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

S. 991 A. 706

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 5, 2011

IN SENATE -- Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

IN ASSEMBLY -- Introduced by M. of A. LENTOL, MARKEY, MILLMAN, JACOBS, COLTON, BRENNAN, ROSENTHAL -- Multi-Sponsored by -- M. of A. AUBRY, COOK, DINOWITZ, GLICK, HIKIND, PERRY, PHEFFER -- read once and referred to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to establishing escrow accounts to protect neighboring land-owners and tenants from damage due to construction

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

Section 1. The administrative code of the city of New York is amended by adding a new section 28-103.23 to read as follows:

S 28-103.23 DEVELOPERS' ESCROW ACCOUNTS. 1. ANY DEVELOPER WHO PLANS TO CONSTRUCT ANY BUILDING WITHIN THE CITY SHALL, PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION, DEPOSIT TEN PERCENT OF THE TOTAL ESTIMATED PROJECT COST INTO AN ESCROW ACCOUNT.

2. AN ESCROW ACCOUNT ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE USED TO SETTLE CLAIMS OF PROPERTY OWNERS WHOSE PROPERTY IS DAMAGED DURING ANY CONSTRUCTION, OR THE CLAIMS OF TENANTS WHO ARE DISPLACED FROM THEIR RESIDENCE AS THE RESULT OF DAMAGE TO THE PROPERTY FROM THE CONSTRUCTION. A DEVELOPER SHALL BE HELD STRICTLY LIABLE FOR ANY DAMAGE OR RELOCATION EXPENSE THAT OCCURS AS A RESULT OF THE CONSTRUCTION.

3. IN ADDITION TO THE REQUIREMENTS IMPOSED BY SUBDIVISION ONE OF THIS SECTION, IF ANY DAMAGES OCCUR TO AN ADJOINING PROPERTY, ANY AND ALL WORK ON SUCH PROJECT SHALL BE STOPPED UNTIL SUCH DAMAGED PROPERTY IS REPAIRED.

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

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4. THE DEPARTMENT SHALL ESTABLISH A CLAIM PROCEDURE FOR PROPERTY OWNERS AND TENANTS WHO WISH TO FILE CLAIMS AGAINST THE MONEY SET ASIDE PURSUANT TO THIS SECTION. SUCH PROCEDURE SHALL PROVIDE FOR A COMPLETE RESOLUTION OF A CLAIM WITHIN SIXTY DAYS FROM THE DATE OF ITS COMMENCEMENT.

5. ANY FUNDS IN THE ACCOUNT THAT ARE NOT CLAIMED BY AN AGGRIEVED PROPERTY OWNER OR TENANT WITHIN SIX MONTHS AFTER THE COMPLETION OF THE PROJECT SHALL BE RETURNED TO THE DEVELOPER.

S 2. The administrative code of the city of New York is amended by adding a new section 28-201.5 to read as follows:

S 28-201.5 VIOLATIONS NOT CAUSED BY PROPERTY OWNER. THE DEPARTMENT SHALL NOT IMPOSE ANY FINE OR OTHER PENALTY AGAINST ANY PROPERTY OWNER FOR ANY VIOLATION OF THE PROVISIONS OF THIS TITLE THAT OCCUR AS THE RESULT OF DAMAGE CAUSED BY CONSTRUCTION ON AN ADJACENT BUILDING.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.