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

2232

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. O'DONNELL, CLARK, KAVANAGH -- Multi-Sponsored by -- M. of A. GOTTFRIED, HOOPER, PHEFFER -- read once and referred to the Committee on Housing

AN ACT to amend the administrative code of the city of New York, in relation to requiring the licensing of building managers of multiple dwellings in the city of New York

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

Section 1. Subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new article 15 to read as follows:

ARTICLE 15
HOUSING MAINTENANCE CODE
BUILDING MANAGERS

SECTION 27-2056.51 DEFINITION.
27-2056.52 LICENSE REQUIRED.
27-2056.53 DUTIES OF OWNER.
27-2056.54 DUTIES OF BUILDING MANAGER.
27-2056.55 REQUIREMENTS FOR LICENSE.
27-2056.56 APPLICATION FOR LICENSE.
27-2056.57 ISSUANCE OF LICENSE.
27-2056.58 REVOCATION AND SUSPENSION.
27-2056.59 HEARINGS.
27-2056.60 COMPLAINTS BY TENANTS, RESIDENTS OR OCCUPANTS OF MULTIPLE DWELLINGS.
27-2056.61 JUDICIAL REVIEW.
27-2056.62 EXEMPTION OF NEW YORK CITY HOUSING AUTHORITY.

S 27-2056.51 DEFINITION. A BUILDING MANAGER IS A PERSON EMPLOYED BY AN OWNER OF A MULTIPLE DWELLING TO SUPERVISE AND BE RESPONSIBLE TO SAID OWNER FOR THE PERFORMANCE OF JANITORIAL SERVICES AS DEFINED IN SUBDIVI-

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

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SION (A) OF SECTION 27-2052 OF THIS SUBCHAPTER AND COMPLIANCE WITH THE MAINTENANCE, HEALTH AND SAFETY PROVISIONS OF THIS SUBCHAPTER.

S 27-2056.52 LICENSE REQUIRED. NO PERSON SHALL ENGAGE IN OR FOLLOW THE BUSINESS OR OCCUPATION OF, OR HOLD HIMSELF OR HERSELF OUT TO ACT TEMPORARILY OR OTHERWISE AS, A BUILDING MANAGER IN THE CITY OF NEW YORK WITHOUT FIRST PROCURING A LICENSE THEREFOR AS PROVIDED IN THIS ARTICLE.

S 27-2056.53 DUTIES OF OWNER. A. NO OWNER OF A MULTIPLE DWELLING SHALL OPERATE THAT DWELLING, RENT DWELLING UNITS IN THAT DWELLING, OR COLLECT RENTS FOR USE OF DWELLING UNITS IN THAT DWELLING UNLESS AND UNTIL HE OR SHE HAS EMPLOYED A LICENSED BUILDING MANAGER TO ACT WITH RESPECT TO THAT DWELLING AS SET OUT IN SECTION 27-2056.51 OF THIS ARTICLE; HOWEVER, NOTHING IN THIS ARTICLE SHALL PREVENT AN OWNER OF A MULTIPLE DWELLING FROM BECOMING A LICENSED BUILDING MANAGER UPON COMPLIANCE WITH ALL PROVISIONS OF THIS ARTICLE WITH RESPECT THERETO.

B. THE OWNER OF A MULTIPLE DWELLING SHALL POST AND MAINTAIN IN SUCH DWELLING A LEGIBLE SIGN, CONSPICUOUSLY DISPLAYED, CONTAINING THE BUILDING MANAGER'S NAME, ADDRESS AND TELEPHONE NUMBER. A NEW IDENTIFICATION SIGN SHALL BE POSTED AND MAINTAINED WITHIN FIVE DAYS FOLLOWING A CHANGE OF BUILDING MANAGER.

S 27-2056.54 DUTIES OF BUILDING MANAGER. A. A BUILDING MANAGER EMPLOYED BY AN OWNER OF A MULTIPLE DWELLING SHALL BE WITHIN READY ACCESS OF THAT DWELLING AND THE RESIDENTS AND EMPLOYEES THEREOF DURING WEEKDAY WORKING HOURS.

