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

952--A

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 regard to rent impairing violations

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

Section 1. Section 210 of the tax law is amended by adding a new subdivision 24-a to read as follows:

24-A. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND EXCEPT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, NO DEDUCTION SHALL BE PERMITTED FOR INTEREST, TAXES, DEPRECIATION, OR AMORTIZATION PAID OR INCURRED IN THE TAXABLE YEAR FOR ANY PROPERTY OFFERED FOR LEASE WHICH IS IN CONTINUED NONCOMPLIANCE WITH REGARD TO RENT IMPAIRING VIOLATIONS AS DEFINED BY: (A) LOCAL LAWS, REGULATIONS, OR ORDINANCES OR (B) PARAGRAPH A OF SUBDIVISION TWO OF SECTION THREE HUNDRED TWO-A OF THE MULTIPLE DWELLING LAW AND SECTION THREE HUNDRED FIVE-A OF THE MULTIPLE RESIDENCE LAW. FOR THE PURPOSES OF THIS SECTION, "CONTINUED NONCOMPLIANCE" SHALL MEAN THAT SUCH VIOLATION OR VIOLATIONS HAVE NOT BEEN CORRECTED WITHIN THE PRESCRIBED COMPLIANCE PERIOD, DESPITE WRITTEN NOTIFICATION TO THE OWNER BY THE LOCAL DEPARTMENT CHARGED WITH THE ENFORCEMENT OF SUCH LAWS, REGULATIONS, OR ORDINANCES. WITH THE EXCEPTION OF REASONABLE ADMINISTRATIVE EXPENSES, ALL ADDITIONAL REVENUE REALIZED AND COLLECTED BY THE DEPARTMENT AS A RESULT OF ANY DEDUCTION DISALLOWED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION SHALL BE REMITTED TO THE LOCALITY IN WHICH THE PROPERTY WHICH IS THE SUBJECT OF THE VIOLATION IS LOCATED IN

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

LBD04408-02-1

ORDER TO PROMOTE AND ENHANCE HOUSING MAINTENANCE ENFORCEMENT EFFORTS IN SUCH LOCALITY.

S 2. Subsection (b) of section 612 of the tax law is amended by adding a new paragraph 40 to read as follows:

(40) DEDUCTIONS, INCLUDING INTEREST, TAXES, DEPRECIATION, AND AMORTIZATION ALLOWED IN DETERMINING FEDERAL ADJUSTED GROSS INCOME AND INCURRED IN THE TAXABLE YEAR ON ANY PROPERTY OFFERED FOR LEASE WHICH IS IN CONTINUED NONCOMPLIANCE WITH REGARD TO RENT IMPAIRING VIOLATIONS AS DEFINED IN SECTION TWO HUNDRED TEN OF THIS CHAPTER.

S 3. Section 303 of the multiple dwelling law is amended by adding two new subdivisions 1-b and 1-c to read as follows:

1-B. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND EXCEPT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, LOCAL HOUSING ENTITIES OR DEPARTMENTS RESPONSIBLE FOR THE TRACKING AND/OR MAINTAINING OF RECORDS, FILES AND/OR AFFIDAVITS OF PERSONS FOUND TO BE IN CONTINUED NONCOMPLIANCE WITH REGARD TO RENT IMPAIRING VIOLATIONS SHALL SUBMIT A LISTING OF THOSE PERSONS FOUND IN NONCOMPLIANCE TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL WITHIN THIRTY DAYS AFTER THE THIRD RECORDED VIOLATION. FOR THE PURPOSES OF THIS SECTION, THE TERM "PERSON" SHALL INCLUDE THE OWNER, MORTGAGEE, VENDEE, FIRM OR CORPORATION IN POSSESSION OF OR DIRECTLY IN CONTROL OF A DWELLING OR PART THEREOF. THE TERM "RENT IMPAIRING VIOLATIONS" SHALL BE DEFINED BY: (A) LOCAL LAWS, REGULATIONS OR ORDINANCES, OR (B) PARAGRAPH A OF SUBDIVISION TWO OF SECTION THREE HUNDRED TWO-A OF THIS ARTICLE AND SECTION THREE HUNDRED FIVE-A OF THE MULTIPLE RESIDENCE LAW. "CONTINUED NONCOMPLIANCE", FOR THE PURPOSES OF THIS SECTION, SHALL MEAN THAT SUCH VIOLATION OR VIOLATIONS HAVE NOT BEEN CORRECTED WITHIN THE PRESCRIBED COMPLIANCE PERIOD, DESPITE WRITTEN NOTIFICATION TO THE OWNER BY THE LOCAL DEPARTMENT CHARGED WITH THE ENFORCEMENT OF SUCH LAWS, REGULATIONS OR ORDINANCES.

