

5617

2009-2010 Regular Sessions

I N S E N A T E

May 21, 2009

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the general business law, in relation to vacancies and illegal use and occupancy relating to cooperative or condominium conversion plans; to amend the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to leasing to business and other entities; and to amend the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law and the New York city charter, in relation to investigations and inspections by the city of New York

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

1 Section 1. Paragraph (e) of subdivision 2 of section 352-eeee of the
2 general business law, as added by chapter 555 of the laws of 1982, is
3 amended to read as follows:
4 (e) The attorney general finds that an excessive number of long-term
5 vacancies did not exist on the date that the offering statement or pros-
6 pectus was first submitted to the department of law OR AT ANY TIME
7 BETWEEN THAT DATE AND THE ISSUANCE OF THE LETTER FROM THE ATTORNEY
8 GENERAL STATING THAT THE OFFERING STATEMENT OR PROSPECTUS REQUIRED IN
9 SUBDIVISION ONE OF SECTION THREE HUNDRED FIFTY-TWO-E OF THIS ARTICLE HAS
10 BEEN FILED. "Long-term vacancies" shall mean dwelling units not leased
11 or occupied by bona fide tenants for more than five months prior to the
12 date of such submission to the department of law OR PRIOR TO ANY TIME
13 BETWEEN THAT DATE AND THE ISSUANCE OF SUCH LETTER. "Excessive" shall
14 mean a vacancy rate in excess of the greater of (i) ten percent and (ii)
15 a percentage that is double the normal average vacancy rate for the
16 building or group of buildings or development for two years prior to the
17 January preceding the date the offering statement or prospectus was
18 first submitted to the department of law.

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

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1 S 2. Subdivision 4 of section 352-eeee of the general business law, as
2 added by chapter 555 of the laws of 1982, is amended to read as follows:

3 4. It shall be unlawful for any person to engage in any course of
4 conduct, including, but not limited to, interruption or discontinuance
5 of essential services, which substantially interferes with or disturbs
6 the comfort, repose, peace or quiet of any tenant in his use or occupan-
7 cy of his dwelling unit or the facilities related thereto, OR PERMITTING
8 OR MAINTAINING ANY ILLEGAL USE OR OCCUPANCY OF THE PREMISES. The attor-
9 ney general may apply to a court of competent jurisdiction for an order
10 restraining such conduct and, if he deems it appropriate, an order
11 restraining the owner from selling the shares allocated to the dwelling
12 unit or the dwelling unit itself or from proceeding with the plan of
13 conversion; provided that nothing contained herein shall be deemed to
14 preclude the tenant from applying on his own behalf for similar relief.

15 S 3. Section 4 of chapter 576 of the laws of 1974 constituting the
16 emergency tenant protection act of nineteen seventy-four is amended by
17 adding a new section 5-b to read as follows:

18 5-B. TENANCY. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ACT
19 OR THE PROVISIONS OF ANY CONTRACT, LEASE OR RENTAL AGREEMENT, NO OWNER
20 OR ANY PERSON ACTING ON HIS OR HER BEHALF, AFTER THIS SECTION TAKES
21 EFFECT, SHALL ESTABLISH OR RENEW A CONTRACT, LEASE, OR RENTAL AGREEMENT
22 FOR OCCUPANCY OF A HOUSING ACCOMMODATION SUBJECT TO THIS ACT:

23 (I) WHERE THE OWNER, OR PERSON ACTING ON BEHALF OF THE OWNER, HAS
24 REASON TO KNOW THAT THE TENANT WILL NOT OCCUPY THE HOUSING ACCOMMODATION
25 AS HIS OR HER PRIMARY RESIDENCE;

26 (II) WHERE THE TENANT IS A CORPORATION, PARTNERSHIP, OR OTHER BUSINESS
27 OR NOT-FOR-PROFIT ENTITY, UNLESS THE HOUSING ACCOMMODATION (A) IS
28 INTENDED TO BE OCCUPIED BY AN OFFICER, PARTNER, EMPLOYEE OR OTHER
29 NATURAL PERSON PARTICIPATING IN THE DAY-TO-DAY OPERATIONS OF THE TENANT
30 ENTITY (OR WAS SUCH A PERSON AT THE COMMENCEMENT OF THE OCCUPANCY AND IS
31 NOW RETIRED FROM BEING SUCH A PERSON) WHO WILL OCCUPY THE HOUSING ACCOM-
32 MODATION AS HIS OR HER PRIMARY RESIDENCE, OR (B) THE HOUSING ACCOMMO-
33 DATION IS TO BE OCCUPIED UNDER PARAGRAPHS SIX OR TEN OF SUBDIVISION A OF
34 SECTION FIVE OF THIS ACT.

35 S 4. Subparagraph (i) of paragraph 3 of subdivision a of section 12 of
36 section 4 of chapter 576 of the laws of 1974 constituting the emergency
37 tenant protection act of nineteen seventy-four, as amended by chapter
38 403 of the laws of 1983, is amended to read as follows:

39 (i) to have violated an order of the division OR SECTION FIVE-B OF
40 THIS ACT the commissioner may impose by administrative order after hear-
41 ing, a civil penalty in the amount of two hundred fifty dollars for the
42 first such offense and one thousand dollars for each subsequent offense;
43 or

44 S 5. Section 26-512 of the administrative code of the city of New York
45 is amended by adding a new subdivision g to read as follows:

46 G. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ACT OR THE
47 PROVISIONS OF ANY CONTRACT, LEASE OR RENTAL AGREEMENT, NO OWNER OR ANY
48 PERSON ACTING ON HIS OR HER BEHALF, AFTER THIS SECTION TAKES EFFECT,
49 SHALL ESTABLISH OR RENEW A CONTRACT, LEASE, OR RENTAL AGREEMENT FOR
50 OCCUPANCY OF A HOUSING ACCOMMODATION SUBJECT TO THIS CHAPTER:

51 (I) WHERE THE OWNER, OR PERSON ACTING ON BEHALF OF THE OWNER, HAS
52 REASON TO KNOW THAT THE TENANT WILL NOT OCCUPY THE HOUSING ACCOMMODATION
53 AS HIS OR HER PRIMARY RESIDENCE;

54 (II) WHERE THE TENANT IS A CORPORATION, PARTNERSHIP, OR OTHER BUSINESS
55 OR NOT-FOR-PROFIT ENTITY, UNLESS THE HOUSING ACCOMMODATION (A) IS
56 INTENDED TO BE OCCUPIED BY AN OFFICER, PARTNER, EMPLOYEE OR OTHER

1 NATURAL PERSON PARTICIPATING IN THE DAY-TO-DAY OPERATIONS OF THE TENANT
2 ENTITY (OR WAS SUCH A PERSON AT THE COMMENCEMENT OF THE OCCUPANCY AND IS
3 NOW RETIRED FROM BEING SUCH A PERSON) WHO WILL OCCUPY THE HOUSING ACCOM-
4 MODATION AS HIS OR HER PRIMARY RESIDENCE, OR (B) THE HOUSING ACCOMMO-
5 DATION IS TO BE OCCUPIED UNDER SUBPARAGRAPH (C) OF PARAGRAPH NINE OF
6 SUBDIVISION C OF SECTION 26-511 OF THIS CHAPTER.

7 S 6. Paragraph 1 of subdivision c of section 26-516 of the administra-
8 tive code of the city of New York is amended to read as follows:

9 (1) to have violated an order of the division OR SUBDIVISION G OF
10 SECTION 26-512 OF THIS CHAPTER the commissioner may impose by adminis-
11 trative order after hearing, a civil penalty in the amount of two
12 hundred fifty dollars for the first such offense and one thousand
13 dollars for each subsequent offense; or

14 S 7. Subdivision a of section 12 of section 4 of chapter 576 of the
15 laws of 1974, constituting the emergency tenant protection act of nine-
16 teen seventy-four is amended by adding a new paragraph 9 to read as
17 follows:

18 (9) THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL MAY AUTHORIZE
19 THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT IN THE CITY OF
20 NEW YORK, OR ITS SUCCESSOR AGENCY, TO EXERCISE ANY OF THE DIVISION'S
21 POWERS UNDER THIS ACT WITHIN THE CITY OF NEW YORK, PURSUANT TO AGREEMENT
22 WITH THAT DEPARTMENT OR AGENCY.

23 S 8. Subdivision 1 of section 6 of chapter 274 of the laws of 1946,
24 constituting the emergency housing rent control law, as amended by chap-
25 ter 337 of the laws of 1961, is amended to read as follows:

26 1. (A) THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL MAY
27 AUTHORIZE THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT IN THE
28 CITY OF NEW YORK, OR ITS SUCCESSOR AGENCY, TO EXERCISE ANY OF THE DIVI-
29 SION'S POWERS UNDER THIS ACT WITHIN THE CITY OF NEW YORK, PURSUANT TO
30 AGREEMENT WITH THAT DEPARTMENT OR AGENCY.

31 (B) The commission is authorized to make such studies and investi-
32 gations, to conduct such hearings, and to obtain such information as the
33 commission deems necessary or proper in prescribing any regulation or
34 order under this act or in the administration and enforcement of this
35 act and regulations and orders thereunder.

36 S 9. Section 1802 of the New York city charter is amended by adding a
37 new subdivision 7 to read as follows:

38 7. ALL POWERS, RIGHTS AND DUTIES AUTHORIZED BY AND PURSUANT TO AN
39 AGREEMENT WITH THE NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY
40 RENEWAL, OR ITS SUCCESSOR AGENCY, UNDER SECTION TWELVE OF THE EMERGENCY
41 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR AND SUBDIVISION ONE OF
42 SECTION SIX OF THE EMERGENCY HOUSING RENT CONTROL LAW.

43 S 10. Severability. If any provision of this act, or any application
44 of any provision of this act, is held to be invalid, that shall not
45 affect the validity or effectiveness of any other provision of this act,
46 or of any other application of any provision of this act.

47 S 11. This act shall take effect immediately and shall apply to any
48 matter pending before the attorney general at or after the time this act
49 becomes a law; provided, however, that:

50 (a) the amendments to section 352-eeee of the general business law
51 made by sections one and two of this act shall not affect the expiration
52 of such section and shall expire therewith;

53 (b) sections three, four, five and six of this act shall take effect
54 on the sixtieth day after it shall have become a law, provided that

55 (i) the amendments to the emergency tenant protection act of nineteen
56 seventy-four made by sections three and four of this act shall expire on

1 the same date as such act expires and shall not affect the expiration of
2 such act as provided in section 17 of chapter 576 of the laws of 1974;
3 and
4 (ii) the amendments to sections 26-512 and 26-516 of the administra-
5 tive code of the city of New York made by sections five and six of this
6 act shall expire on the same date as such sections expire and shall not
7 affect the expiration of such sections as provided in section 26-520 of
8 such code; and
9 (c) provided that the amendments to section 12 of the emergency tenant
10 protection act of nineteen seventy-four made by section seven of this
11 act shall expire on the same date as such act expires and shall not
12 affect the expiration of such act as provided in section 17 of chapter
13 576 of the laws of 1974; and provided that the amendments to section 6
14 of the emergency housing rent control law made by section eight of this
15 act shall expire on the same date as such law expires and shall not
16 affect the expiration of such law as provided in subdivision 2 of
17 section 1 of chapter 274 of the laws of 1946.