B. A BUILDING MANAGER SHALL NOT BE EMPLOYED IN THAT CAPACITY FOR MORE THAN THREE HUNDRED DWELLING UNITS IN SEPARATE MULTIPLE DWELLINGS OF LESS THAN ONE HUNDRED UNITS EACH OR TWO MULTIPLE DWELLINGS OF ONE HUNDRED OR MORE UNITS EACH.

C. IF A BUILDING MANAGER IS EMPLOYED IN THAT CAPACITY FOR DWELLING UNITS IN MORE THAN ONE MULTIPLE DWELLING, THE SEVERAL MULTIPLE DWELLINGS SHALL BE LOCATED WITHIN A RADIUS OF FIVE MILES.

S 27-2056.55 REQUIREMENTS FOR LICENSE. A. THE FOLLOWING LICENSES MAY BE ISSUED UNDER THIS ARTICLE:

(1) TYPE A--UNRESTRICTED. A TYPE A LICENSE IS UNRESTRICTED.

(2) TYPE B--RESTRICTED. A TYPE B LICENSE MAY BE ISSUED ONLY TO AN OWNER OF A MULTIPLE DWELLING OF SIX UNITS OR LESS WHO OCCUPIES A DWELLING UNIT IN SAID MULTIPLE DWELLING AND ENTITLES SUCH OWNER TO ACT AS A BUILDING MANAGER ONLY WITH RESPECT TO SUCH MULTIPLE DWELLING.

B. NO PERSON SHALL BE ENTITLED TO A TYPE A LICENSE UNLESS:

(1) HE OR SHE HAS SUCCESSFULLY COMPLETED A BUILDING MANAGEMENT COURSE REQUIRING NOT LESS THAN SIXTY HOURS OF CLASSROOM WORK APPROVED OR CONDUCTED BY THE DEPARTMENT OF BUILDINGS; OR

(2) HE OR SHE DEMONSTRATES IN A WRITTEN EXAMINATION ADMINISTERED BY THE DEPARTMENT OF BUILDINGS COMPETENCE IN BUILDING MANAGEMENT.

C. NO PERSON SHALL BE ENTITLED TO A TYPE B LICENSE UNLESS:

(1) HE OR SHE HAS SUCCESSFULLY COMPLETED A COURSE REQUIRING NOT LESS THAN TWENTY HOURS OF CLASSROOM WORK APPROVED OR CONDUCTED BY THE DEPARTMENT OF BUILDINGS IN THE MANAGEMENT OF BUILDINGS OF SIX UNITS OR LESS; OR

(2) HE OR SHE DEMONSTRATES IN A WRITTEN EXAMINATION ADMINISTERED BY THE DEPARTMENT OF BUILDINGS COMPETENCE IN THE MANAGEMENT OF BUILDINGS OF SIX UNITS OR LESS.

D. IF THE APPLICANT SEEKS TO QUALIFY UNDER PARAGRAPH TWO OF SUBDIVISION B OR PARAGRAPH TWO OF SUBDIVISION C OF THIS SECTION HE OR SHE SHALL DEMONSTRATE TO THE DEPARTMENT SUFFICIENT EXPERIENCE, TRAINING OR EDUCATION AS WILL ENTITLE HIM OR HER TO A WAIVER OF THE REQUIREMENTS OF PARA-

GRAPH ONE OF SUBDIVISION B OR PARAGRAPH ONE OF SUBDIVISION C OF THIS SECTION.

