a building or
55 portion thereof shall be as follows: (a) the loft board shall only grant
56 the minimum relief necessary to relieve any alleged hardship with the

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

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

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

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

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

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

47 3. Upon or after compliance with the safety and fire protection stand-
48 ards of article seven-B of this chapter, an owner may apply to the loft
49 board for an adjustment of rent based upon the cost of such compliance.
50 Upon approval by the loft board of such compliance, the loft board shall
51 set the initial legal regulated rent, and each residential occupant
52 qualified for protection pursuant to this article shall be offered a
53 residential lease subject to the provisions regarding evictions and
54 regulation of rent set forth in the emergency tenant protection act of
55 nineteen seventy-four, except to the extent the provisions of this arti-
56 cle are inconsistent with such act. [At such time, the owners of such

1 buildings shall join a real estate industry stabilization association in
2 accordance with such act.]

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

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

21 S 8. This act shall take effect immediately.