S T A T E O F N E W Y O R K

3547

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. PERRY -- Multi-Sponsored by -- M. of A. ARROYO, COOK -- read once and referred to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to the liability for an illegal conversion

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

Section 1. The administrative code of the city of New York is amended by adding a new section 28-210.3 to read as follows:

S 28-210.3 LIABILITY FOR ILLEGAL CONVERSION. A. FOR THE PURPOSES OF THIS SECTION, AN "ILLEGAL CONVERSION" SHALL MEAN THE CREATION OR MODIFICATION OF A HOUSING UNIT OR UNITS, FOR WHICH APPROVAL OR PERMITS ARE REQUIRED BY LAW OR REGULATION, WITHOUT FIRST OBTAINING SUCH APPROVAL OR PERMITS FROM THE DEPARTMENT OF BUILDINGS.

B. IN THE EVENT AN ILLEGAL CONVERSION HAS OCCURRED, DETERMINED BY ORDER OR JUDGMENT OF THE ENVIRONMENTAL CONTROL BOARD, THE CONTRACTOR OR INDIVIDUAL WHO PERFORMED THE CONSTRUCTION SHALL BE HELD LIABLE FOR ANY MONETARY PENALTIES RELATED THERETO.

C. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE OWNER OF THE BUILDING IN WHICH AN ILLEGAL CONVERSION HAS BEEN PERFORMED SHALL NOT BE HELD LIABLE FOR SUCH MONETARY PENALTIES PURSUANT TO A DETERMINATION OF AN ILLEGAL CONVERSION UNLESS:

(I) HE OR SHE IS ALSO THE INDIVIDUAL WHO PERFORMED THE CONSTRUCTION; OR

(II) HE OR SHE KNEW OR REASONABLY SHOULD HAVE KNOWN THAT APPROVAL OF THE DEPARTMENT OF BUILDINGS AND PERMITS WERE REQUIRED AND HAD NOT BEEN OBTAINED PRIOR TO SUCH CONSTRUCTION.

D. IT SHALL BE A COMPLETE AND AFFIRMATIVE DEFENSE TO ANY VIOLATIONS ISSUED BY THE DEPARTMENT OF BUILDINGS FOR ILLEGAL CONVERSIONS OR WORK DONE WITHOUT A PERMIT THAT:

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

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(I) THE DEPARTMENT OF FINANCE RECORDS AND THE DEPARTMENT OF BUILDINGS RECORDS CONFLICT AS TO THE DESCRIPTION OR ASSESSMENT OF THE SUBJECT PROPERTY; OR

(II) THE OWNER OF THE BUILDING PURCHASED SAID PROPERTY IN THE ILLEGAL CONVERSION CONDITION.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.