1-C. (A) EXCEPT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, WHEN THE COMPLIANCE PERIOD PRESCRIBED BY THE DEPARTMENT FOR THE CORRECTION OF: (1) A RENT IMPAIRING VIOLATION AS DEFINED IN SECTION THREE HUNDRED TWO-A OF THIS ARTICLE; OR (2) A VIOLATION OF STATE OR LOCAL LAW, ORDINANCE OR REGULATION, WHICH CONSTITUTES A THREAT TO THE LIFE, HEALTH OR SAFETY OF THE PUBLIC HAS EXPIRED, THE DEPARTMENT SHALL MAIL TO THE BUILDING OWNER A NOTICE OF NONCOMPLIANCE. THE NOTICE OF NONCOMPLIANCE SHALL BE MAILED BY CERTIFIED MAIL TO THE BUILDING OWNER AT HIS OR HER LAST KNOWN ADDRESS, AND SHALL ADVISE SUCH OWNER (A) OF AN INTENT TO NOTIFY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL WITHIN THIRTY DAYS OF THE THIRD RECORDED NONCOMPLIANCE AND THE SUBSEQUENT NOTIFICATION OF THE DEPARTMENT OF TAXATION AND FINANCE BY THE DIVISION AFTER TEN DAYS, AND (B) A GENERAL DESCRIPTION OF THE TAX CONSEQUENCES OF SUCH FILING WITH THE DEPARTMENT OF TAXATION AND FINANCE. AFTER THE EXPIRATION OF SUCH TEN DAY PERIOD, THE DIVISION MAY NOTIFY THE DEPARTMENT OF TAXATION AND FINANCE OF SUCH NONCOMPLIANCE. SUCH NOTICE SHALL INCLUDE THE NAME OF THE OWNER OR OWNERS, THE LOCATION OF THE DWELLING, THE DATE THE VIOLATION OR VIOLATIONS WERE RECORDED AND SUCH OTHER INFORMATION AS THE DEPARTMENT OF TAXATION AND FINANCE MAY REQUEST. IN THE EVENT THE PERIOD OF NONCOMPLIANCE DOES NOT COVER AN ENTIRE TAXABLE YEAR, THE DEDUCTIONS SHALL BE DENIED AT THE RATE OF ONE-TWELFTH FOR EACH FULL MONTH OR PART THEREOF DURING THE PERIOD OF NONCOMPLIANCE.

(B) FOR PURPOSES OF THIS SUBDIVISION, A NOTICE OF NONCOMPLIANCE SHALL NOT BE MAILED BY THE ENFORCEMENT DEPARTMENT TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL IF THE VIOLATION WAS CAUSED SOLELY BY REASON OF NATURAL DISASTER EXCEPT WHERE SUCH CONDITION REMAINS FOR MORE THAN SIX MONTHS.

S 4. Section 303 of the multiple residence law is amended by adding a new subdivision 7 to read as follows:

7. A. EXCEPT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, WHEN THE COMPLIANCE PERIOD PRESCRIBED BY THE DEPARTMENT FOR THE CORRECTION OF: (I) A RENT IMPAIRING VIOLATION AS DEFINED IN SECTION THREE HUNDRED TWO-A OF THE MULTIPLE DWELLING LAW; OR (II) A VIOLATION OF STATE OR LOCAL LAW, ORDINANCE OR REGULATION, WHICH CONSTITUTES A THREAT TO THE LIFE, HEALTH AND SAFETY OF THE PUBLIC HAS EXPIRED, THE DEPARTMENT SHALL MAIL TO THE BUILDING OWNER A NOTICE OF NONCOMPLIANCE. THE NOTICE OF NONCOMPLIANCE SHALL BE MAILED BY CERTIFIED MAIL TO THE BUILDING OWNER AT HIS OR HER LAST KNOWN ADDRESS, AND SHALL ADVISE SUCH OWNER (1) OF AN INTENT TO NOTIFY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL WITHIN THIRTY DAYS OF THE THIRD RECORDED NONCOMPLIANCE AND THE SUBSEQUENT NOTIFICATION OF THE DEPARTMENT OF TAXATION AND FINANCE BY THE DIVISION AFTER TEN DAYS, AND (2) A GENERAL DESCRIPTION OF THE TAX CONSEQUENCES OF SUCH FILING WITH THE DEPARTMENT OF TAXATION AND FINANCE. AFTER THE EXPIRATION OF SUCH TEN DAY PERIOD, THE DIVISION MAY NOTIFY THE DEPARTMENT OF TAXATION AND FINANCE OF SUCH NONCOMPLIANCE. SUCH NOTICE SHALL INCLUDE THE NAME OF THE OWNER OR OWNERS, THE LOCATION OF THE DWELLING, THE DATE THE VIOLATION OR VIOLATIONS WERE RECORDED AND SUCH OTHER INFORMATION AS THE DEPARTMENT OF TAXATION AND FINANCE MAY REQUEST. IN THE EVENT THE PERIOD OF NONCOMPLIANCE DOES NOT COVER AN ENTIRE TAXABLE YEAR, THE DEDUCTIONS SHALL BE DENIED AT THE RATE OF ONE-TWELFTH FOR EACH FULL MONTH OR PART THEREOF DURING THE PERIOD OF NONCOMPLIANCE.

B. FOR PURPOSES OF THIS SUBDIVISION, A NOTICE OF NONCOMPLIANCE SHALL NOT BE MAILED BY THE ENFORCEMENT DEPARTMENT TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL IF THE VIOLATION WAS CAUSED SOLELY BY REASON OF NATURAL DISASTER EXCEPT WHERE SUCH CONDITION REMAINS FOR MORE THAN SIX MONTHS.

S 5. This act shall take effect immediately and shall apply to taxable years beginning on or after the first of January of the year in which this act shall have become a law, and to all violations recorded on or after such date.