S 27-2056.56 APPLICATION FOR LICENSE. A. ANY PERSON DESIRING A LICENSE AS A BUILDING MANAGER SHALL FILE WITH THE DEPARTMENT AN APPLICATION FOR THE LICENSE IN SUCH FORM AND DETAIL AS THE DEPARTMENT SHALL PRESCRIBE, SETTING FORTH THE FOLLOWING:

(1) THE NAME AND ADDRESS OF THE APPLICANT, AND THE NAME UNDER WHICH HE OR SHE INTENDS TO CONDUCT BUSINESS;

(2) THE PLACE OR PLACES, WITH THE STREET AND NUMBER, WHERE THE BUSINESS IS TO BE CONDUCTED;

(3) THE BUSINESS OR OCCUPATION THERETOFORE ENGAGED IN BY THE APPLICANT FOR A PERIOD OF TWO YEARS IMMEDIATELY PRECEDING THE DATE OF SUCH APPLICATION, SETTING FORTH THE PLACE OR PLACES WHERE SUCH BUSINESS OR OCCUPATION WAS ENGAGED IN AND THE NAME OR NAMES OF EMPLOYERS, IF ANY;

(4) IF THE APPLICANT SEEKS TO QUALIFY FOR THE LICENSE UNDER PARAGRAPH TWO OF SUBDIVISION B OR PARAGRAPH TWO OF SUBDIVISION C OF SECTION 27-2056.55 OF THIS ARTICLE, ALL INFORMATION RELEVANT TO THE EXPERIENCE, EDUCATION AND TRAINING THAT WOULD ENTITLE HIM OR HER TO A WAIVER OF THE REQUIREMENTS OF PARAGRAPH ONE OF SUBDIVISION B OR PARAGRAPH ONE OF SUBDIVISION C OF SECTION 27-2056.55 OF THIS ARTICLE;

(5) IF THE APPLICANT SEEKS TO QUALIFY FOR THE LICENSE UNDER PARAGRAPH ONE OF SUBDIVISION B OR PARAGRAPH ONE OF SUBDIVISION C OF SECTION 27-2056.55 OF THIS ARTICLE, SUCH PROOF AS REQUIRED BY THE DEPARTMENT EVIDENCING THAT THE APPLICANT HAS SUCCESSFULLY COMPLETED THE COURSE PROVIDED FOR IN THAT SECTION;

(6) SUCH FURTHER INFORMATION AS THE DEPARTMENT MAY REASONABLY REQUIRE TO DETERMINE THE TRUSTWORTHINESS OF THE APPLICANT AND HIS OR HER COMPETENCY TO TRANSACT THE BUSINESS OF BUILDING MANAGER IN SUCH A MANNER AS TO SAFEGUARD THE INTERESTS OF THE PUBLIC. IN DETERMINING COMPETENCY, THE DEPARTMENT SHALL REQUIRE PROOF THAT THE APPLICANT FOR A TYPE A LICENSE HAS KNOWLEDGE AND UNDERSTANDING OF THE OPERATION AND MAINTENANCE OF MULTIPLE DWELLINGS OF ALL TYPES, AGES, SIZES, AND CONDITIONS, AND THE OPERATION AND MAINTENANCE OF ALL EQUIPMENT, MACHINERY, AND FACILITIES OF SUCH MULTIPLE DWELLINGS, A GENERAL KNOWLEDGE OF THE BASIC PRINCIPLES OF THE LAW OF AGENCY, CONTRACTS, AND LABOR RELATIONS, AND A THOROUGH KNOWLEDGE OF THIS SUBCHAPTER; AND THAT THE APPLICANT FOR A TYPE B LICENSE HAS KNOWLEDGE AND UNDERSTANDING OF THE OPERATION AND MAINTENANCE OF MULTIPLE DWELLINGS OF SIX UNITS OR LESS, AND THE OPERATION AND MAINTENANCE OF ALL EQUIPMENT, MACHINERY, AND FACILITIES OF SUCH MULTIPLE DWELLINGS, A GENERAL UNDERSTANDING OF THE BASIC PRINCIPLES OF THE LAW OF AGENCY, CONTRACTS, AND LABOR RELATIONS, AND A THOROUGH KNOWLEDGE OF THIS SUBCHAPTER.

