

5881

2009-2010 Regular Sessions

I N S E N A T E

June 15, 2009

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

AN ACT to amend the multiple dwelling law, in relation to interim multiple dwellings in a city of more than one million persons and to amend chapter 349 of the laws of 1982, amending the multiple dwelling law relating to legalization of interim multiple dwellings in cities over one million, in relation to extending the effectiveness of such chapter

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

1 Section 1. Section 281 of the multiple dwelling law is amended by
2 adding a new subdivision 5 to read as follows:
3 5. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (I), (III) AND (IV) OF
4 SUBDIVISION TWO OF THIS SECTION, BUT SUBJECT TO PARAGRAPHS (I) AND (II)
5 OF SUBDIVISION ONE OF THIS SECTION AND PARAGRAPH (II) OF SUBDIVISION TWO
6 OF THIS SECTION, THE TERM "INTERIM MULTIPLE DWELLING" SHALL INCLUDE
7 BUILDINGS, STRUCTURES OR PORTIONS THEREOF THAT ARE LOCATED IN A CITY OF
8 MORE THAN ONE MILLION PERSONS WHICH WERE OCCUPIED FOR RESIDENTIAL
9 PURPOSES AS THE RESIDENCE OR HOME OF ANY TWO OR MORE FAMILIES LIVING
10 INDEPENDENTLY FROM ONE ANOTHER FOR A PERIOD OF TWELVE CONSECUTIVE MONTHS
11 DURING THE PERIOD COMMENCING JANUARY FIRST, TWO THOUSAND EIGHT, AND
12 ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND NINE. A REDUCTION IN THE
13 NUMBER OF OCCUPIED RESIDENTIAL UNITS IN A BUILDING AFTER MEETING THE
14 AFOREMENTIONED TWELVE CONSECUTIVE MONTH REQUIREMENT SHALL NOT ELIMINATE
15 THE PROTECTIONS OF THIS SECTION FOR ANY REMAINING RESIDENTIAL OCCUPANTS
16 QUALIFIED FOR SUCH PROTECTIONS. NON-RESIDENTIAL SPACE IN A BUILDING AS
17 OF THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL BE OFFERED FOR RESIDENTIAL
18 USE ONLY AFTER THE OBTAINING OF A RESIDENTIAL CERTIFICATE OF OCCUPANCY
19 FOR SUCH SPACE AND SUCH SPACE SHALL BE EXEMPT FROM THIS ARTICLE,
20 EVEN IF A PORTION OF SUCH BUILDING MAY BE AN INTERIM MULTIPLE DWELLING.

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

LBD08550-03-9

1 S 2. Section 282 of the multiple dwelling law, as added by chapter 349
2 of the laws of 1982, is amended to read as follows:

3 S 282. Establishment of special loft unit. In order to resolve
4 complaints of owners of interim multiple dwellings and of residential
5 occupants of such buildings qualified for the protection of this arti-
6 cle, and to act upon hardship applications made pursuant to this arti-
7 cle, a special loft unit referred to herein as the "loft board" shall be
8 established which shall consist of from four to nine members represen-
9 tative of the public, the real estate industry, loft residential
10 tenants, and loft manufacturing interests, and a chairperson, all to be
11 appointed by the mayor of the municipality and to serve such terms as he
12 may designate. The compensation of the members of the loft board shall
13 be fixed by the mayor. The members of the loft board shall not be
14 considered employees of the state or the municipality, provided, howev-
15 er, that state or municipal employees or officers may be named to the
16 loft board. The mayor shall establish the loft board within ninety days
17 of the effective date of [the act which added this article] CHAPTER
18 THREE HUNDRED FORTY-NINE OF THE LAWS OF NINETEEN HUNDRED EIGHTY-TWO.
19 The loft board shall have such office and staff as shall be necessary to
20 carry out functions conferred upon it and may request and receive
21 assistance from any state or municipal agency or department. The loft
22 board shall have the following duties: (a) the determination of interim
23 multiple dwelling status and other issues of coverage pursuant to this
24 article; (b) the resolution of all hardship appeals brought under this
25 article; (c) the determination of any claim for rent adjustment under
26 this article by an owner or tenant; (d) the issuance, after a public
27 hearing, and the enforcement of rules and regulations governing minimum
28 housing maintenance standards in interim multiple dwellings (subject to
29 the provisions of this chapter and any local building code), rent
30 adjustments prior to legalization, compliance with this article and the
31 hearing of complaints and applications made to it pursuant to this arti-
32 cle; and (e) determination of controversies arising over the fair market
33 value of a residential tenant's fixtures or reasonable moving expenses.
34 The violation of any rule or regulation promulgated by the loft board
35 shall be punishable by a civil penalty determined by the loft board not
36 to exceed one thousand dollars which may be recovered by the munici-
37 pality by a proceeding in any court of competent jurisdiction. The loft
38 board may NOT charge [and collect reasonable] fees in the execution of
39 its responsibilities. The loft board may administer oaths, take affida-
40 vits, hear testimony, and take proof under oath at public or private
41 hearings.

