

# STATE OF NEW YORK

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## IN ASSEMBLY

April 9, 2024

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Introduced by M. of A. GLICK -- read once and referred to the Committee on Housing

AN ACT to amend the multiple dwelling law, in relation to coverage of a unit or occupant and the status of an interim multiple dwelling unit as a protected occupant's primary residence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature hereby finds and  
2 declares that the findings in section 280 of the multiple dwelling law  
3 are reaffirmed; that the decision from the Appellate Division, First  
4 Department, in One Double Nine Dashing LLC v New York City Loft Board et  
5 al. (2022) misinterpreted the relationship of primary residence to  
6 continued occupancy of potential protected occupants under article 7-C  
7 of the multiple dwelling law; that the unique illegal living arrange-  
8 ments of potential protected occupants prior to loft law coverage, with-  
9 out rent and eviction protections and without the applicability of mini-  
10 mum housing maintenance standards, necessitates a regulatory approach  
11 which is not always the same as for other rent-regulated tenants; that  
12 the loft board properly concluded that the primary residence requirement  
13 in the statute is prospective from a determination of unit coverage or  
14 from registration of the unit with the loft board; that the loft board  
15 properly considered all relevant evidence and rejected a position that  
16 statements on tax returns alone are dispositive in making determinations  
17 regarding primary residence; that prior to Dashing (2022) neither the  
18 courts nor the loft board has looked at statements made on tax returns  
19 as controlling when evaluating issues of primary residence for loft  
20 tenants; that most loft tenants use for business purposes significant  
21 portions of their lofts, which the loft law envisions as being legalized  
22 and covered as joint live/work spaces; and that it is necessary for the  
23 legislature to correct the misinterpretation in Dashing (2022) and to  
24 clarify, and to codify in the law, what has been loft board policy and  
25 precedent based on the current law, loft board rules, and the loft  
26 board's delegated expertise for evaluating primary residence of poten-  
27 tial protected occupants in possible interim multiple dwelling units.

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

LBD14985-01-4

§ 2. Paragraph (i) of subdivision 2 of section 286 of the multiple dwelling law, as amended by chapter 4 of the laws of 2013, is amended and a new subdivision 14 is added to read as follows:

(i) Prior to compliance with safety and fire protection standards of article seven-B of this chapter, residential occupants qualified for protection pursuant to this article shall be entitled to continued occupancy, provided that, subsequent to the finding of coverage by the loft board or a court of competent jurisdiction or registration with the loft board of the occupant's unit pursuant to this article, the unit is their primary residence, and shall pay the same rent, including escalations, specified in their lease or rental agreement to the extent to which such lease or rental agreement remains in effect or, in the absence of a lease or rental agreement, the same rent most recently paid and accepted by the owner; if there is no lease or other rental agreement in effect, rent adjustments prior to article seven-B compliance shall be in conformity with guidelines to be set by the loft board for such residential occupants within six months from the effective date of this article.

14. In determining whether a unit qualifies for coverage pursuant to this article, whether an occupant qualifies for protection under this article, and/or whether a registered interim multiple dwelling unit is a protected occupant's primary residence for all purposes under this article, no single factor shall be solely dispositive and/or preclusive of such determination, including, without limitation, statements made and/or actions taken in relation to federal, state or city tax returns. No waiver of rights otherwise protected by this subdivision, made prior to the effective date of this subdivision, shall be accorded any force or effect. Any landlord-tenant relationship severed contrary to this subdivision prior to the effective date of this subdivision shall be restored to a tenant still in possession on such effective date.

§ 3. This act shall take effect immediately, and shall apply to all pending actions or proceedings, including appeals.