B. AN APPLICATION FOR A LICENSE SHALL BE ACCOMPANIED BY THE APPROPRIATE LICENSE FEE, AS PRESCRIBED BY THE DEPARTMENT.

C. A LICENSE GRANTED UNDER THIS ARTICLE SHALL BE VALID FOR A PERIOD OF TWO YEARS. ANY SUCH LICENSE MAY BE RENEWED BY THE DEPARTMENT UPON APPLICATION BY THE LICENSEE, IN SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE, AND UPON PAYMENT OF THE FEE FOR SUCH LICENSE. IN THE CASE OF APPLICATION FOR RENEWAL, THE DEPARTMENT MAY DISPENSE WITH THE REQUIREMENT OF SUCH STATEMENTS AS IT DEEMS UNNECESSARY IN VIEW OF THOSE CONTAINED IN THE ORIGINAL APPLICATION.

D. THE FEES PROVIDED FOR BY THIS SECTION SHALL NOT BE REFUNDABLE.

S 27-2056.57 ISSUANCE OF LICENSE. A. THE DEPARTMENT, IF SATISFIED OF THE COMPETENCY AND TRUSTWORTHINESS OF THE APPLICANT, SHALL ISSUE AND DELIVER TO HIM OR HER A LICENSE IN SUCH FORM AND MANNER AS THE DEPARTMENT SHALL PRESCRIBE, BUT WHICH MUST SET FORTH THE NAME AND PRINCIPAL

BUSINESS ADDRESS OF THE LICENSEE AND WHETHER THE LICENSE IS A TYPE A OR TYPE B LICENSE.

B. NOTICE IN WRITING IN THE MANNER AND FORM PRESCRIBED BY THE DEPARTMENT SHALL BE GIVEN THE DEPARTMENT OF ANY CHANGE IN HIS OR HER PRINCIPAL BUSINESS ADDRESS AT ITS OFFICES BY A LICENSEE. SUCH CHANGE BY A LICENSEE WITHOUT SUCH NOTIFICATION SHALL OPERATE TO SUSPEND HIS OR HER LICENSE UNTIL SUCH SUSPENSION SHALL BE VACATED BY THE DEPARTMENT.

C. THE FEE FOR A TYPE A LICENSE UNDER THIS ARTICLE SHALL BE TWENTY-FIVE DOLLARS; THE FEE FOR A TYPE B LICENSE UNDER THIS ARTICLE SHALL BE TEN DOLLARS.

S 27-2056.58 REVOCATION AND SUSPENSION. A. THE DEPARTMENT MAY REVOKE OR SUSPEND THE LICENSE OF A BUILDING MANAGER FOR SUCH PERIOD AS THE DEPARTMENT MAY DEEM PROPER, OR IN LIEU THEREOF MAY IMPOSE A FINE UNDER SUBCHAPTER FIVE OF THIS CHAPTER FOR A VIOLATION OF ANY PROVISION OF THIS ARTICLE, FOR A MATERIAL MISSTATEMENT IN THE APPLICATION FOR SUCH LICENSE, OR FOR INCOMPETENCY TO ACT AS A BUILDING MANAGER.

B. IN THE EVENT THAT THE DEPARTMENT SHALL REVOKE OR SUSPEND THE LICENSE OF A BUILDING MANAGER, ITS DETERMINATION SHALL BE IN WRITING AND OFFICIALLY SIGNED. THE ORIGINAL OF SUCH DETERMINATION, WHEN SO SIGNED, SHALL BE FILED IN THE OFFICES OF THE DEPARTMENT AND COPIES THEREOF SHALL BE SERVED PERSONALLY OR BY REGISTERED MAIL UPON THE LICENSEE, AND TO THE COMPLAINANT, IF ANY. ALL LICENSES SHALL BE RETURNED TO THE DEPARTMENT WITHIN FIVE DAYS AFTER THE RECEIPT OF NOTICE OF A REVOCATION OR SUSPENSION.