42 S 3. Subdivision 1 of section 284 of the multiple dwelling law, as
43 amended by section 2 of part BB of chapter 85 of the laws of 2002, para-
44 graph (v) as amended by section 2 of part PP-1 of chapter 57 of the laws
45 of 2008, is amended to read as follows:

46 1. (i) The owner of an interim multiple dwelling (A) shall file an
47 alteration application within nine months from the effective date of
48 [the act which added this article] CHAPTER THREE HUNDRED FORTY-NINE OF
49 THE LAWS OF NINETEEN HUNDRED EIGHTY-TWO, and (B) shall take all reason-
50 able and necessary action to obtain an approved alteration permit within
51 twelve months from such effective date, and (C) shall achieve compliance
52 with the standards of safety and fire protection set forth in article
53 seven-B of this chapter for the residential portions of the building
54 within eighteen months from obtaining such alteration permit or eighteen
55 months from such effective date, whichever is later, and (D) shall take
56 all reasonable and necessary action to obtain a certificate of occupancy

1 as a class A multiple dwelling for the residential portions of the
2 building or structure within thirty-six months from such effective date.
3 The loft board may, upon good cause shown, and upon proof of compliance
4 with the standards of safety and fire protection set forth in article
5 seven-B of this chapter, twice extend the time of compliance with the
6 requirement to obtain a residential certificate of occupancy for periods
7 not to exceed twelve months each.

8 (ii) An owner of an interim multiple dwelling who has not complied
9 with the requirements of paragraph (i) of this subdivision by the effective
10 date of [the chapter of the laws of nineteen hundred ninety-two
11 which added this paragraph] CHAPTER TWO HUNDRED TWENTY-SEVEN OF THE LAWS
12 OF NINETEEN HUNDRED NINETY-TWO shall hereafter be deemed in compliance
13 with this subdivision provided that such owner files an alteration
14 application by October first, nineteen hundred ninety-two, takes all
15 reasonable and necessary action to obtain an approved alteration permit
16 by October first, nineteen hundred ninety-three, achieves compliance
17 with the standards of safety and fire protection set forth in article
18 seven-B of this chapter for the residential portions of the building by
19 April first, nineteen hundred ninety-five, or within eighteen months
20 from obtaining an approved alteration permit, whichever is later, and
21 takes all reasonable and necessary action to obtain a certificate of
22 occupancy as a class A multiple dwelling for the residential portions of
23 the building or structure by October first, nineteen hundred ninety-five
24 or within six months from achieving compliance with the aforementioned
25 standards for the residential portions of the building, whichever is
26 later.

27 (iii) An owner of an interim multiple dwelling who has not complied
28 with the requirements of paragraph (i) or (ii) of this subdivision by
29 the effective date of [the chapter of the laws of nineteen hundred ninety-
30 six which added this paragraph] CHAPTER THREE HUNDRED NINE OF THE
31 LAWS OF NINETEEN HUNDRED NINETY-SIX shall hereafter be deemed in compliance
32 with this subdivision provided that such owner files an alteration
33 application by October first, nineteen hundred ninety-six, takes all
34 reasonable and necessary action to obtain an approved alteration permit
35 by October first, nineteen hundred ninety-seven, achieves compliance
36 with the standards of safety and fire protection set forth in article
37 seven-B of this chapter for the residential portions of the building by
38 April first, nineteen hundred ninety-nine or within eighteen months from
39 obtaining an approved alteration permit whichever is later, and takes
40 all reasonable and necessary action to obtain a certificate of occupancy
41 as a class A multiple dwelling for the residential portions of the
42 building or structure by June thirtieth, nineteen hundred ninety-nine or
43 within three months from achieving compliance with the aforementioned
44 standards for the residential portions of the building, whichever is
45 later.

