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

4536

2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. MAYERSOHN, ESPAILLAT, SEMINERIO, GREENE, SCARBOROUGH -- Multi-Sponsored by -- M. of A. COLTON, DIAZ, JACOBS, NOLAN, PHEFFER, P. RIVERA, WEPRIN -- read once and referred to the Committee on Housing

AN ACT to amend the general business law, in relation to the physical condition of a building being converted to cooperative or condominium ownership

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

Section 1. Subdivision 2 of section 352-eee of the general business law is amended by adding a new paragraph (g) to read as follows:

(G) THE PLAN PROVIDES THAT THE SPONSOR SHALL CAUSE TO BE CURED: (I) ALL SERIOUS VIOLATIONS OF RECORD OF LOCAL OR STATE LAW OR REGULATIONS REGARDING CONDITIONS IN THE BUILDING OR GROUNDS OF THE REAL PROPERTY WHICH IS THE SUBJECT OF THE OFFERING, EXISTING ON THE DATE OF EFFECTIVENESS OF THE PLAN, EXCEPT THOSE WHICH, IF NOT CORRECTED, WOULD NOT LEAD TO DANGEROUS OR HAZARDOUS CONDITIONS, AS CERTIFIED BY A REGISTERED ARCHITECT OR PROFESSIONAL ENGINEER RETAINED BY THE SPONSOR; AND (II) ALL DANGEROUS AND HAZARDOUS CONDITIONS IN SUCH REAL PROPERTY EXISTING ON THE DATE OF EFFECTIVENESS OF THE PLAN WHICH A REGISTERED ARCHITECT OR PROFESSIONAL ENGINEER RETAINED BY THE SPONSOR CERTIFIES ARE NOT IN COMPLIANCE WITH APPLICABLE STATE OR LOCAL LAWS OR REGULATIONS. THE OFFERING PLAN MUST FURTHER PROVIDE THAT IF ANY SUCH VIOLATIONS OF RECORD REFERRED TO IN SUBPARAGRAPH (I) OF THIS PARAGRAPH OR DANGEROUS OR HAZARDOUS CONDITIONS REFERRED TO IN SUBPARAGRAPH (II) OF THIS PARAGRAPH ARE NOT CORRECTED BY THE CLOSING DATE, THE SPONSOR SHALL PLACE IN ESCROW A SUM OF MONEY WHICH IS CERTIFIED BY A REGISTERED ARCHITECT OR PROFESSIONAL ENGINEER RETAINED BY THE SPONSOR AS SUFFICIENT TO COVER THE REMAINING COST OF CORRECTION. THE SPONSOR MAY EXPEND THE ESCROW MONEY TO CURE SUCH VIOLATIONS OR DANGEROUS OR HAZARDOUS CONDITIONS. IN THE EVENT THAT THE CORRECTIVE WORK IS NOT COMPLETED WITHIN ONE YEAR OF THE

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

LBD04498-01-9

CLOSING DATE, THE SUM IN ESCROW SHALL BE TURNED OVER TO THE COOPERATIVE CORPORATION OR CONDOMINIUM BOARD OF MANAGERS AND USED TO COMPLETE THE WORK. ANY ESCROW MONEY REMAINING AFTER ALL REQUIRED WORK IS COMPLETED SHALL BE RETURNED TO THE SPONSOR. WHERE THE SPONSOR PLACES INTO A RESERVE FUND AN AMOUNT IN EXCESS OF THAT REQUIRED BY STATE AND LOCAL LAW WHICH IS SPECIFICALLY ALLOCATED AND ADEQUATE TO CURE SUCH PARTICULAR VIOLATION OF RECORD OR DANGEROUS OR HAZARDOUS CONDITION, NO MONEY NEEDS TO BE PLACED IN ESCROW FOR SUCH VIOLATION OR DANGEROUS OR HAZARDOUS CONDITIONS. IF THE SUM IN ESCROW OR SPECIFICALLY ALLOCATED IN A RESERVE FUND IS NOT SUFFICIENT TO CURE SUCH VIOLATIONS OF RECORD OR DANGEROUS OR HAZARDOUS CONDITIONS, THE SPONSOR SHALL REMAIN LIABLE TO CURE SUCH VIOLATIONS OR DANGEROUS OR HAZARDOUS CONDITIONS.

