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

6013

2009-2010 Regular Sessions

I N  A S S E M B L Y

February 24, 2009

Introduced by M. of A. GOTTFRIED, GLICK, CASTRO, KELLNER, MILLMAN, ROSENTHAL -- Multi-Sponsored by -- M. of A. BING, BRENNAN, CLARK -- read once and referred to the Committee on Housing

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:

Section 1. Paragraph (e) of subdivision 2 of section 352-eeee of the general business law, as added by chapter 555 of the laws of 1982, is amended to read as follows:

(e) The attorney general finds that an excessive number of long-term vacancies did not exist on the date that the offering statement or prospectus was first submitted to the department of law OR AT ANY TIME BETWEEN THAT DATE AND THE ISSUANCE OF THE LETTER FROM THE ATTORNEY GENERAL STATING THAT THE OFFERING STATEMENT OR PROSPECTUS REQUIRED IN SUBDIVISION ONE OF SECTION THREE HUNDRED FIFTY-TWO-E OF THIS ARTICLE HAS BEEN FILED. "Long-term vacancies" shall mean dwelling units not leased or occupied by bona fide tenants for more than five months prior to the date of such submission to the department of law OR PRIOR TO ANY TIME BETWEEN THAT DATE AND THE ISSUANCE OF SUCH LETTER. "Excessive" shall mean a vacancy rate in excess of the greater of (i) ten percent and (ii) a percentage that is double the normal average vacancy rate for the building or group of buildings or development for two years prior to the January preceding the date the offering statement or prospectus was first submitted to the department of law.

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

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

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

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

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

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

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

S 4. Subparagraph (i) of paragraph 3 of subdivision a of section 12 of section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 403 of the laws of 1983, is amended to read as follows:

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

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

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

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

(II) WHERE THE TENANT IS A CORPORATION, PARTNERSHIP, OR OTHER BUSINESS OR NOT-FOR-PROFIT ENTITY, UNLESS THE HOUSING ACCOMMODATION (A) IS INTENDED TO BE OCCUPIED BY AN OFFICER, PARTNER, EMPLOYEE OR OTHER

NATURAL PERSON PARTICIPATING IN THE DAY-TO-DAY OPERATIONS OF THE TENANT ENTITY (OR WAS SUCH A PERSON AT THE COMMENCEMENT OF THE OCCUPANCY AND IS NOW RETIRED FROM BEING SUCH A PERSON) WHO WILL OCCUPY THE HOUSING ACCOMMODATION AS HIS OR HER PRIMARY RESIDENCE, OR (B) THE HOUSING ACCOMMODATION IS TO BE OCCUPIED UNDER SUBPARAGRAPH (C) OF PARAGRAPH NINE OF SUBDIVISION C OF SECTION 26-511 OF THIS CHAPTER.

S 6. Paragraph 1 of subdivision c of section 26-516 of the administrative code of the city of New York is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(i) the amendments to the emergency tenant protection act of nineteen seventy-four made by sections three and four of this act shall expire on

the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974; and

(ii) the amendments to sections 26-512 and 26-516 of the administrative code of the city of New York made by sections five and six of this act shall expire on the same date as such sections expire and shall not affect the expiration of such sections as provided in section 26-520 of such code; and

(c) provided that the amendments to section 12 of the emergency tenant protection act of nineteen seventy-four made by section seven of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974; and provided that the amendments to section 6 of the emergency housing rent control law made by section eight of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946.