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

5479

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. V. LOPEZ -- read once and referred to the Committee on Housing

AN ACT in relation to establishing legal stabilized and maximum rent controlled rents and determination of occupancy rights where a cooperative or condominium is deconverted

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

Section 1. The cooperative corporation deconversion rent and occupancy rights act is added to read as follows:

COOPERATIVE CORPORATION DECONVERSION
RENT AND OCCUPANCY RIGHTS ACT

Section 1. Short title.
2. Definitions.
3. Applicability.
4. Non-purchasing tenants.
5. Deconversion resulting from mortgage foreclosure; former owners and current renters.
6. Legal stabilized rent for units vacant on the base date.
7. Cooperative or condominium conversions revoked retroactively by the attorney general on fraud or other grounds.

Section 1. Short title. This act shall be known and may be cited as the "cooperative corporation deconversion rent and occupancy rights act".

S 2. Definitions. For the purposes of this act:

(a) "Deconversion" shall mean the loss of title to a building by a cooperative corporation in the event of a foreclosure of the underlying mortgage, or where a cooperative or condominium conversion is revoked retroactively by the attorney general to the date immediately prior to the effective date of the conversion plan, on the basis of fraud or on other grounds.

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

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(b) "Conversion plan" shall mean every offering statement or prospectus submitted to the department of law pursuant to section 352-e of the general business law for the conversion of a building or group of buildings or development from residential rental status to cooperative or condominium ownership or other form of cooperative interest in realty, other than an offering statement or prospectus for such conversion pursuant to article 2, 8, or 11 of the private housing finance law.

(c) "Division" shall mean the division of housing and community renewal.

(d) "Rent laws" shall mean the emergency housing rent control law, the emergency tenant protection act of 1974, the local emergency housing rent control act, the rent control and the rent stabilization law of 1969.

(e) "Base date" shall mean for the purpose of establishing the legal registered rent and required services under the rent laws the date immediately preceding the date of the deconversion and the restoration of rent regulation.

S 3. Applicability. (a) Upon deconversion, units which were subject to rent regulation prior to conversion to cooperative or condominium ownership shall revert to rent regulated status, and remain regulated as provided for under related rent laws.

(b) Upon deconversion, units subject to rent regulation solely as a condition of receiving governmental benefits shall remain subject to rent regulation only for such period of time as is required by law or by the rules of the governmental program.

S 4. Non-purchasing tenants. Upon deconversion, a non-purchasing tenant's occupancy rights are as follows:

(a) except as provided for under the applicable rent laws, tenants protected from eviction pursuant to section 352-eee or 352-eeee of the general business law shall retain such protected status.

(b) Upon deconversion, each non-purchasing tenant's rent, which was continuously regulated prior to deconversion, shall continue to be so regulated without any adjustment to the rent.

S 5. Deconversion resulting from mortgage foreclosure; former owners and current renters. (a) Where the unit is occupied by a renter on the base date, the unit's owner's occupancy rights are as follows:

1. Units in cities with a population of 1,000,000 or more.

2. Except as provided in paragraph 3 of this subdivision, the owner of shares allocated to a cooperative unit loses all ownership interest in such unit upon deconversion. The current renter, although not a rent regulated tenant at the time of initial occupancy, shall be entitled to remain in occupancy upon deconversion as a rent regulated tenant.

3. Where the owner occupies the unit as a primary residence at the end of the current renter's lease, the owner shall not be required to offer a renewal lease to such renter, and will become a regulated tenant under the following conditions:

a. such owner rented the unit for a period of no more than 2 out of the last 4 years immediately preceding the base date with the intention to occupy the unit as a primary residence at the end of the current renter's lease; or

b. such owner had been in occupancy at any time prior to the current renter, and rented the unit as a primary residence at the end of the current renter's lease.

(b) Units located outside a city with a population of 1,000,000 or more.

1. Upon deconversion the following types of renters shall qualify as rent-regulated tenants and are entitled to remain in occupancy:
a. subsequent renters in occupancy on July 1, 1993;
b. non-purchasing tenants; and
c. subsequent renters not in occupancy on July 7, 1993 but in occupancy upon deconversion.
2. a. Except as provided in this paragraph the owner of shares allocated to a cooperative unit loses ownership interest in such unit, the owner loses any right to occupancy as against a current renter not in occupancy on July 7, 1993.
b. The former proprietary lessee-owner shall be permitted to take occupancy of a unit as a regulated tenant where the renter is in occupancy pursuant to a sub-lease from the former proprietary lessee-owner at the expiration of the term of the sublease under the following conditions:
(1) the unit had not been sublet for a period of more than two out of the last four years immediately preceding the base date; and
(2) the owner occupies the unit as a primary residence upon expiration of the sublease, and intended to do so when executing the sublease.
(c) The legal stabilized rent shall be as follows:
1. For units located in a city with a population of 1,000,000 or more, the legal stabilized rent shall be the rent charged and paid on the base date, and where such rent was previously regulated under the private housing finance law or other state or federal law, other than the rent laws, upon the termination of such regulation the legal stabilized rent shall be the rent paid by the tenant in occupancy on the date such regulation ended.
2. For units outside a city with a population of 1,000,000 or more, the legal stabilized rent for non-purchasing tenants, and subsequent renters in occupancy on July 7, 1993, shall be the regulated rent charged and paid by such tenants on the base date. For subsequent renters not in occupancy on July 7, 1993, the legal stabilized rent shall be the unregulated rent charged and paid by such tenants on the base date.
(d) 1. Where the unit is occupied by the cooperative shareholder on the base date, the owner's occupancy rights upon deconversion are as follows:
a. a former owner in occupancy, who was either a rent stabilized or rent controlled tenant prior to the conversion, shall regain such prior regulated status; or
b. a former owner in occupancy, who was neither a rent controlled nor rent stabilized tenant prior to the conversion, shall become a rent stabilized tenant.
2. The legal stabilized or maximum rent controlled rents for such former owners shall be the maintenance charged and paid on the base date, subject to an order of the division establishing such legal stabilized rent or maximum rent controlled unit where the maintenance charged and paid on the base date is in dispute, in doubt or not known.
S 6. Legal stabilized rent for units vacant on the base date. (a) For units in a city with a population of 1,000,000 or more the legal stabilized rent shall be as follows:
1. For a unit last occupied by a rent controlled tenant, the initial legal rent shall be, the rent agreed to by the owner and the tenant and reserved in a lease, subject to a tenant's right to a fair market rent appeal;