S 2. Subdivision 2 of section 352-eeee of the general business law is amended by adding a new paragraph (g) to read as follows:

(G) THE PLAN PROVIDES THAT THE SPONSOR SHALL CAUSE TO BE CURED: (I) ALL SERIOUS VIOLATIONS OF RECORD OF LOCAL OR STATE LAW OR REGULATIONS REGARDING CONDITIONS IN THE BUILDING OR GROUNDS OF THE REAL PROPERTY WHICH IS THE SUBJECT OF THE OFFERING, EXISTING ON THE DATE OF EFFECTIVENESS OF THE PLAN, EXCEPT THOSE WHICH, IF NOT CORRECTED, WOULD NOT LEAD TO DANGEROUS OR HAZARDOUS CONDITIONS, AS CERTIFIED BY A REGISTERED ARCHITECT OR PROFESSIONAL ENGINEER RETAINED BY THE SPONSOR; AND (II) ALL DANGEROUS AND HAZARDOUS CONDITIONS IN SUCH REAL PROPERTY EXISTING ON THE DATE OF EFFECTIVENESS OF THE PLAN WHICH A REGISTERED ARCHITECT OR PROFESSIONAL ENGINEER RETAINED BY THE SPONSOR CERTIFIES ARE NOT IN COMPLIANCE WITH APPLICABLE STATE OR LOCAL LAWS OR REGULATIONS. THE OFFERING PLAN MUST FURTHER PROVIDE THAT IF ANY SUCH VIOLATIONS OF RECORD REFERRED TO IN SUBPARAGRAPH (I) OF THIS PARAGRAPH OR DANGEROUS OR HAZARDOUS CONDITIONS REFERRED TO IN SUBPARAGRAPH (II) OF THIS PARAGRAPH ARE NOT CORRECTED BY THE CLOSING DATE, THE SPONSOR SHALL PLACE IN ESCROW A SUM OF MONEY WHICH IS CERTIFIED BY A REGISTERED ARCHITECT OR PROFESSIONAL ENGINEER RETAINED BY THE SPONSOR AS SUFFICIENT TO COVER THE REMAINING COST OF CORRECTION. THE SPONSOR MAY EXPEND THE ESCROW MONEY TO CURE SUCH VIOLATIONS OR DANGEROUS OR HAZARDOUS CONDITIONS. IN THE EVENT THAT THE CORRECTIVE WORK IS NOT COMPLETED WITHIN ONE YEAR OF THE CLOSING DATE, THE SUM IN ESCROW SHALL BE TURNED OVER TO THE COOPERATIVE CORPORATION OR CONDOMINIUM BOARD OF MANAGERS AND USED TO COMPLETE THE WORK. ANY ESCROW MONEY REMAINING AFTER ALL REQUIRED WORK IS COMPLETED SHALL BE RETURNED TO THE SPONSOR. WHERE THE SPONSOR PLACES INTO A RESERVE FUND AN AMOUNT IN EXCESS OF THAT REQUIRED BY STATE AND LOCAL LAW WHICH IS SPECIFICALLY ALLOCATED AND ADEQUATE TO CURE SUCH PARTICULAR VIOLATION OF RECORD OR DANGEROUS OR HAZARDOUS CONDITION, NO MONEY NEEDS TO BE PLACED IN ESCROW FOR SUCH VIOLATION OR DANGEROUS OR HAZARDOUS CONDITIONS. IF THE SUM IN ESCROW OR SPECIFICALLY ALLOCATED IN A RESERVE FUND IS NOT SUFFICIENT TO CURE SUCH VIOLATIONS OF RECORD OR DANGEROUS OR HAZARDOUS CONDITIONS, THE SPONSOR SHALL REMAIN LIABLE TO CURE SUCH VIOLATIONS OR DANGEROUS OR HAZARDOUS CONDITIONS. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SERIOUS VIOLATIONS" SHALL MEAN ANY VIOLATIONS WHICH HAVE BEEN CLASSIFIED BY THE NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT AS "HAZARDOUS" OR "IMMEDIATELY HAZARDOUS" PURSUANT TO SECTION 27-2115 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, AND SHALL NOT INCLUDE ANY VIOLATIONS WHICH HAVE BEEN CLASSIFIED AS "NON-HAZARDOUS" PURSUANT TO SUCH SECTION.

S 3. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause,

sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 4. This act shall take effect immediately and shall apply to every offering statement or prospectus submitted to the attorney general on and after such date and to every offering statement or prospectus submitted to the attorney general which has not yet been declared effective; provided, that the amendments to section 352-eee of the general business law made by section one of this act shall not affect the expiration of such section pursuant to chapter 402 of the laws of 1983, as amended, and shall be deemed to expire therewith; provided further, that the amendments to section 352-eeee of the general business law made by section two of this act shall not affect the expiration of such section pursuant to chapter 555 of the laws of 1982, as amended, and shall be deemed to expire therewith.