

2009-2010 Regular Sessions

I N S E N A T E

January 9, 2009

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, the multiple dwelling law, and the multiple residence law, in relation to disallowing corporate and personal income tax deductions for property in continued noncompliance with regards to rent impairing violations

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

1 Section 1. Section 210 of the tax law is amended by adding a new  
2 subdivision 24-a to read as follows:  
3 24-A. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, NO DEDUCTION  
4 SHALL BE PERMITTED FOR INTEREST, TAXES, DEPRECIATION, OR AMORTIZATION  
5 PAID OR INCURRED IN THE TAXABLE YEAR FOR ANY PROPERTY OFFERED FOR LEASE  
6 WHICH IS IN CONTINUED NONCOMPLIANCE WITH REGARDS TO RENT IMPAIRING  
7 VIOLATIONS AS DEFINED BY: (A) LOCAL LAWS, REGULATIONS, OR ORDINANCES OR  
8 (B) PARAGRAPH A OF SUBDIVISION TWO OF SECTION THREE HUNDRED TWO-A OF THE  
9 MULTIPLE DWELLING LAW AND SECTION THREE HUNDRED FIVE-A OF THE MULTIPLE  
10 RESIDENCE LAW. FOR THE PURPOSES OF THIS SECTION, "CONTINUED NONCOMPLI-  
11 ANCE" SHALL MEAN THAT SUCH VIOLATION OR VIOLATIONS HAVE NOT BEEN  
12 CORRECTED WITHIN THE PRESCRIBED COMPLIANCE PERIOD, DESPITE WRITTEN  
13 NOTIFICATION TO THE OWNER BY THE LOCAL DEPARTMENT CHARGED WITH THE  
14 ENFORCEMENT OF SUCH LAWS, REGULATIONS, OR ORDINANCES. WITH THE EXCEPTION  
15 OF REASONABLE ADMINISTRATIVE EXPENSES, ALL ADDITIONAL REVENUE REALIZED  
16 AND COLLECTED BY THE DEPARTMENT AS A RESULT OF ANY DEDUCTION DISALLOWED  
17 IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION SHALL BE REMITTED  
18 TO THE LOCALITY IN WHICH THE PROPERTY WHICH IS THE SUBJECT OF THE  
19 VIOLATION IS LOCATED IN ORDER TO PROMOTE AND ENHANCE HOUSING MAINTENANCE  
20 ENFORCEMENT EFFORTS IN SUCH LOCALITY.  
21 S 2. Subsection (b) of section 612 of the tax law is amended by adding  
22 a new paragraph 39 to read as follows:

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

1 (39) DEDUCTIONS, INCLUDING INTEREST, TAXES, DEPRECIATION, AND AMORTI-  
2 ZATION ALLOWED IN DETERMINING FEDERAL ADJUSTED GROSS INCOME AND INCURRED  
3 IN THE TAXABLE YEAR ON ANY PROPERTY OFFERED FOR LEASE WHICH IS IN  
4 CONTINUED NONCOMPLIANCE WITH REGARDS TO RENT IMPAIRING VIOLATIONS AS  
5 DEFINED IN SECTION TWO HUNDRED TEN OF THIS CHAPTER.

6 S 3. Section 303 of the multiple dwelling law is amended by adding two  
7 new subdivisions 1-b and 1-c to read as follows:

