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

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2009-2010 Regular Sessions

I N A S S E M B L Y

March 2, 2009

Introduced by M. of A. GLICK, V. LOPEZ, GOTTFRIED, MILLMAN, ROSENTHAL, WRIGHT -- Multi-Sponsored by -- M. of A. CLARK, COLTON, CYMBROWITZ, FARRELL, NOLAN, PHEFFER, TOWNS, WEISENBERG -- read once and referred to the Committee on Housing

AN ACT to amend the multiple dwelling law, the public authorities law, the real property actions and proceedings law and the private housing finance law, in relation to making provisions regarding legalization of interim multiple dwellings; and to amend chapter 349 of the laws of 1982 amending the multiple dwelling law relating to the legalization of interim multiple dwellings, in relation to extending the provisions thereof

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

Section 1. Section 282 of the multiple dwelling law, as added by chapter 349 of the laws of 1982, is amended to read as follows:

S 282. Establishment of special loft unit. In order to resolve complaints of owners of interim multiple dwellings and of residential occupants of such buildings qualified for the protection of this article, and to act upon hardship applications made pursuant to this article, a special loft unit referred to herein as the "loft board" shall be established which shall consist of from four to nine members representative of the public, the real estate industry, loft residential tenants, and loft manufacturing interests, and a chairperson, all to be appointed by the mayor of the municipality and to serve such terms as he may designate. The compensation of the members of the loft board shall be fixed by the mayor. The members of the loft board shall not be considered employees of the state or the municipality, provided, however, that state or municipal employees or officers may be named to the loft board. The mayor shall establish the loft board within ninety days of the effective date of the act which added this article. The loft board shall have such office and staff as shall be necessary to carry

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

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out functions conferred upon it and may request and receive assistance from any state or municipal agency or department. The loft board shall have the following duties: (a) the determination of interim multiple dwelling status and other issues of coverage pursuant to this article; (b) the resolution of all hardship appeals brought under this article; (c) the determination of any claim for rent adjustment under this article by an owner or tenant; (d) the issuance, after a public hearing, and the enforcement of rules and regulations governing minimum housing maintenance standards in interim multiple dwellings (subject to the provisions of this chapter and any local building code), rent adjustments prior to legalization, compliance with this article and the hearing of complaints and applications made to it pursuant to this article; and (e) determination of controversies arising over the fair market value of a residential tenant's fixtures or reasonable moving expenses. The violation of any rule or regulation promulgated by the loft board shall be punishable by a civil penalty determined by the loft board not to exceed one thousand dollars which may [be recovered by the municipality by a proceeding in any court of competent jurisdiction], UPON THE EXPIRATION OF THE PERIOD IN WHICH THE PARTY SO PENALIZED MAY INSTITUTE A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES, BE FILED AND ENFORCED BY THE MUNICIPALITY IN THE SAME MANNER AS A JUDGMENT. The loft board may charge and collect reasonable fees in the execution of its responsibilities. The loft board may administer oaths, take affidavits, hear testimony, and take proof under oath at public or private hearings.

S 2. Paragraph (viii) of subdivision 1 of section 284 of the multiple dwelling law, as amended by section 2 of part BB of chapter 85 of the laws of 2002, is amended to read as follows:

(viii) In addition to the penalties provided in article eight of this chapter, if there is a finding by the loft board that an owner has failed to satisfy any requirement specified in paragraphs (i), (ii), (iii), (iv) and (v) of this subdivision, a court may order specific performance to enforce the provisions of this article upon the application of [three occupants of separate residential units] A RESIDENTIAL OCCUPANT, qualified for the protection of this article WHO RESIDES IN THE AFFECTED INTERIM MULTIPLE DWELLING, or upon the application of the municipality.