46 (iv) An owner of an interim multiple dwelling who has not complied
47 with the requirements of paragraph (i), (ii) or (iii) of this subdivision
48 by the effective date of this paragraph as provided in chapter four
49 hundred fourteen of the laws of nineteen hundred ninety-nine which added
50 this paragraph shall hereafter be deemed in compliance with this subdivision
51 provided that such owner files an alteration application by
52 September first, nineteen hundred ninety-nine, takes all reasonable and
53 necessary action to obtain an approved alteration permit by March first,
54 two thousand, achieves compliance with the standards of safety and fire
55 protection set forth in article seven-B of this chapter for the residential
56 portions of the building by May first, two thousand two or within

1 twelve months from obtaining an approved alteration permit whichever is
2 later, and takes all reasonable and necessary action to obtain a certifi-
3 cate of occupancy as a class A multiple dwelling for the residential
4 portions of the building or structure by May thirty-first, two thousand
5 two or within one month from achieving compliance with the aforemen-
6 tioned standards for the residential portions of the building, whichever
7 is later.

8 (v) An owner of an interim multiple dwelling who has not complied with
9 the requirements of paragraph (i), (ii), (iii) or (iv) of this subdivi-
10 sion by the effective date of this paragraph as provided in chapter
11 eighty-five of the laws of two thousand two shall hereafter be deemed in
12 compliance with this subdivision provided that such owner filed an
13 alteration application by September first, nineteen hundred ninety-nine,
14 took all reasonable and necessary action to obtain an approved alter-
15 ation permit by March first, two thousand, achieves compliance with the
16 standards of safety and fire protection set forth in article seven-B of
17 this chapter for the residential portions of the building by May first,
18 two thousand ten or within twelve months from obtaining an approved
19 alteration permit whichever is later, and takes all reasonable and
20 necessary action to obtain a certificate of occupancy as a class A
21 multiple dwelling for the residential portions of the building or struc-
22 ture by May thirty-first, two thousand ten or within one month from
23 achieving compliance with the aforementioned standards for the residen-
24 tial portions of the building, whichever is later.

25 (vi) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (I) THROUGH (V) OF
26 THIS SUBDIVISION THE OWNER OF AN INTERIM MULTIPLE DWELLING MADE SUBJECT
27 TO THIS ARTICLE BY SUBDIVISION FIVE OF SECTION TWO HUNDRED EIGHTY-ONE OF
28 THIS ARTICLE (A) SHALL FILE AN ALTERATION APPLICATION WITHIN NINE MONTHS
29 FROM THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE
30 WHICH AMENDED THIS SUBPARAGRAPH, AND (B) SHALL TAKE ALL REASONABLE AND
31 NECESSARY ACTION TO OBTAIN AN APPROVED ALTERATION PERMIT WITHIN TWELVE
32 MONTHS FROM SUCH EFFECTIVE DATE, AND (C) SHALL ACHIEVE COMPLIANCE WITH
33 THE STANDARDS OF SAFETY AND FIRE PROTECTION SET FORTH IN ARTICLE SEVEN-B
34 OF THIS CHAPTER FOR THE RESIDENTIAL PORTIONS OF THE BUILDING WITHIN
35 EIGHTEEN MONTHS FROM OBTAINING SUCH ALTERATION PERMIT OR EIGHTEEN MONTHS
36 FROM SUCH EFFECTIVE DATE, WHICHEVER IS LATER, AND (D) SHALL TAKE ALL
37 REASONABLE AND NECESSARY ACTION TO OBTAIN A CERTIFICATE OF OCCUPANCY AS
38 A CLASS A MULTIPLE DWELLING FOR THE RESIDENTIAL PORTIONS OF THE BUILDING
39 OR STRUCTURE WITHIN THIRTY-SIX MONTHS FROM SUCH EFFECTIVE DATE. THE LOFT
40 BOARD MAY, UPON GOOD CAUSE SHOWN, AND UPON PROOF OF COMPLIANCE WITH THE
41 STANDARDS OF SAFETY AND FIRE PROTECTION SET FORTH IN ARTICLE SEVEN-B OF
42 THIS CHAPTER, TWICE EXTEND THE TIME OF COMPLIANCE WITH THE REQUIREMENT
43 TO OBTAIN A RESIDENTIAL CERTIFICATE OF OCCUPANCY FOR PERIODS NOT TO
44 EXCEED TWELVE MONTHS EACH.

