

STATE OF NEW YORK

9123

IN SENATE

April 29, 2024

Introduced by Sen. GONZALEZ -- 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 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

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

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1 board's delegated expertise for evaluating primary residence of poten-
2 tial protected occupants in possible interim multiple dwelling units.

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

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

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

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