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I N A S S E M B L Y

February 24, 2010

Introduced by M. of A. GOTTFRIED, ROSENTHAL, KELLNER, GLICK, COLTON, REILLY, CHRISTENSEN, ESPAILLAT, O'DONNELL, MILLMAN -- Multi-Sponsored by -- M. of A. BING, BRENNAN, HEVESI, JAFFEE, KOLB, McKEVITT -- read once and referred to the Committee on Housing

AN ACT to amend the multiple dwelling law and the administrative code of the city of New York, in relation to clarifying certain provisions relating to occupancy of class A multiple dwellings

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

1 Section 1. Paragraph a of subdivision 8 of section 4 of the multiple
2 dwelling law, as amended by chapter 562 of the laws of 1954, is amended
3 to read as follows:
4 a. A "class A" multiple dwelling is a multiple dwelling which is occu-
5 pied[, as a rule,] for permanent residence purposes. This class shall
6 include tenements, flat houses, maisonette apartments, apartment houses,
7 apartment hotels, bachelor apartments, studio apartments, duplex apart-
8 ments, kitchenette apartments, garden-type maisonette dwelling projects,
9 and all other multiple dwellings except class B multiple dwellings. FOR
10 THE PURPOSES OF THIS DEFINITION, PERMANENT RESIDENCE PURPOSES SHALL
11 CONSIST OF OCCUPANCY OF A DWELLING UNIT BY THE SAME NATURAL PERSON OR
12 FAMILY FOR THIRTY CONSECUTIVE DAYS OR MORE AND A PERSON OR FAMILY SO
13 OCCUPYING A DWELLING UNIT SHALL BE REFERRED TO HEREIN AS THE PERMANENT
14 OCCUPANTS OF SUCH DWELLING UNIT. THE FOLLOWING USES OF A DWELLING UNIT
15 BY THE PERMANENT OCCUPANTS THEREOF SHALL NOT BE DEEMED TO BE INCONSIST-
16 ENT WITH THE OCCUPANCY OF SUCH DWELLING UNIT FOR PERMANENT RESIDENCE
17 PURPOSES:
18 (1) OCCUPANCY OF SUCH DWELLING UNIT FOR FEWER THAN THIRTY CONSECUTIVE
19 DAYS BY OTHER NATURAL PERSONS LIVING WITHIN THE HOUSEHOLD OF THE PERMA-
20 NENT OCCUPANT SUCH AS HOUSE GUESTS OR LAWFUL BOARDERS, ROOMERS OR LODG-
21 ERS; OR
22 (2) INCIDENTAL AND OCCASIONAL OCCUPANCY OF SUCH DWELLING UNIT FOR
23 FEWER THAN THIRTY CONSECUTIVE DAYS BY OTHER NATURAL PERSONS WHEN THE
24 PERMANENT OCCUPANTS ARE TEMPORARILY ABSENT FOR PERSONAL REASONS SUCH AS

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

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VACATION OR MEDICAL TREATMENT, PROVIDED THAT THERE IS NO MONETARY COMPENSATION PAID TO THE PERMANENT OCCUPANTS FOR SUCH OCCUPANCY.

S 2. Section 67 of the multiple dwelling law is amended by adding a new subdivision 16 to read as follows:

16. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WITHIN A DWELLING TO WHICH THIS SECTION IS APPLICABLE THE USE OF DWELLING UNITS AS A HOTEL FOR OTHER THAN PERMANENT RESIDENCE PURPOSES, AS DEFINED IN PARAGRAPH A OF SUBDIVISION EIGHT OF SECTION FOUR OF THIS CHAPTER, THAT WOULD OTHERWISE BE PROHIBITED SHALL BE PERMITTED TO CONTINUE FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION PROVIDED THAT:

(1) SUCH DWELLING UNITS WERE USED FOR OTHER THAN PERMANENT RESIDENCE PURPOSES ON JANUARY FIRST, TWO THOUSAND NINE AND ON THE EFFECTIVE DATE OF THIS SUBDIVISION AND FIFTY-ONE PERCENT OR MORE OF THE TOTAL NUMBER OF DWELLING UNITS IN SUCH DWELLING WERE USED FOR OTHER THAN PERMANENT RESIDENCE PURPOSES ON SUCH DATES;

(2) SUCH DWELLING WAS OCCUPIED AS A HOTEL FOR OTHER THAN PERMANENT RESIDENCE PURPOSES ON DECEMBER FIFTEENTH, NINETEEN HUNDRED SIXTY-ONE;

(3) SUCH DWELLING IS OF FIREPROOF CONSTRUCTION AND WAS OF FIREPROOF CONSTRUCTION ON JANUARY FIRST, TWO THOUSAND NINE;