S 3. Subdivision 3 of section 286 of the multiple dwelling law, as added by chapter 349 of the laws of 1982, is amended to read as follows:

3. Upon or after compliance with the safety and fire protection standards of article seven-B of this chapter, an owner may apply to the loft board for an adjustment of rent based upon the cost of such compliance. Upon approval by the loft board of such compliance, the loft board shall set the initial legal regulated rent, and each residential occupant qualified for protection pursuant to this article shall be offered a residential lease subject to the provisions regarding evictions and regulation of rent set forth in the emergency tenant protection act of nineteen seventy-four, except to the extent the provisions of this article are inconsistent with such act. THE OFFERED RESIDENTIAL LEASE SHALL REFLECT SUCH OCCUPANT'S RIGHTS, INCLUDING THOSE RELATED TO USE AND TO SERVICES, AS THEY EXISTED PRIOR TO APPROVAL OF COMPLIANCE BY THE LOFT BOARD PROVIDED THAT THEY DO NOT VIOLATE THE CERTIFICATE OF OCCUPANCY OF THE BUILDING OR ANY PROVISION OF LAW. At such time, the owners of such buildings shall join a real estate industry stabilization association in accordance with such act.

S 4. Section 286 of the multiple dwelling law is amended by adding a new subdivision 14 to read as follows:

14. AN OWNER OF A BUILDING CONTAINING A UNIT OR UNITS MADE SUBJECT TO THE PROVISIONS OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE PURSUANT TO THIS ARTICLE MAY NOT RECOVER POSSESSION OF ANY SUCH UNIT OR UNITS FOR HIS OR HER PERSONAL USE AND OCCUPANCY OR FOR THE USE AND OCCUPANCY OF A MEMBER OF HIS OR HER IMMEDIATE FAMILY WHERE A MEMBER OF THE HOUSEHOLD HAS RESIDED IN THE BUILDING FOR TWENTY YEARS OR MORE.

S 5. The multiple dwelling law is amended by adding a new section 288 to read as follows:

S 288. ADDITIONAL REMEDIES. IN ADDITION TO ANY OTHER REMEDY AVAILABLE PURSUANT TO THIS CHAPTER, IF AN OWNER HAS FAILED TO ACHIEVE COMPLIANCE WITH THE STANDARDS OF SAFETY AND FIRE PROTECTION SET FORTH IN ARTICLE SEVEN-B OF THIS CHAPTER FOR THE RESIDENTIAL PORTION OF AN INTERIM MULTIPLE DWELLING IN ACCORDANCE WITH THE TIME LIMITS PROVIDED FOR IN PARAGRAPH (I), (II), (III), (IV) OR (V) OF SUBDIVISION ONE OF SECTION TWO HUNDRED EIGHTY-FOUR OF THIS ARTICLE ANY RESIDENTIAL OCCUPANT OF SUCH BUILDING WHO IS QUALIFIED FOR THE PROTECTION OF THIS ARTICLE MAY MAINTAIN A SPECIAL PROCEEDING PURSUANT TO ARTICLE SEVEN-A OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW FOR THE PURPOSE OF UNDERTAKING THE WORK NECESSARY TO ACHIEVE SUCH COMPLIANCE.

S 6. Section 2426 of the public authorities law is amended by adding a new subdivision 23 to read as follows:

23. "INTERIM MULTIPLE DWELLING LEGALIZATION LOAN". A LOAN EXTENDED BY A FINANCIAL INSTITUTION WHICH MAY INCLUDE THE REFINANCING OF EXISTING INDEBTEDNESS, IF ANY, SECURED BY ONE OR MORE MORTGAGES ON AN INTERIM MULTIPLE DWELLING AS DEFINED IN SECTION TWO HUNDRED EIGHTY-ONE OF THE MULTIPLE DWELLING LAW WHICH COMPLIES WITH THE CONDITIONS ESTABLISHED PURSUANT TO SECTION TWENTY-FOUR HUNDRED TWENTY-EIGHT OF THIS PART.

S 7. Section 2428 of the public authorities law is amended by adding a new subdivision 3-c to read as follows:

3-C. (A) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, WHEN SUCH INSURANCE IS NOT REASONABLY AVAILABLE THROUGH THE PRIVATE MARKET THE AGENCY MAY INSURE INTERIM MULTIPLE DWELLING LEGALIZATION LOANS WHICH MEET THE FOLLOWING CONDITIONS:

(I) A PORTION OF THE PROCEEDS WILL BE USED TO ACHIEVE COMPLIANCE WITH ARTICLE SEVEN-C OF THE MULTIPLE DWELLING LAW; AND

(II) THE BORROWER HAS SUBMITTED A PLAN TO REASONABLY ASSURE COMPLIANCE WITH ARTICLE SEVEN-C OF THE MULTIPLE DWELLING LAW.