8 1-B. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, LOCAL HOUSING  
9 ENTITIES OR DEPARTMENTS RESPONSIBLE FOR THE TRACKING AND/OR MAINTAINING  
10 OF RECORDS, FILES AND/OR AFFIDAVITS OF PERSONS FOUND TO BE IN CONTINUED  
11 NONCOMPLIANCE WITH REGARDS TO RENT IMPAIRING VIOLATIONS SHALL SUBMIT A  
12 LISTING OF THOSE PERSONS FOUND IN NONCOMPLIANCE TO THE DIVISION OF HOUS-  
13 ING AND COMMUNITY RENEWAL WITHIN THIRTY DAYS AFTER THE THIRD RECORDED  
14 VIOLATION. FOR THE PURPOSES OF THIS SECTION, THE TERM "PERSON" SHALL  
15 INCLUDE THE OWNER, MORTGAGEE, VENDEE, FIRM OR CORPORATION IN POSSESSION  
16 OF OR DIRECTLY IN CONTROL OF A DWELLING OR PART THEREOF. THE TERM "RENT  
17 IMPAIRING VIOLATIONS" SHALL BE DEFINED BY: (A) LOCAL LAWS, REGULATIONS  
18 OR ORDINANCES, OR (B) PARAGRAPH A OF SUBDIVISION TWO OF SECTION THREE  
19 HUNDRED TWO-A OF THIS ARTICLE AND SECTION THREE HUNDRED FIVE-A OF THE  
20 MULTIPLE RESIDENCE LAW. "CONTINUED NONCOMPLIANCE", FOR THE PURPOSES OF  
21 THIS SECTION, SHALL MEAN THAT SUCH VIOLATION OR VIOLATIONS HAVE NOT BEEN  
22 CORRECTED WITHIN THE PRESCRIBED COMPLIANCE PERIOD, DESPITE WRITTEN  
23 NOTIFICATION TO THE OWNER BY THE LOCAL DEPARTMENT CHARGED WITH THE  
24 ENFORCEMENT OF SUCH LAWS, REGULATIONS OR ORDINANCES.

25 1-C. (A) WHEN THE COMPLIANCE PERIOD PRESCRIBED BY THE DEPARTMENT FOR  
26 THE CORRECTION OF: (1) A RENT IMPAIRING VIOLATION AS DEFINED IN SECTION  
27 THREE HUNDRED TWO-A OF THIS ARTICLE; OR (2) A VIOLATION OF STATE OR  
28 LOCAL LAW, ORDINANCE OR REGULATION, WHICH CONSTITUTES A THREAT TO THE  
29 LIFE, HEALTH OR SAFETY OF THE PUBLIC HAS EXPIRED, THE DEPARTMENT SHALL  
30 MAIL TO THE BUILDING OWNER A NOTICE OF NONCOMPLIANCE. THE NOTICE OF  
31 NONCOMPLIANCE SHALL BE MAILED BY CERTIFIED MAIL TO THE BUILDING OWNER AT  
32 HIS OR HER LAST KNOWN ADDRESS, AND SHALL ADVISE SUCH OWNER (A) OF AN  
33 INTENT TO NOTIFY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL WITHIN  
34 THIRTY DAYS OF THE THIRD RECORDED NONCOMPLIANCE AND THE SUBSEQUENT  
35 NOTIFICATION OF THE DEPARTMENT OF TAXATION AND FINANCE BY THE DIVISION  
36 AFTER TEN DAYS, AND (B) A GENERAL DESCRIPTION OF THE TAX CONSEQUENCES OF  
37 SUCH FILING WITH THE DEPARTMENT OF TAXATION AND FINANCE. AFTER THE EXPI-  
38 RATION OF SUCH TEN DAY PERIOD, THE DIVISION MAY NOTIFY THE DEPARTMENT OF  
39 TAXATION AND FINANCE OF SUCH NONCOMPLIANCE. SUCH NOTICE SHALL INCLUDE  
40 THE NAME OF THE OWNER OR OWNERS, THE LOCATION OF THE DWELLING, THE DATE  
41 THE VIOLATION OR VIOLATIONS WERE RECORDED AND SUCH OTHER INFORMATION AS  
42 THE DEPARTMENT OF TAXATION AND FINANCE MAY REQUEST. IN THE EVENT THE  
43 PERIOD OF NONCOMPLIANCE DOES NOT COVER AN ENTIRE TAXABLE YEAR, THE  
44 DEDUCTIONS SHALL BE DENIED AT THE RATE OF ONE-TWELFTH FOR EACH FULL  
45 MONTH OR PART THEREOF DURING THE PERIOD OF NONCOMPLIANCE.