45 (VII) An owner who is unable to satisfy any requirement specified in
46 paragraph (ii), (iii), (iv) [or], (v), OR (VI) of this subdivision for
47 reasons beyond his/her control, including, but not limited to, a
48 requirement to obtain a certificate of appropriateness for modification
49 of a landmarked building, a need to obtain a variance from a board of
50 standards and appeals, or the denial of reasonable access to a residen-
51 tial unit as required by paragraph [(x)] (XI) of this subdivision, may
52 apply to the loft board for an extension of time to meet the requirement
53 specified in paragraph (ii), (iii), (iv) [or], (v), OR (VI) of this
54 subdivision. The loft board may grant an extension of time to meet a
55 requirement specified in paragraph (ii), (iii), (iv) [or], (v), OR (VI)

1 of this subdivision provided that the owner demonstrates that he/she has
2 made good faith efforts to satisfy the requirements.

3 [(vii)] (VIII) If there is a finding by the loft board that an owner
4 has failed to satisfy any requirement specified in [paragraphs] PARA-
5 GRAPH (i), (ii), (iii), (iv) [and], (v), OR (VI) of this subdivision,
6 such owner shall be subject to all penalties set forth in article eight
7 of this chapter.

8 [(viii)] (IX) In addition to the penalties provided in article eight
9 of this chapter, if there is a finding by the loft board that an owner
10 has failed to satisfy any requirement specified in [paragraphs] PARA-
11 GRAPH (i), (ii), (iii), (iv) [and], (v), OR (VI) of this subdivision, a
12 court may order specific performance to enforce the provisions of this
13 article upon the application of three occupants of separate residential
14 units, qualified for the protection of this article, or upon the appli-
15 cation of the municipality.

16 [(ix)] (X) If, as a consequence of an owner's unlawful failure to
17 comply with the provisions of [paragraphs] PARAGRAPH (i), (ii), (iii),
18 (iv) [and], (v), OR (VI) of this subdivision, any residential occupant
19 qualified for protection pursuant to this article is required to vacate
20 his or her unit as a result of a municipal vacate order, such occupant
21 may recover from the owner the fair market value of any improvements
22 made by such tenant and reasonable moving costs. Any vacate order issued
23 as to such unit by a local government shall be deemed an order to the
24 owner to correct the non-compliant conditions, subject to the provisions
25 of this article. Furthermore, when such correction has been made, such
26 occupant shall have the right to re-occupy his or her unit and shall be
27 entitled to all applicable tenant protections of this article.

28 [(x)] (XI) The occupants of a building shall, upon appropriate notice
29 regarding the timing and scope of the work required, afford the owner
30 reasonable access to their units so that the work necessary for compli-
31 ance with this article can be carried out. Access shall also be
32 afforded, upon reasonable prior notice, for the purpose of inspecting
33 and surveying units as may be required to comply with the provisions of
34 this article and article seven-B of this chapter. Failure to comply with
35 an order of the loft board regarding access shall be grounds for
36 eviction of a tenant.

37 S 4. Subdivision 2 of section 285 of the multiple dwelling law, as
38 amended by chapter 466 of the laws of 1987, is amended to read as
39 follows:

40 2. Notwithstanding any other provision of this article, an owner may
41 apply to the loft board for exemption of a building or portion thereof
42 from this article on the basis that compliance with this article in
43 obtaining a legal residential certificate of occupancy would cause an
44 unjustifiable hardship either because: (i) it would cause an unreason-
45 ably adverse impact on a non-residential conforming use tenant within
46 the building or[,] (ii) the cost of compliance renders legal residential
47 conversion infeasible. Residential and other tenants shall be given not
48 less than sixty days notice in advance of the hearing date for such
49 application. If the loft board approves such application, the building
50 or portion thereof shall be exempt from this article, and may be
51 converted to non-residential conforming uses, provided, however, that
52 the owner shall, as a condition of approval of such application, agree
53 to file an irrevocable recorded covenant in form satisfactory to the
54 loft board enforceable for fifteen years by the municipality, that the
55 building will not be re-converted to residential uses during such time.
56 The standard for granting such hardship application for a building or

