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

S. 4444--B A. 6844--B

2011-2012 Regular Sessions

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

April 5, 2011

IN SENATE -- Introduced by Sen. DILAN -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. JEFFRIES -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT deeming certain parcels of real property in the city of New York as legally non-complying buildings for purposes of compliance with the zoning resolution of such city

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

Section 1. When, in the city of New York a building containing eighteen or more residential units which was constructed and occupied as a residence prior to the effective date of this act:

(i) is located in a zoning district in which residential use is permitted; and

(ii) was initially occupied as a residence in accordance with a temporary certificate of occupancy issued by the department of buildings of the city of New York on or before October 28, 2004; and

(iii) is owned in accordance with a plan for condominium ownership that was declared effective by the office of the attorney general on or before June 2, 2004; and

(iv) the attorney general has determined that the purchasers of residential units in such building acted in good faith and in reasonable

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

LBD08970-03-1

reliance upon the declaration of effectiveness of the condominium plan for such building issued by the attorney general; and

(v) there has been a finding by the commissioner of buildings of such city that as of January 28, 2010, the department of buildings reviewed plans and/or a scope of work that had been submitted on behalf of the owners of such building to the department of buildings of such city for the work required to be performed for purposes of achieving compliance with health and safety requirements of the 1968 New York city building code, such plans and/or scope of work has been found acceptable to the department; and

(vi) the commissioner of buildings of such city has determined that notwithstanding the provisions of subdivision (i) of this section, a certificate of occupancy of any type may not be issued for such building under existing provisions of law by reason of the failure of such building to comply with certain provisions of the zoning resolution of the city of New York, including those governing the maximum allowable floor area for residential uses and the provisions of required parking;

such commissioner is hereby authorized, notwithstanding the provisions of subdivision (vi) of this section, to issue a temporary certificate of occupancy for such building where plans and/or a scope of work was found acceptable by such department by January 28, 2010 and where items identified by the commissioner of buildings as necessary for issuance of a temporary certificate of occupancy (hereinafter referred to in this act as "partial compliance") have been completed in accordance with such plans and/or scope of work; provided that the chairperson of the city planning commission of such city determines that (a) the use and occupancy of such building is not incompatible with uses and occupancies of buildings located within the immediate vicinity of such building; (b) the total built floor area of such building does not exceed the total maximum floor area permitted for a use in the zoning district within which such building is located; and (c) provision of off-street parking spaces under the zoning resolution of the city of New York is infeasible given the configuration of the building; and provided, further, that the commissioner of buildings of the city of New York determines that partial compliance was completed within three years of the effective date of this act.

S 2. In the event that the commissioner of buildings of the city of New York has found that partial compliance was completed in accordance with approved plans within three years of the effective date of this act, and all work set forth in approved plans is completed within five years of the effective date of this act, such commissioner of buildings is hereby authorized to issue a permanent certificate of occupancy.

S 3. Upon issuance and during the period of effectiveness of any certificate of occupancy issued pursuant to the provisions of this act, such building shall be deemed a legal non-complying building for purposes of compliance with the provisions of the zoning resolution of such city.

S 4. This act shall take effect immediately.