46 (B) FOR PURPOSES OF THIS SUBDIVISION, A NOTICE OF NONCOMPLIANCE SHALL  
47 NOT BE MAILED BY THE ENFORCEMENT DEPARTMENT TO THE DIVISION OF HOUSING  
48 AND COMMUNITY RENEWAL IF THE VIOLATION WAS CAUSED SOLELY BY REASON OF  
49 NATURAL DISASTER EXCEPT WHERE SUCH CONDITION REMAINS FOR MORE THAN SIX  
50 MONTHS.

51 S 4. Section 303 of the multiple residence law is amended by adding a  
52 new subdivision 7 to read as follows:

53 7. A. WHEN THE COMPLIANCE PERIOD PRESCRIBED BY THE DEPARTMENT FOR THE  
54 CORRECTION OF: (I) A RENT IMPAIRING VIOLATION AS DEFINED IN SECTION  
55 THREE HUNDRED TWO-A OF THE MULTIPLE DWELLING LAW; OR (II) A VIOLATION OF  
56 STATE OR LOCAL LAW, ORDINANCE OR REGULATION, WHICH CONSTITUTES A THREAT

1 TO THE LIFE, HEALTH AND SAFETY OF THE PUBLIC HAS EXPIRED, THE DEPARTMENT  
2 SHALL MAIL TO THE BUILDING OWNER A NOTICE OF NONCOMPLIANCE. THE NOTICE  
3 OF NONCOMPLIANCE SHALL BE MAILED BY CERTIFIED MAIL TO THE BUILDING OWNER  
4 AT HIS OR HER LAST KNOWN ADDRESS, AND SHALL ADVISE SUCH OWNER (1) OF AN  
5 INTENT TO NOTIFY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL WITHIN  
6 THIRTY DAYS OF THE THIRD RECORDED NONCOMPLIANCE AND THE SUBSEQUENT  
7 NOTIFICATION OF THE DEPARTMENT OF TAXATION AND FINANCE BY THE DIVISION  
8 AFTER TEN DAYS, AND (2) A GENERAL DESCRIPTION OF THE TAX CONSEQUENCES OF  
9 SUCH FILING WITH THE DEPARTMENT OF TAXATION AND FINANCE. AFTER THE EXPI-  
10 RATION OF SUCH TEN DAY PERIOD, THE DIVISION MAY NOTIFY THE DEPARTMENT OF  
11 TAXATION AND FINANCE OF SUCH NONCOMPLIANCE. SUCH NOTICE SHALL INCLUDE  
12 THE NAME OF THE OWNER OR OWNERS, THE LOCATION OF THE DWELLING, THE DATE  
13 THE VIOLATION OR VIOLATIONS WERE RECORDED AND SUCH OTHER INFORMATION AS  
14 THE DEPARTMENT OF TAXATION AND FINANCE MAY REQUEST. IN THE EVENT THE  
15 PERIOD OF NONCOMPLIANCE DOES NOT COVER AN ENTIRE TAXABLE YEAR, THE  
16 DEDUCTIONS SHALL BE DENIED AT THE RATE OF ONE-TWELFTH FOR EACH FULL  
17 MONTH OR PART THEREOF DURING THE PERIOD OF NONCOMPLIANCE.

18 B. FOR PURPOSES OF THIS SUBDIVISION, A NOTICE OF NONCOMPLIANCE SHALL  
19 NOT BE MAILED BY THE ENFORCEMENT DEPARTMENT TO THE DIVISION OF HOUSING  
20 AND COMMUNITY RENEWAL IF THE VIOLATION WAS CAUSED SOLELY BY REASON OF  
21 NATURAL DISASTER EXCEPT WHERE SUCH CONDITION REMAINS FOR MORE THAN SIX  
22 MONTHS.

23 S 5. This act shall take effect immediately and shall apply to taxable  
24 years beginning on or after the first of January of the year in which  
25 this act shall have become a law, and to all violations recorded on or  
26 after such date.