

5572

2009-2010 Regular Sessions

I N S E N A T E

May 19, 2009

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to providing for the continued occupancy of a property by tenants and owner-occupants during and after foreclosure proceedings

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

1 Section 1. The real property actions and proceedings law is amended by
2 adding a new section 1305 to read as follows:
3 S 1305. CONTINUED OCCUPANCY OF TENANTS AND OWNER-OCCUPANTS IN FORECLO-
4 SURE. 1. AS USED IN THIS SECTION:
5 (A) "TENANT IN OCCUPANCY OF THE FORECLOSED PROPERTY" MEANS ANY PERSON
6 OR PERSONS WHO, AT THE TIME OF A JUDGMENT OF FORECLOSURE, ARE NAMED ON A
7 LEASE AS LESSEE OR LESSEES; OR WHO IS OR ARE A PARTY OR PARTIES TO AN
8 ORAL OR IMPLIED RENTAL AGREEMENT AND OBLIGATED TO PAY RENT FOR THE USE
9 OR OCCUPANCY OF A HOUSING ACCOMMODATION; AND
10 (B) "OWNER-OCCUPANT" MEANS ANY FEE OWNER OR MORTGAGOR WHO RESIDES IN
11 THE MORTGAGED PROPERTY OR A PART THEREOF AS THEIR RESIDENCE AT THE TIME
12 A JUDGMENT OF FORECLOSURE IS ISSUED.
13 2. WHEN OWNERSHIP OF A PROPERTY SUBJECT TO AN ACTION IN FORECLOSURE
14 UNDER THIS ARTICLE HAS BEEN TRANSFERRED PURSUANT TO A JUDGMENT OF FORE-
15 CLOSURE AND SALE UNDER SECTION THIRTEEN HUNDRED FIFTY-ONE OF THIS ARTI-
16 CLE, OR THROUGH OTHER DISPOSITION DURING THE PENDENCY OF THE FORECLO-
17 SURE, THE PERSON OR ENTITY ACQUIRING TITLE SHALL SERVE A NOTICE ON ALL
18 TENANTS IN OCCUPANCY OF THE FORECLOSED PROPERTY, OR ANY PART THEREOF,
19 THAT THEY ARE ENTITLED TO REMAIN IN OCCUPANCY AS MONTHLY TENANTS, IN
20 PRIVACY WITH THE NEW OWNER, AT THE SAME RENT, AND ON THE SAME TERMS AND
21 CONDITIONS, AS WERE IN EFFECT PRIOR TO ISSUANCE OF THE JUDGMENT OF FORE-
22 CLOSURE, OR IN THE ABSENCE OF SUCH JUDGMENT, UPON THE TERMS AND CONDI-
23 TIONS AS WERE IN EFFECT AT THE TIME OF TRANSFER. THE MONTHLY TENANCY
24 SHALL COMMENCE ON THE DATE OF THE SERVICE OF THE NOTICE BY THE NEW

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

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1 OWNER, AND SHALL CONTINUE FOR SIX CONSECUTIVE MONTHLY TERMS, WITH EACH
2 SUCH MONTHLY TERM BEING RENEWABLE AT THE OPTION OF THE TENANT. A TENANT
3 CHOOSING NOT TO RENEW MAY TERMINATE THE LEASE AT ANY TIME WITHIN THAT
4 PERIOD BY PROVIDING AT LEAST THIRTY CALENDAR DAYS' NOTICE AND SPECIFYING
5 THE EFFECTIVE DATE FOR THE TERMINATION, UNLESS A SHORTER NOTICE IS
6 AGREED UPON BY THE PARTIES.

7 3. THE RIGHTS CONFERRED UPON A TENANT BY SUBDIVISION TWO OF THIS
8 SECTION SHALL NOT BE CONSTRUED TO INFRINGE UPON THE GREATER RIGHTS, IF
9 ANY, OF ANY TENANT NOT NAMED IN THE FORECLOSURE ACTION.

10 4. ANY PERSON OR ENTITY ACQUIRING THE PROPERTY WHOSE TITLE BECOMES
11 EFFECTIVE AT A DATE PRIOR TO THE EXPIRATION OF THE SIX CONSECUTIVE
12 MONTHLY TERMS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION SHALL TAKE
13 TITLE SUBJECT TO THE RENEWABLE MONTHLY TENANCIES DESCRIBED IN SUCH
14 SUBDIVISION. WHETHER OR NOT THE PROPERTY IS RE-SOLD DURING THAT TIME,
15 UPON THE EXPIRATION OF THAT PERIOD, THE TENANT SHALL BECOME A "MONTHLY
16 TENANT" OR A "TENANT FROM MONTH TO MONTH" AS REFERENCED IN SECTION TWO
17 HUNDRED THIRTY-TWO-A OF THE REAL PROPERTY LAW IN THE CITY OF NEW YORK,
18 OR IN SECTION TWO HUNDRED THIRTY-TWO-B OF THE REAL PROPERTY LAW OUTSIDE
19 THE CITY OF NEW YORK, AND SHALL BE IN PRIVITY WITH THE OWNER, AT THE
20 SAME RENT AND ON THE SAME TERMS AND CONDITIONS AS DURING THE PRIOR SIX
21 MONTH PERIOD. NO TENANT SHALL AT ANY TIME BE REMOVED FROM POSSESSION
22 EXCEPT THROUGH SUMMARY PROCEEDING UNDER ARTICLE SEVEN OF THIS CHAPTER
23 BASED UPON ONE OR MORE OF THE GROUNDS LISTED IN SECTION SEVEN HUNDRED
24 ELEVEN OF THIS CHAPTER.

25 5. UPON THE ISSUANCE OF A JUDGMENT OF FORECLOSURE PURSUANT TO THIS
26 ARTICLE AND THE SALE OF THE SUBJECT PROPERTY AND RECORDING OF THE DEED,
27 AN OWNER-OCCUPANT OF THE PROPERTY OR PART THEREOF SHALL BE PERMITTED TO
28 REMAIN IN OCCUPANCY AS A TENANT AS PROVIDED FOR IN SUBDIVISION TWO OF
29 THIS SECTION, WITH THE EXCEPTION THAT THE RENT IN EFFECT SHALL BE SET BY
30 THE OWNER IN AN AMOUNT NOT TO EXCEED ONE HUNDRED TEN PERCENT OF THE
31 APPLICABLE AREA FAIR MARKET RENT PUBLISHED ANNUALLY BY THE FEDERAL
32 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION 8(C)(1)
33 OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC
34 1437F(C)(1).

35 6. NOTHING IN THIS SECTION SHALL BE INTERPRETED TO REVOKE, SUPERSEDE,
36 OR LIMIT ANY RIGHT HELD BY ANY OCCUPANT PURSUANT TO ANY STATE OR FEDERAL
37 LAW WHICH HAS AS ITS OBJECTIVE THE PROTECTION OF BORROWERS, MORTGAGORS,
38 TENANTS OR OCCUPANTS, INCLUDING THE EMERGENCY HOUSING RENT CONTROL LAW,
39 THE LOCAL EMERGENCY HOUSING RENT CONTROL ACT, THE CITY RENT AND REHABIL-
40 ITATION LAW, THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN
41 SEVENTY-FOUR, THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE
42 AND THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, OR ANY REGULATIONS,
43 RULES OR POLICIES PROMULGATED UNDER SUCH LAWS, ACTS OR CODES.

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