1 portion thereof shall be as follows: (a) the loft board shall only grant
2 the minimum relief necessary to relieve any alleged hardship with the
3 understanding if compliance is reasonably possible it should be achieved
4 even if it requires alteration of units, relocation of tenants to vacant
5 space within the building, re-design of space or application for a non-
6 use-related variance, special permit, minor modification or administra-
7 tive certification; (b) self-created hardship shall not be allowed; (c)
8 the test for cost infeasibility shall be that of a reasonable return on
9 the owner's investment not maximum return on investment; (d) the test
10 for unreasonably adverse impact on a non-residential conforming use
11 tenant shall be whether residential conversion would necessitate
12 displacement. Such hardship applications shall be submitted to the loft
13 board within nine months of the establishment of the loft board (or, in
14 the case of interim multiple dwellings referred to in subdivision four
15 of section two hundred eighty-one of this [chapter] ARTICLE, within nine
16 months of the effective date of [that] SUCH subdivision FOUR OR IN THE
17 CASE OF INTERIM MULTIPLE DWELLINGS MADE SUBJECT TO THIS ARTICLE BY
18 SUBDIVISION FIVE OF SECTION TWO HUNDRED EIGHTY-ONE OF THIS ARTICLE,
19 WITHIN NINE MONTHS OF THE EFFECTIVE DATE OF SUCH SUBDIVISION FIVE), but
20 shall not be considered, absent a waiver by the loft board, unless the
21 owner has also filed an alteration application. In determination of any
22 such hardship application, the loft board may demand such information as
23 it deems necessary. In approving any such hardship application, the loft
24 board may fix reasonable terms and conditions for the vacating of resi-
25 dential occupancy.

26 S 5. Subparagraphs (A) and (B) of paragraph (ii) and paragraph (iii)
27 of subdivision 2 of section 286 of the multiple dwelling law, subpara-
28 graphs (A) and (B) of paragraph (ii) as amended by section 3 of part BB
29 of chapter 85 of the laws of 2002 and paragraph (iii) as amended by
30 chapter 414 of the laws of 1999, are amended to read as follows:

31 (A) Upon the owners' filing of an alteration application, as required
32 by paragraph (ii), (iii), (iv) [or], (v), OR (VI) of subdivision one of
33 section two hundred eighty-four of this article, an adjustment equal to
34 six percent of the rent in effect at the time the owner files the alter-
35 ation application.

36 (B) Upon obtaining an alteration permit, as required by paragraph
37 (ii), (iii), (iv) [or], (v), OR (VI) of subdivision one of section two
38 hundred eighty-four of this article, an adjustment equal to eight
39 percent of the rent in effect at the time the owner obtains the alter-
40 ation permit.

41 (iii) Any rent adjustments pursuant to paragraph (ii) of this subdivi-
42 sion shall not apply to units which were rented at market value after
43 June twenty-first, nineteen hundred eighty-two and prior to June twen-
44 ty-first, nineteen hundred ninety-two. THIS PARAGRAPH SHALL NOT APPLY
45 TO UNITS MADE SUBJECT TO THIS ARTICLE BY SUBDIVISION FIVE OF SECTION TWO
46 HUNDRED EIGHTY-ONE OF THIS ARTICLE.

47 S 6. Subdivision 3 of section 286 of the multiple dwelling law, as
48 added by chapter 349 of the laws of 1982, is amended to read as follows:

49 3. Upon or after compliance with the safety and fire protection stand-
50 ards of article seven-B of this chapter, an owner may apply to the loft
51 board for an adjustment of rent based upon the cost of such compliance.
52 Upon approval by the loft board of such compliance, the loft board shall
53 set the initial legal regulated rent, and each residential occupant
54 qualified for protection pursuant to this article shall be offered a
55 residential lease subject to the provisions regarding evictions and
56 regulation of rent set forth in the emergency tenant protection act of

1 nineteen seventy-four, except to the extent the provisions of this arti-
2 cle are inconsistent with such act. [At such time, the owners of such
3 buildings shall join a real estate industry stabilization association in
4 accordance with such act.]

5 S 7. Section 3 of chapter 349 of the laws of 1982, amending the multi-
6 ple dwelling law relating to legalization of interim multiple dwellings
7 in cities over one million, as amended by section 1 of part PP-1 of
8 chapter 57 of the laws of 2008, is amended to read as follows:

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

13 S 8. This act shall take effect immediately; provided that the amend-
14 ments to sections 281, 282, 284, 285 and 286 of article 7-C of the
15 multiple dwelling law made by sections one through six of this act shall
16 not affect the repeal of such article and shall be deemed repealed ther-
17 ewith, pursuant to section 3 of chapter 349 of the laws of 1982, as
18 amended.