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

3256

2011-2012 Regular Sessions

I N S E N A T E

February 15, 2011

Introduced by Sen. ESPAILLAT -- 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 the rights of cooperative and condominium sponsors and purchasers regarding the rental of vacant dwelling units

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

Section 1. Section 352-eeee of the general business law is amended by adding a new subdivision 8 to read as follows:

8. (A) WHENEVER ANY UNSOLD DWELLING UNIT IN A RESIDENTIAL COOPERATIVE OR CONDOMINIUM BUILDING BECOMES VACANT, SUCH DWELLING UNIT MAY NOT BE RENTED AND MUST BE OFFERED FOR SALE UNLESS EITHER:

(I) THE ORIGINAL OFFERING PLAN WHICH WAS ACCEPTED FOR FILING BY THE ATTORNEY GENERAL EXPRESSLY DISCLOSED THE POSSIBILITY THAT UNSOLD DWELLING UNITS MIGHT NOT BE SOLD WHEN THEY BECOME VACANT, AND THE OFFERING PLAN CONTAINED A WARNING TO PURCHASERS OF THE RISK ENTAILED IN PURCHASING A UNIT IN A BUILDING WHERE UNSOLD DWELLING UNITS ARE NOT OFFERED FOR SALE; OR

(II) THE SPONSOR OR OTHER OWNER OF THE UNSOLD DWELLING UNIT FIRST OBTAINS THE CONSENT OF A MAJORITY OF THOSE MEMBERS OF THE COOPERATIVE CORPORATION BOARD OF DIRECTORS OR CONDOMINIUM ASSOCIATION BOARD OF MANAGERS WHO ARE NOT AFFILIATED WITH, EMPLOYED BY, OR RELATED TO THE SPONSOR OR OWNER OF THE UNSOLD DWELLING UNIT OR UNITS TO SAID RENTAL.

(B) IN THE EVENT THAT NEITHER OF THE CONDITIONS SET FORTH IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE MET, AND SUCH DWELLING UNIT REMAINS UNSOLD AND UNOCCUPIED FOR A PERIOD OF ONE YEAR FROM THE DATE IT BECOMES VACANT, THEN THE DWELLING UNIT MAY BE RENTED FOR A PERIOD OF UP TO ONE YEAR. AT THE CONCLUSION OF SUCH ONE YEAR RENTAL PERIOD, THE UNSOLD DWELLING UNIT SHALL ONCE AGAIN BE DEEMED TO HAVE BECOME VACANT, AND THE PROVISIONS OF THIS SUBDIVISION SHALL BE

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

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APPLIED ONCE AGAIN. THE PROHIBITION AGAINST THE SALE OR RENTAL OF UNSOLD DWELLING UNITS EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION SHALL CONTINUE UNTIL THE APARTMENT IS SOLD.

(C) IF ANY UNSOLD DWELLING UNIT WHICH BECOMES VACANT IS RENTED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION, THEN THE OWNER OF THE UNIT BEING RENTED SHALL IMMEDIATELY SEND A COPY OF THE FULLY EXECUTED LEASE, AS WELL AS SUCH OTHER INFORMATION AS MAY BE NECESSARY SO THAT BOTH THE OWNER OF THE UNIT AND THE TENANT CAN BE REACHED IN THE EVENT OF AN EMERGENCY, TO THE BOARD OF DIRECTORS OF THE COOPERATIVE CORPORATION OR THE BOARD OF MANAGERS OF THE CONDOMINIUM ASSOCIATION.

(D) THIS SUBDIVISION SHALL NOT APPLY TO ANY SHAREHOLDER OR UNIT OWNER WHO ESTABLISHES TO THE REASONABLE SATISFACTION OF A MAJORITY OF THOSE MEMBERS OF THE COOPERATIVE CORPORATION BOARD OF DIRECTORS OR CONDOMINIUM ASSOCIATION BOARD OF MANAGERS WHO ARE NOT AFFILIATED WITH, EMPLOYED BY, OR RELATED TO, THE SPONSOR OR OWNER OF THE UNSOLD DWELLING UNIT OR UNITS THAT HE OR SHE PURCHASED A DWELLING UNIT FOR PERSONAL USE OR USE BY HIS OR HER IMMEDIATE FAMILY MEMBER, BUT WHOSE IMMEDIATE FAMILY MEMBER IS NOT PRESENTLY OCCUPYING THE DWELLING UNIT, NOR SHALL THIS SUBDIVISION APPLY TO DWELLING UNITS OWNED BY A COOPERATIVE CORPORATION OR CONDOMINIUM ASSOCIATION OR ENTITIES FORMED BY EITHER OF THEM TO HOLD UNITS OBTAINED FROM A SPONSOR. IMMEDIATE FAMILY MEMBER AS USED IN THIS PARAGRAPH SHALL BE DEFINED AS THE SHAREHOLDER'S SPOUSE, CHILDREN, GRANDCHILDREN, PARENTS, GRANDPARENTS, BROTHERS OR SISTERS.

(E) AS USED IN THIS SUBDIVISION, THE TERM "UNSOLD DWELLING UNIT" SHALL MEAN AN APARTMENT IN A COOPERATIVE HOUSING CORPORATION OR A UNIT IN A CONDOMINIUM THAT WAS NOT SOLD FOR OCCUPANCY BY THE PURCHASER AND SHALL INCLUDE, BUT NOT BE LIMITED TO, COOPERATIVE SHARES AND CONDOMINIUM UNITS DESIGNATED BY THE SPONSOR OR HOLDER OF UNSOLD SHARES AS "UNSOLD SHARES" OR "UNSOLD UNITS".

S 2. This act shall take effect immediately and shall apply to all dwelling units in cooperative and condominium buildings that become vacant on or after such effective date; provided, however, that the amendments to section 352-eeee of the general business law made by section one of this act shall not affect the expiration of such section and shall be deemed to expire therewith.