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

7076

I N S E N A T E

April 27, 2012

Introduced by Sen. HASSELL-THOMPSON -- 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 private housing finance law, in relation to establishing certain rights for shareholders in limited-profit housing companies

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

Section 1. Section 12 of the private housing finance law is amended by adding a new subdivision 17 to read as follows:

17. "SHAREHOLDER." A TENANT ENTITLED TO OCCUPANCY IN A PROJECT BY REASON OF OWNERSHIP OF SHARES IN A COMPANY.

S 2. The private housing finance law is amended by adding a new section 13-c to read as follows:

S 13-C. RIGHTS OF SHAREHOLDERS. 1. NEW AND EXISTING SHAREHOLDERS SHALL RECEIVE THE FOLLOWING INFORMATION:

(A) AN INITIAL BANK STATEMENT FROM THE COMPANY REFLECTING THE AMOUNT OF THE SUBSCRIPTION OR DOWN PAYMENT INCLUDING, BUT NOT LIMITED TO THE NAME OF THE BANK, THE TYPE OF BANK ACCOUNT AND THE PROJECTED PER ANNUM INTEREST RATE;

(B) FOR EACH YEAR OF TENANCY, SHAREHOLDERS SHALL RECEIVE A BANK STATEMENT REFLECTING THE AMOUNT OF EQUITY IN THEIR BANK ACCOUNTS;

(C) A COPY AND SYNOPSIS OF THE NEW YORK STATE REAL ESTATE LAWS GOVERNING THE MANAGEMENT AND DISTRIBUTION OF SHAREHOLDERS' EQUITY AND THE ACCRUED EQUITY VALUE FOR COOPERATIVE APARTMENT UNITS. SUCH INFORMATION SHALL BE PRESENTED IN STRAIGHTFORWARD, EASILY COMPREHENSIBLE LANGUAGE;

(D) DETAILED INFORMATION OUTLINING THE PROCESS, POLICIES AND PROCEDURES FOR SURRENDERING THE APARTMENT UNIT INCLUDING TIME FRAMES FOR NOTIFYING MANAGEMENT, SHAREHOLDERS' OBLIGATIONS, MANAGEMENT'S OBLIGATIONS, A PUNCH LIST FOR REQUIRED SATISFACTORY CONDITIONS FOR EACH ROOM, ALLOWANCES FOR NORMAL WEAR AND TEAR, AND MATTERS RELATED TO THE EQUITY DISTRIBUTION; AND

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

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(E) THE NAMES OF STATE OFFICIALS OR DISTRICT MANAGEMENT EXECUTIVES TO CONTACT IN THE EVENT OF ANY DISPUTE RELATED TO THE SURRENDER OF THEIR HOUSING.

2. SHAREHOLDERS SHALL IDENTIFY A FAMILY MEMBER OR DESIGNATED CONTACT PERSON WHO SHALL ASSUME RESPONSIBILITY FOR SURRENDER OF THEIR HOUSING IN THE EVENT OF A MEDICAL EMERGENCY OR DEATH. THE REQUIRED DOCUMENT SHALL BE IN SUCH FORM AND MANNER AS THE COMMISSIONER MAY PRESCRIBE. A NOTARIZED COPY OF THE DOCUMENT SHALL BE FILED IN THE MANAGEMENT OFFICE, AND THE ORIGINAL AND COPIES MAINTAINED BY THE SHAREHOLDER, FAMILY MEMBER OR DESIGNATED PERSON.

3. (A) OUTGOING COOPERATIVE SHAREHOLDERS SHALL BE LIABLE FOR MAINTENANCE OR CARRYING CHARGES AFTER SURRENDERING THEIR APARTMENT UNITS BASED ON THE FOLLOWING SCALE:

(I) 0-45 DAYS NOTIFICATION TO THE COOPERATIVE BOARD - THREE MONTHS.

(II) 45-90 DAYS NOTIFICATION TO THE COOPERATIVE BOARD - TWO MONTHS.

(III) OVER 90 DAYS NOTIFICATION TO THE COOPERATIVE BOARD - ONE MONTH.

(B) SHAREHOLDERS SHALL BE CHARGED A MAXIMUM THREE MONTHS' CARRYING CHARGES. IF HOUSING IS SURRENDERED INVOLUNTARILY BECAUSE OF MEDICAL REQUIREMENTS OR DEATH, THE MAXIMUM CARRYING CHARGE TO THE SHAREHOLDER SHALL BE ONE MONTH. OUTGOING SHAREHOLDERS SHALL HAVE THE OPTION FOR THE INCOMING SHAREHOLDER TO PURCHASE OTHER PERSONAL PROPERTY INCLUDING, BUT NOT LIMITED TO KITCHEN APPLIANCES AND CARPETING.