C. AFTER REVOCATION OR SUSPENSION IT IS PROHIBITED TO HOLD ONESELF OUT AS A BUILDING MANAGER.

D. WHENEVER THE LICENSE OF A BUILDING MANAGER IS REVOKED, SUCH LICENSEE SHALL BE INELIGIBLE TO BE RELICENSED UNTIL AFTER THE EXPIRATION OF ONE YEAR FROM THE DATE OF SUCH REVOCATION AND UNTIL SUCH TIME AS HE OR SHE COMPLIES WITH ALL THE REQUIREMENTS FOR AN INITIAL APPLICATION. IN THE EVENT OF RELICENSING, THE BUILDING MANAGER SHALL COMPLY WITH THE REQUIREMENTS OF PARAGRAPH ONE OF SUBDIVISION B OR PARAGRAPH ONE OF SUBDIVISION C OF SECTION 27-2056.55 OF THIS ARTICLE EVEN IF THOSE REQUIREMENTS WERE WAIVED IN HIS OR HER INITIAL APPLICATION.

S 27-2056.59 HEARINGS. A. THE DEPARTMENT SHALL, BEFORE DENYING AN APPLICATION FOR LICENSE, OR BEFORE REVOKING OR SUSPENDING ANY LICENSE, OR IMPOSING ANY FINE ON THE LICENSEE, AND AT LEAST TEN DAYS PRIOR TO THE DATE SET FOR HEARING NOTIFY IN WRITING THE APPLICANT OR LICENSEE OF ANY CHARGES MADE AND SHALL AFFORD SAID APPLICANT OR LICENSEE AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL IN REFERENCE THERETO. SUCH WRITTEN NOTICE MAY BE SERVED BY PERSONAL DELIVERY OR BY REGISTERED MAIL TO THE LAST KNOWN BUSINESS ADDRESS OF A LICENSEE, OR THE RESIDENCE ADDRESS OF AN APPLICANT.

B. A HEARING UNDER THIS SECTION SHALL BE CONDUCTED IN ACCORDANCE WITH SECTION 27-2092 OF THIS CHAPTER AND THE REGULATIONS THEREUNDER.

S 27-2056.60 COMPLAINTS BY TENANTS, RESIDENTS OR OCCUPANTS OF MULTIPLE DWELLINGS. A. ANY TENANT, RESIDENT, OR OCCUPANT OF ANY MULTIPLE DWELLING FOR WHICH A LICENSED BUILDING MANAGER IS EMPLOYED UNDER THIS ARTICLE MAY FILE A COMPLAINT WITH THE DEPARTMENT PERTAINING TO THE COMPETENCY OF SUCH BUILDING MANAGER.

B. A COMPLAINT UNDER THIS SECTION SHALL BE IN WRITING IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT AND SHALL BE MAILED OR PERSONALLY DELIVERED TO THE OFFICES OF THE DEPARTMENT.

C. UPON RECEIPT OF A COMPLAINT UNDER THIS SECTION, THE DEPARTMENT SHALL PROCEED IN ACCORDANCE WITH SECTIONS 27-2056.58 AND 27-2056.59 OF THIS ARTICLE.

S 27-2056.61 JUDICIAL REVIEW. THE ACTION OF THE DEPARTMENT IN GRANTING OR REFUSING TO GRANT OR RENEW A LICENSE UNDER THIS ARTICLE AND IN REVOKING OR SUSPENDING SUCH A LICENSE OR REFUSING TO REVOKE OR SUSPEND SUCH A LICENSE SHALL BE SUBJECT TO REVIEW BY A PROCEEDING BROUGHT UNDER AND PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES AT THE INSTANCE OF THE APPLICANT OR LICENSEE OR THE PERSON AGGRIEVED.

S 27-2056.62 EXEMPTION OF NEW YORK CITY HOUSING AUTHORITY. THE PROVISIONS OF THIS ARTICLE SHALL NOT BE APPLICABLE TO THE NEW YORK CITY HOUSING AUTHORITY.

S 2. This act shall take effect one year after it shall have become a law, provided however, that effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of the foregoing section of this act on its effective date is authorized and directed to be made and completed on or before such effective date.