

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.