

386

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the general business law, in relation to vacancies and illegal use and occupancy relating to cooperative or condominium conversion plans; to amend the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to leasing to business and other entities; and to amend the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law and the New York city charter, in relation to investigations and inspections by the city of New York

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

1 Section 1. Paragraph (e) of subdivision 2 of section 352-eeee of the
2 general business law, as added by chapter 555 of the laws of 1982, is
3 amended to read as follows:
4 (e) The attorney general finds that an excessive number of long-term
5 vacancies did not exist on the date that the offering statement or pros-
6 pectus was first submitted to the department of law OR AT ANY TIME
7 BETWEEN THAT DATE AND THE ISSUANCE OF THE LETTER FROM THE ATTORNEY
8 GENERAL STATING THAT THE OFFERING STATEMENT OR PROSPECTUS REQUIRED IN
9 SUBDIVISION ONE OF SECTION THREE HUNDRED FIFTY-TWO-E OF THIS ARTICLE HAS
10 BEEN FILED. "Long-term vacancies" shall mean dwelling units not leased
11 or occupied by bona fide tenants for more than five months prior to the
12 date of such submission to the department of law OR PRIOR TO ANY TIME
13 BETWEEN THAT DATE AND THE ISSUANCE OF SUCH LETTER. "Excessive" shall
14 mean a vacancy rate in excess of the greater of (i) ten percent and (ii)
15 a percentage that is double the normal average vacancy rate for the
16 building or group of buildings or development for two years prior to the

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

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1 January preceding the date the offering statement or prospectus was
2 first submitted to the department of law.

3 S 2. Subdivision 4 of section 352-eeee of the general business law, as
4 added by chapter 555 of the laws of 1982, is amended to read as follows:

5 4. It shall be unlawful for any person to engage in any course of
6 conduct, including, but not limited to, interruption or discontinuance
7 of essential services, which substantially interferes with or disturbs
8 the comfort, repose, peace or quiet of any tenant in his use or occupan-
9 cy of his dwelling unit or the facilities related thereto, OR PERMITTING
10 OR MAINTAINING ANY ILLEGAL USE OR OCCUPANCY OF THE PREMISES. The attor-
11 ney general may apply to a court of competent jurisdiction for an order
12 restraining such conduct and, if he deems it appropriate, an order
13 restraining the owner from selling the shares allocated to the dwelling
14 unit or the dwelling unit itself or from proceeding with the plan of
15 conversion; provided that nothing contained herein shall be deemed to
16 preclude the tenant from applying on his own behalf for similar relief.

17 S 3. Section 4 of chapter 576 of the laws of 1974 constituting the
18 emergency tenant protection act of nineteen seventy-four is amended by
19 adding a new section 5-b to read as follows:

20 5-B. TENANCY. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ACT
21 OR THE PROVISIONS OF ANY CONTRACT, LEASE OR RENTAL AGREEMENT, NO OWNER
22 OR ANY PERSON ACTING ON HIS OR HER BEHALF, AFTER THIS SECTION TAKES
23 EFFECT, SHALL ESTABLISH OR RENEW A CONTRACT, LEASE, OR RENTAL AGREEMENT
24 FOR OCCUPANCY OF A HOUSING ACCOMMODATION SUBJECT TO THIS ACT:

25 (I) WHERE THE OWNER, OR PERSON ACTING ON BEHALF OF THE OWNER, HAS
26 REASON TO KNOW THAT THE TENANT WILL NOT OCCUPY THE HOUSING ACCOMMODATION
27 AS HIS OR HER PRIMARY RESIDENCE;

28 (II) WHERE THE TENANT IS A CORPORATION, PARTNERSHIP, OR OTHER BUSINESS
29 OR NOT-FOR-PROFIT ENTITY, UNLESS THE HOUSING ACCOMMODATION (A) IS
30 INTENDED TO BE OCCUPIED BY AN OFFICER, PARTNER, EMPLOYEE OR OTHER
31 NATURAL PERSON PARTICIPATING IN THE DAY-TO-DAY OPERATIONS OF THE TENANT
32 ENTITY (OR WAS SUCH A PERSON AT THE COMMENCEMENT OF THE OCCUPANCY AND IS
33 NOW RETIRED FROM BEING SUCH A PERSON) WHO WILL OCCUPY THE HOUSING ACCOM-
34 MODATION AS HIS OR HER PRIMARY RESIDENCE, OR (B) THE HOUSING ACCOMMO-
35 DATION IS TO BE OCCUPIED UNDER PARAGRAPHS SIX OR TEN OF SUBDIVISION A OF
36 SECTION FIVE OF THIS ACT.

37 S 4. Subparagraph (i) of paragraph 3 of subdivision a of section 12 of
38 section 4 of chapter 576 of the laws of 1974 constituting the emergency
39 tenant protection act of nineteen seventy-four, as amended by chapter
40 480 of the laws of 2009, is amended to read as follows:

41 (i) to have violated an order of the division OR SECTION FIVE-B OF
42 THIS ACT the commissioner may impose by administrative order after hear-
43 ing, a civil penalty in the amount of one thousand dollars for the first
44 such offense and two thousand dollars for each subsequent offense; or

45 S 5. Section 26-512 of the administrative code of the city of New York
46 is amended by adding a new subdivision g to read as follows:

47 G. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ACT OR THE
48 PROVISIONS OF ANY CONTRACT, LEASE OR RENTAL AGREEMENT, NO OWNER OR ANY
49 PERSON ACTING ON HIS OR HER BEHALF, AFTER THIS SECTION TAKES EFFECT,
50 SHALL ESTABLISH OR RENEW A CONTRACT, LEASE, OR RENTAL AGREEMENT FOR
51 OCCUPANCY OF A HOUSING ACCOMMODATION SUBJECT TO THIS CHAPTER:

52 (I) WHERE THE OWNER, OR PERSON ACTING ON BEHALF OF THE OWNER, HAS
53 REASON TO KNOW THAT THE TENANT WILL NOT OCCUPY THE HOUSING ACCOMMODATION
54 AS HIS OR HER PRIMARY RESIDENCE;

55 (II) WHERE THE TENANT IS A CORPORATION, PARTNERSHIP, OR OTHER BUSINESS
56 OR NOT-FOR-PROFIT ENTITY, UNLESS THE HOUSING ACCOMMODATION (A) IS

1 INTENDED TO BE OCCUPIED BY AN OFFICER, PARTNER, EMPLOYEE OR OTHER
2 NATURAL PERSON PARTICIPATING IN THE DAY-TO-DAY OPERATIONS OF THE TENANT
3 ENTITY (OR WAS SUCH A PERSON AT THE COMMENCEMENT OF THE OCCUPANCY AND IS
4 NOW RETIRED FROM BEING SUCH A PERSON) WHO WILL OCCUPY THE HOUSING ACCOM-
5 MODATION AS HIS OR HER PRIMARY RESIDENCE, OR (B) THE HOUSING ACCOMMO-
6 DATION IS TO BE OCCUPIED UNDER SUBPARAGRAPH (C) OF PARAGRAPH NINE OF
7 SUBDIVISION C OF SECTION 26-511 OF THIS CHAPTER.

8 S 6. Paragraph 1 of subdivision c of section 26-516 of the administra-
9 tive code of the city of New York as amended by chapter 480 of the laws
10 of 2009, is amended to read as follows:

11 (1) to have violated an order of the division OR SUBDIVISION G OF
12 SECTION 26-512 THIS CHAPTER the commissioner may impose by administra-
13 tive order after hearing, a civil penalty in the amount of one thousand
14 dollars for the first such offense and two thousand dollars for each
15 subsequent offense; or

16 S 7. Subdivision a of section 12 of section 4 of chapter 576 of the
17 laws of 1974, constituting the emergency tenant protection act of nine-
18 teen seventy-four is amended by adding a new paragraph 9 to read as
19 follows:

20 (9) THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL MAY AUTHORIZE
21 THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT IN THE CITY OF
22 NEW YORK, OR ITS SUCCESSOR AGENCY, TO EXERCISE ANY OF THE DIVISION'S
23 POWERS UNDER THIS ACT WITHIN THE CITY OF NEW YORK, PURSUANT TO AGREEMENT
24 WITH THAT DEPARTMENT OR AGENCY.

25 S 8. Subdivision 1 of section 6 of chapter 274 of the laws of 1946,
26 constituting the emergency housing rent control law, as amended by chap-
27 ter 337 of the laws of 1961, is amended to read as follows:

28 1. (A) THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL MAY
29 AUTHORIZE THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT IN THE
30 CITY OF NEW YORK, OR ITS SUCCESSOR AGENCY, TO EXERCISE ANY OF THE DIVI-
31 SION'S POWERS UNDER THIS ACT WITHIN THE CITY OF NEW YORK, PURSUANT TO
32 AGREEMENT WITH THAT DEPARTMENT OR AGENCY.

33 (B) The commission is authorized to make such studies and investi-
34 gations, to conduct such hearings, and to obtain such information as the
35 commission deems necessary or proper in prescribing any regulation or
36 order under this act or in the administration and enforcement of this
37 act and regulations and orders thereunder.

38 S 9. Section 1802 of the New York city charter is amended by adding a
39 new subdivision 7 to read as follows:

40 7. ALL POWERS, RIGHTS AND DUTIES AUTHORIZED BY AND PURSUANT TO AN
41 AGREEMENT WITH THE NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY
42 RENEWAL, OR ITS SUCCESSOR AGENCY, UNDER SECTION TWELVE OF THE EMERGENCY
43 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR AND SUBDIVISION ONE OF
44 SECTION SIX OF THE EMERGENCY HOUSING RENT CONTROL LAW.

45 S 10. Severability. If any provision of this act, or any application
46 of any provision of this act, is held to be invalid, that shall not
47 affect the validity or effectiveness of any other provision of this act,
48 or of any other application of any provision of this act.

49 S 11. This act shall take effect immediately and shall apply to any
50 matter pending before the attorney general at or after the time this act
51 becomes a law; provided, however, that:

52 (a) the amendments to section 352-eeee of the general business law
53 made by sections one and two of this act shall not affect the expiration
54 of such section and shall expire therewith;

55 (b) sections three, four, five and six of this act shall take effect
56 on the sixtieth day after it shall have become a law, provided that

1 (i) the amendments to the emergency tenant protection act of nineteen
2 seventy-four made by sections three and four of this act shall expire on
3 the same date as such act expires and shall not affect the expiration of
4 such act as provided in section 17 of chapter 576 of the laws of 1974;
5 and
6 (ii) the amendments to sections 26-512 and 26-516 of the administra-
7 tive code of the city of New York made by sections five and six of this
8 act shall expire on the same date as such sections expire and shall not
9 affect the expiration of such sections as provided in section 26-520 of
10 such code; and
11 (c) provided that the amendments to section 12 of the emergency tenant
12 protection act of nineteen seventy-four made by section seven of this
13 act shall expire on the same date as such act expires and shall not
14 affect the expiration of such act as provided in section 17 of chapter
15 576 of the laws of 1974; and provided that the amendments to section 6
16 of the emergency housing rent control law made by section eight of this
17 act shall expire on the same date as such law expires and shall not
18 affect the expiration of such law as provided in subdivision 2 of
19 section 1 of chapter 274 of the laws of 1946.