2. For a unit last occupied by a tenant other than a rent controlled tenant, the initial legal rent shall be the rent charged and paid by the most recent tenant, which shall be subject to vacancy guidelines increases, but subject to a fair market rent appeal; or

3. For a unit last occupied by an owner, and the legal regulated rent is not known, the legal rent shall be the maintenance charged and paid by the most recent owner, which shall be subject to vacancy guidelines increases but not subject to a fair market rent appeal.

(b) For units located outside a city with a population of 1,000,000 or more the legal stabilized rent shall be as follows:

1. For a unit last occupied by a rent controlled tenant, the legal stabilized rent shall be the rent agreed to by the landlord and the tenant and reserved in a lease;

2. For a unit last occupied by a tenant other than a rent controlled tenant, the legal stabilized rent shall be the rent charged and paid by the most recent tenant which shall be subject to authorized vacancy guidelines increases; or

3. For a unit last occupied by an owner, and the legal regulated rent is not known, the legal regulated rent shall be the maintenance charged and paid by the most recent owner, subject to authorized vacancy guidelines increases.

S 7. Cooperative or condominium conversions revoked retroactively by the attorney general on fraud or other grounds. (a) Where the unit is vacant or occupied by anyone other than a non-purchasing tenant on the base date, the current occupant shall become either a rent stabilized or a rent controlled tenant, depending upon the unit's status immediately prior to the date of conversion. The former owner shall not have any occupancy rights to the unit.

(b) The legal stabilized rent for such units shall be as follows:

1. For units located in a city with a population of 1,000,000 or more for units subject to rent stabilization prior to conversion, the rent of any occupant who moved in after the cooperative or condominium conversion plan became effective, upon deconversion, shall be based upon the rent charged and paid one day prior to the date that the housing accommodation first became exempt from rent regulation, increased by the division's biennial guidelines increases.

2. For units where the occupant is an owner of shares allocated to a cooperative unit, or the owner of a condominium unit, but neither the sponsor nor a holder of unsold shares or units, the rent shall not exceed the maintenance charged and paid on the base date.

3. For units vacant on the base date, the rent may be increased by vacancy guidelines increases upon rerenting.

(c) For units located outside a city with a population of 1,000,000 or more subject to the emergency tenant protection act of 1974, the legal stabilized rent shall be as follows:

1. For tenants in occupancy on the base date who were in occupancy on July 7, 1993, the legal stabilized rent shall be the legal rent charged and paid on the base date.

2. For tenants not in occupancy on July 7, 1993, the rent shall be based upon the rent charged and paid one day prior to the date that the housing accommodation first became exempt from rent regulation, increased by the division's biennial guidelines increases.

3. For a unit occupied by the former owner or vacant on the base date, the legal stabilized rent shall be the rent charged and paid by the last tenant in occupancy, plus any authorized vacancy guidelines adjustment.

4. For a former owner who is neither the sponsor nor holder of unsold shares, such rent shall not exceed the maintenance charged and paid on the base date.

(d) The maximum rent controlled rent for such units shall be as follows:

1. For units located in a city with a population of 1,000,000 or more:

a. For units subject to rent control prior to conversion, the rent of the occupant who moved in after the cooperative or condominium conversion plan became effective, or for any unit vacant on the base date, upon deconversion, shall be based upon the rent charged and paid one day prior to the date that such unit first became exempt from rent regulation, increased by seven and one-half percent, as biennially adjusted by the city rent agency of the city of New York;

b. Where the occupant is an owner of shares allocated to a cooperative unit, or the owner of a condominium unit, but neither the sponsor nor a holder of unsold shares or units, the rent shall not exceed the maintenance charged and paid on the base date.

2. For units located outside a city with a population of 1,000,000 or more:

a. For units subject to rent control prior to conversion, the rent of the occupant who moved in after the conversion plan became effective, or for any unit vacant on the base date, upon deconversion, shall be based upon the rent charged and paid one day prior to the date that such unit first became decontrolled, which may be adjusted by applicable periodic increases, as may have been authorized by the division pursuant to the emergency housing rent control law.

b. Where the occupant is an owner of shares allocated to a cooperative unit, or the owner of a condominium unit, but neither the sponsor nor a holder of unsold shares or units, the rent shall not exceed the maintenance charged and paid on the base date.

(e) Overcharge complaints shall only be filed with the division for any rent in excess of the legal or maximum rent as provided in this subdivision which may have been collected by a sponsor or holder of unsold shares or units.

1. For rent stabilized housing accommodations, deemed guidelines increases authorized pursuant to this section shall not be considered in mitigation of any overcharges found for any period during which such increases were not registered with the division.

2. For rent controlled housing accommodations, deemed biennial or periodic rent adjustments authorized pursuant to this section shall not be considered in mitigation of any overcharges found.

S 2. This act shall take effect immediately.