(4) SUCH DWELLING UNITS USED FOR OTHER THAN PERMANENT RESIDENCE PURPOSES HAVE AT LEAST TWO LAWFUL MEANS OF EGRESS, INCLUDING EXIT STAIRS, FIRE TOWERS OR EXTERIOR STAIRS BUT EXCLUDING FIRE ESCAPES AND HAD SUCH LAWFUL MEANS OF EGRESS ON JANUARY FIRST, TWO THOUSAND NINE;

(5) SUCH DWELLING HAS OPERATIONAL EXIT SIGNS AND A FIRE ALARM SYSTEM COMPLYING WITH THE PROVISIONS FOR EXISTING TRANSIENT OCCUPANCIES IN ACCORDANCE WITH LOCAL LAW AND HAD SUCH EXIT SIGNS AND FIRE ALARM SYSTEM ON JANUARY FIRST, TWO THOUSAND NINE; AND

(6) SUCH DWELLING UNITS USED FOR OTHER THAN PERMANENT RESIDENCE PURPOSES ARE REGISTERED WITH THE DEPARTMENT WITHIN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION IN A FORM AND MANNER TO BE PROVIDED BY SUCH DEPARTMENT, INCLUDING A REQUIREMENT THAT THE APPLICANT SUBMIT CERTIFICATION OF COMPLIANCE WITH SUBPARAGRAPHS THREE, FOUR AND FIVE OF THIS PARAGRAPH, SIGNED AND SEALED BY A REGISTERED ARCHITECT OR LICENSED PROFESSIONAL ENGINEER IN GOOD STANDING UNDER THE EDUCATION LAW. THE DEPARTMENT MAY ASSESS FEES TO COVER ALL COSTS ASSOCIATED WITH SUCH REGISTRATION. THE DEPARTMENT MAY REFUSE TO REGISTER DWELLING UNITS OR MAY REVOKE SUCH REGISTRATION IF IT DETERMINES SUCH DWELLING UNITS OR DWELLING DO NOT COMPLY WITH THE CONDITIONS FOR REGISTRATION SET FORTH IN SUBPARAGRAPHS ONE THROUGH FIVE OF THIS PARAGRAPH.

B. THE OWNER SHALL OBTAIN A CERTIFICATE OF OCCUPANCY FOR THE USE OF REGISTERED DWELLING UNITS FOR OTHER THAN PERMANENT RESIDENCE PURPOSES WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION. THE DEPARTMENT SHALL ISSUE SUCH CERTIFICATE OF OCCUPANCY UPON PROOF THAT SAID DWELLING CONFORMS IN ALL RESPECTS TO THE REQUIREMENTS OF THIS CHAPTER AND ALL LOCAL HOUSING, BUILDING AND FIRE CODES FOR THE USE OF DWELLING UNITS FOR OTHER THAN PERMANENT RESIDENCE PURPOSES. IF NO SUCH CERTIFICATE OF OCCUPANCY IS ISSUED WITHIN SUCH TWO YEAR PERIOD ALL USE OF DWELLING UNITS FOR OTHER THAN PERMANENT RESIDENCE PURPOSES SHALL THEREAFTER CEASE.

C. IF AFTER A CERTIFICATE OF OCCUPANCY IS ISSUED PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION, THE USE OF SUCH DWELLING UNITS FOR OTHER THAN PERMANENT RESIDENCE PURPOSES IS DISCONTINUED, NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO LIMIT THE APPLICATION OF THE LOCAL ZONING RESOLUTION WITH RESPECT TO SUCH DISCONTINUANCE.

1 S 3. Subdivisions 1 and 16 of section 248 of the multiple dwelling
2 law, subdivision 1 as amended by chapter 116 of the laws of 1950, are
3 amended to read as follows:

4 1. It shall be unlawful to occupy any frame multiple dwelling for
5 single room occupancy. It shall be unlawful to occupy any other existing
6 class A dwelling or part thereof as a rooming house or furnished room
7 house or for single room occupancy unless such dwelling or part shall
8 conform to the provisions of this section and to such other provisions
9 of this chapter as were applicable to such dwelling before such conver-
10 sion. This section shall not be construed to prohibit the letting by a
11 family of one or more rooms within their apartment to not more than a
12 total of four boarders, roomers or lodgers provided, however, that every
13 room in such apartment shall have free and unobstructed access to each
14 required exit from such apartment as required by the provisions of para-
15 graphs a, b and c of subdivision four of this section. A dwelling occu-
16 pied pursuant to this section shall be deemed a class A dwelling AND
17 DWELLING UNITS OCCUPIED PURSUANT TO THIS SECTION SHALL BE OCCUPIED FOR
18 PERMANENT RESIDENCE PURPOSES, AS DEFINED IN PARAGRAPH A OF SUBDIVISION
19 EIGHT OF SECTION FOUR OF THIS CHAPTER.

20 [16. It shall be unlawful to rent any room in any such dwelling for a
21 period of less than a week.]