(B) THE FAILURE OF AN APPLICANT FOR A LOAN TO BE IN COMPLIANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED EIGHTY-FOUR OF THE MULTIPLE DWELLING LAW SHALL NOT IN ITSELF ACT AS A BAR TO QUALIFYING FOR A LOAN.

S 8. The real property actions and proceedings law is amended by adding a new section 784 to read as follows:

S 784. APPLICABILITY TO INTERIM MULTIPLE DWELLINGS. 1. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO INTERIM MULTIPLE DWELLINGS AS DEFINED IN SECTION TWO HUNDRED EIGHTY-ONE OF THE MULTIPLE DWELLING LAW TO THE EXTENT PROVIDED IN SECTION TWO HUNDRED EIGHTY-EIGHT OF SUCH LAW.

2. THE PROVISIONS OF SECTION TWO HUNDRED EIGHTY-EIGHT OF THE MULTIPLE DWELLING LAW SHALL GOVERN IN THE EVENT OF ANY CONFLICT BETWEEN THE PROVISIONS OF SUCH SECTION AND THE PROVISIONS OF THIS ARTICLE.

S 9. Subdivision 1 of section 654-d of the private housing finance law is amended by adding a new paragraph (u) to read as follows:

(U) "INTERIM MULTIPLE DWELLING LEGALIZATION LOAN". A LOAN EXTENDED BY A FINANCIAL INSTITUTION WHICH MAY INCLUDE THE REFINANCING OF EXISTING

INDEBTEDNESS, IF ANY, SECURED BY ONE OR MORE MORTGAGES ON AN INTERIM MULTIPLE DWELLING AS DEFINED IN SECTION TWO HUNDRED EIGHTY-ONE OF THE MULTIPLE DWELLING LAW WHICH COMPLIES WITH THE CONDITIONS ESTABLISHED PURSUANT TO SECTION TWENTY-FOUR HUNDRED TWENTY-EIGHT OF THE PUBLIC AUTHORITIES LAW.

S 10. Subdivision 10 of section 654-d of the private housing finance law is amended by adding a new paragraph (k) to read as follows:

(K) (I) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, WHEN SUCH INSURANCE IS NOT REASONABLY AVAILABLE THROUGH THE PRIVATE MARKET THE AGENCY MAY INSURE INTERIM MULTIPLE DWELLING LEGALIZATION LOANS WHICH MEET THE FOLLOWING CONDITIONS:

(A) A PORTION OF THE PROCEEDS WILL BE USED TO ACHIEVE COMPLIANCE WITH ARTICLE SEVEN-C OF THE MULTIPLE DWELLING LAW; AND

(B) THE BORROWER HAS SUBMITTED A PLAN TO REASONABLY ASSURE COMPLIANCE WITH ARTICLE SEVEN-C OF THE MULTIPLE DWELLING LAW.

(II) THE FAILURE OF AN APPLICANT FOR A LOAN TO BE IN COMPLIANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED EIGHTY-FOUR OF THE MULTIPLE DWELLING LAW SHALL NOT IN ITSELF ACT AS A BAR TO QUALIFYING FOR A LOAN.

S 11. Section 3 of chapter 349 of the laws of 1982 amending the multiple dwelling law relating to the legalization of interim multiple dwellings, as amended by section 1 of part PP-1 of chapter 57 of the laws of 2008, is amended to read as follows:

S 3. Effective date and termination. This act shall take effect immediately. The provisions of this act and all regulations, orders and requirements thereunder shall terminate at the close of the calendar day May 31, [2010] 2014.

S 12. This act shall take effect immediately, provided that section 784 of the real property actions and proceedings law, as added by section eight of this act, shall expire and be deemed repealed on the same date as article 7-C of the multiple dwelling law; provided, further, however, that the amendments to sections 282, 284 and 286 of the multiple dwelling law made by sections one, two, three and four of this act shall not affect the repeal of such sections and shall be deemed repealed therewith; and provided further, that section 288 of the multiple dwelling law as added by section five of this act shall expire and be deemed repealed on the same date as article 7-C of the multiple dwelling law.