4. (A) THE BOARD OF DIRECTORS OF EACH COMPANY SHALL APPORTION A PERCENTAGE OF EACH MONTHLY MAINTENANCE OR CARRYING CHARGES IN A RESERVE FUND FOR EACH SHAREHOLDER THAT SHALL BE USED EXCLUSIVELY FOR REPAIRS AND RESTORATION COSTS TO HOUSING AT THE END OF THE SHAREHOLDERS' TENANCY.

(B) SHAREHOLDERS SHALL RECEIVE A WRITTEN STATEMENT OF THE AMOUNT OF MONEY AVAILABLE IN THEIR RESERVE FUND FOR USE TO CURE DEFICIENT CONDITIONS TO THEIR HOUSING. THE SHAREHOLDERS' ALLOTMENT SHALL BE DEDUCTED FROM THE FINAL COST AMOUNT. IF COSTS FOR REPAIRS AND RESTORATION ARE LESS THAN THE AMOUNT IN THE RESERVE FUND, THE REMAINING MONEY SHALL REVERT TO AN ACCOUNT MAINTAINED BY COMPANY MANAGEMENT.

5. (A) WITHIN THIRTY DAYS AFTER NOTIFICATION TO SURRENDER THEIR HOUSING, SHAREHOLDERS SHALL RECEIVE A BANK STATEMENT INDICATING THE TOTAL AMOUNT OF THEIR EQUITY, AND IF APPLICABLE, THE ACCRUED VALUE OR ADDITIONAL PERCENTAGE OF EQUITY.

(B) WITHIN TWO WEEKS OF NOTIFICATION TO SURRENDER HOUSING, COMPANY MANAGEMENT SHALL SCHEDULE AN INITIAL INSPECTION. MANAGEMENT SHALL PROVIDER SHAREHOLDERS WITH A PUNCH LIST OF DEFICIENT CONDITIONS ASSESSED IN THE HOUSING. SHAREHOLDERS SHALL HAVE THE OPTION TO CURE THE ASSESSED DEFICIENT CONDITIONS BY AN APPROVED INDEPENDENT CONTRACTOR PRIOR TO THE FINAL INSPECTION OF THEIR HOUSING.

6. IF SHAREHOLDERS DISPUTE ANY OUTSTANDING COSTS, SHAREHOLDERS SHALL HAVE AN OPPORTUNITY TO CURE THE DEFICIENT CONDITIONS AFTER THE FINAL INSPECTION. IF THE DISPUTE IS NOT RESOLVED, SHAREHOLDERS MAY CONFER WITH EXECUTIVES AT THE DISTRICT MANAGEMENT OFFICE OR FOLLOW AN ESTABLISHED PROCEDURE FOR THE RESOLUTION OF SUCH MATTERS.

7. SHAREHOLDERS SHALL RECEIVE THE TOTAL EQUITY DISTRIBUTION, INCLUDING THE EQUITY AND ACCRUED EQUITY VALUE, WITHIN NINETY DAYS FOLLOWING SURRENDER OF THE HOUSING.

8. IF SHAREHOLDERS INVOLUNTARILY SURRENDER THEIR HOUSING BECAUSE OF MEDICAL CIRCUMSTANCES OR DEATH, THE EQUITY FOR THE HOUSING SHALL BE TRANSFERRED TO THE STATE COMMENSURATE WITH STATE REGULATIONS FOR UNCLAIMED FUNDS.

9. THE BOARD OF DIRECTORS OF ANY COMPANY AND MANAGEMENT SHALL BE PROHIBITED FROM APPLYING ANY COSTS FOR RESTORATION OF THE HOUSING FROM

SHAREHOLDERS' EQUITY DISTRIBUTION UNTIL, AND UNLESS, IT IS DETERMINED, THE RESERVE FUND AND APPLICABLE CARRYING CHARGES ARE NOT ADEQUATE TO COVER COSTS. SHAREHOLDERS, THEIR FAMILY MEMBERS, OR HEIRS, HAVE THE OPTION TO HIRE AN OUTSIDE INSPECTOR TO ASSESS THE COSTS AND PAY FOR THE COSTS THEMSELVES. IF THESE OPTIONS ARE NOT EXERCISED, THE BOARD OF DIRECTORS AND MANAGEMENT SHALL COMPLETE AN AFFIDAVIT OR OTHER DOCUMENT DETAILING THE LIST OF REPAIRS, DEFICIENT CONDITIONS OF THE HOUSING INCLUDING PHOTOGRAPHS, THE AMOUNT OF THE SHAREHOLDER'S RESERVE FUND, AND THE ADDITIONAL PROPOSED COSTS TO BE DEDUCTED FROM THE EQUITY.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implantation of this act on its effective date is authorized to be made on or before such date.