22 S 4. Section 27-265 of the administrative code of the city of New York
23 is amended to read as follows:

24 S 27-265 Occupancy group J-2. Shall include buildings with three or
25 more dwelling units that are [primarily occupied for the shelter and
26 sleeping accommodation of individuals on a month-to-month or longer-term
27 basis] OCCUPIED FOR PERMANENT RESIDENCE PURPOSES AS DEFINED IN SUBPARA-
28 GRAPH (A) OF PARAGRAPH EIGHT OF SUBDIVISION A OF SECTION 27-2004 OF THE
29 HOUSING MAINTENANCE CODE.

30 S 5. Section 310.1.2 of BC 310 of the New York City building code of
31 chapter 7 of title 28 of the administrative code of the city of New
32 York, as added by local law 33 of the city of New York for the year
33 2007, is amended to read as follows:

34 310.1.2 Group R-2. This occupancy shall include buildings or portions
35 thereof containing sleeping units or more than two dwelling units that
36 are occupied[, as a rule, for shelter and sleeping accommodation on a
37 long-term basis for a month or more at a time] FOR PERMANENT RESIDENCE
38 PURPOSES AS DEFINED IN SUBPARAGRAPH (A) OF PARAGRAPH EIGHT OF SUBDIVI-
39 SION A OF SECTION 27-2004 OF THE NEW YORK CITY HOUSING MAINTENANCE CODE.
40 Such occupancy shall be subject to the New York State Multiple Dwelling
41 Law. This group shall include, but not be limited to, the following:

42 Adult homes or enriched housing with 16 or fewer occupants requiring
43 supervised care on a 24-hour basis in the same building, provided that
44 the number of occupants per dwelling unit does not exceed the definition
45 of a family

46 Apartment houses

47 Apartment hotels (nontransient)

48 Class A multiple dwellings as defined in Section 27-2004 of the New
49 York City Housing Maintenance Code and Section 4 of the New York State
50 Multiple Dwelling Law, including the following:

51 1. Dwelling units where the resident of the unit provides custodial
52 care to no more than four persons on less than a 24-hour basis and not
53 overnight.

54 2. Dwelling units where the resident of the unit provides child custo-
55 dial care as a family day care home registered with the New York City
56 Department of Health and Mental Hygiene in accordance with the New York

1 State Social Services Law with no more than six children between the
2 ages of 2 and 13, or with no more than five children if any are under
3 the age of 2, receiving supervised care on less than a 24-hour basis and
4 not overnight.

5 Exception: Class A multiple dwellings classified in Group I-1.

6 Convents and monasteries with more than 20 occupants in the building

7 Student apartments

8 S 6. Subparagraph (a) of paragraph 8 of subdivision a of section
9 27-2004 of the administrative code of the city of New York is amended to
10 read as follows:

11 (a) A class A multiple dwelling is a multiple dwelling which is occu-
12 pied[, as a rule,] for permanent residence purposes. This class shall
13 include tenements, flat houses, maisonette apartments, apartment houses,
14 apartment hotels, bachelor apartments, studio apartments, duplex apart-
15 ments, kitchenette apartments, garden-type maisonette dwelling projects,
16 and all other multiple dwellings except class B multiple dwellings. FOR
17 THE PURPOSES OF THIS SUBPARAGRAPH, PERMANENT RESIDENCE PURPOSES SHALL
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20 LY SO OCCUPYING A DWELLING UNIT SHALL BE REFERRED TO HEREIN AS THE
21 PERMANENT OCCUPANTS OF SUCH DWELLING UNIT. THE FOLLOWING USES OF A
22 DWELLING UNIT BY THE PERMANENT OCCUPANTS THEREOF SHALL NOT BE DEEMED TO
23 BE INCONSISTENT WITH OCCUPANCY OF SUCH DWELLING UNIT FOR PERMANENT RESI-
24 DENCE PURPOSES:

25 (1) OCCUPANCY OF SUCH DWELLING UNIT FOR FEWER THAN THIRTY CONSECUTIVE
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27 NENT OCCUPANT SUCH AS HOUSE GUESTS OR LAWFUL BOARDERS, ROOMERS OR LODG-
28 ERS; OR

29 (2) INCIDENTAL AND OCCASIONAL OCCUPANCY OF SUCH DWELLING UNIT FOR
30 FEWER THAN THIRTY CONSECUTIVE DAYS BY OTHER NATURAL PERSONS WHEN THE
31 PERMANENT OCCUPANTS ARE TEMPORARILY ABSENT FOR PERSONAL REASONS SUCH AS
32 VACATION OR MEDICAL TREATMENT, PROVIDED THAT THERE IS NO MONETARY
33 COMPENSATION PAID TO THE PERMANENT OCCUPANTS FOR SUCH OCCUPANCY.

34 S 7. This act shall take effect immediately and shall apply to all
35 buildings in existence on such effective date and to buildings
36 constructed after such effective date.