

3157

2013-2014 Regular Sessions

I N   S E N A T E

January 31, 2013

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Introduced by Sen. KRUEGER -- 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 vacancies and illegal use and occupancy relating to cooperative or condominium conversion plans; to amend the emergency tenant protection act of nineteen seventy-four and the administrative code of the city of New York, in relation to leasing to business and other entities; and to amend the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law and the New York city charter, in relation to investigations and inspections by the city of New York

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

1     Section 1. Paragraph (e) of subdivision 2 of section 352-eeee of the  
2     general business law, as added by chapter 555 of the laws of 1982, is  
3     amended to read as follows:  
4     (e) The attorney general finds that an excessive number of long-term  
5     vacancies did not exist on the date that the offering statement or pros-  
6     pectus was first submitted to the department of law OR AT ANY TIME  
7     BETWEEN THAT DATE AND THE ISSUANCE OF THE LETTER FROM THE ATTORNEY  
8     GENERAL STATING THAT THE OFFERING STATEMENT OR PROSPECTUS REQUIRED IN  
9     SUBDIVISION ONE OF SECTION THREE HUNDRED FIFTY-TWO-E OF THIS ARTICLE HAS  
10    BEEN FILED. "Long-term vacancies" shall mean dwelling units not leased  
11    or occupied by bona fide tenants for more than five months prior to the  
12    date of such submission to the department of law OR PRIOR TO ANY TIME  
13    BETWEEN THAT DATE AND THE ISSUANCE OF SUCH LETTER. "Excessive" shall  
14    mean a vacancy rate in excess of the greater of (i) ten percent and (ii)  
15    a percentage that is double the normal average vacancy rate for the  
16    building or group of buildings or development for two years prior to the  
17    January preceding the date the offering statement or prospectus was  
18    first submitted to the department of law.

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

LBD01740-02-3

1 S 2. Subdivision 4 of section 352-eeee of the general business law, as  
2 added by chapter 555 of the laws of 1982, is amended to read as follows:

3 4. It shall be unlawful for any person to engage in any course of  
4 conduct, including, but not limited to, interruption or discontinuance  
5 of essential services, which substantially interferes with or disturbs  
6 the comfort, repose, peace or quiet of any tenant in his use or occupan-  
7 cy of his dwelling unit or the facilities related thereto, OR PERMITTING  
8 OR MAINTAINING ANY ILLEGAL USE OR OCCUPANCY OF THE PREMISES. The attor-  
9 ney general may apply to a court of competent jurisdiction for an order  
10 restraining such conduct and, if he deems it appropriate, an order  
11 restraining the owner from selling the shares allocated to the dwelling  
12 unit or the dwelling unit itself or from proceeding with the plan of  
13 conversion; provided that nothing contained herein shall be deemed to  
14 preclude the tenant from applying on his own behalf for similar relief.

15 S 3. Section 4 of chapter 576 of the laws of 1974 constituting the  
16 emergency tenant protection act of nineteen seventy-four is amended by  
17 adding a new section 5-b to read as follows:

18 S 5-B. TENANCY. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ACT  
19 OR THE PROVISIONS OF ANY CONTRACT, LEASE OR RENTAL AGREEMENT, NO OWNER  
20 OR ANY PERSON ACTING ON HIS OR HER BEHALF, AFTER THIS SECTION TAKES  
21 EFFECT, SHALL ESTABLISH OR RENEW A CONTRACT, LEASE, OR RENTAL AGREEMENT  
22 FOR OCCUPANCY OF A HOUSING ACCOMMODATION SUBJECT TO THIS ACT:

23 (I) WHERE THE OWNER, OR PERSON ACTING ON BEHALF OF THE OWNER, HAS  
24 REASON TO KNOW THAT THE TENANT WILL NOT OCCUPY THE HOUSING ACCOMMODATION  
25 AS HIS OR HER PRIMARY RESIDENCE;

26 (II) WHERE THE TENANT IS A CORPORATION, PARTNERSHIP, OR OTHER BUSINESS  
27 OR NOT-FOR-PROFIT ENTITY, UNLESS THE HOUSING ACCOMMODATION (A) IS  
28 INTENDED TO BE OCCUPIED BY AN OFFICER, PARTNER, EMPLOYEE OR OTHER  
29 NATURAL PERSON PARTICIPATING IN THE DAY-TO-DAY OPERATIONS OF THE TENANT  
30 ENTITY (OR WAS SUCH A PERSON AT THE COMMENCEMENT OF THE OCCUPANCY AND IS  
31 NOW RETIRED FROM BEING SUCH A PERSON) WHO WILL OCCUPY THE HOUSING ACCOM-  
32 MODATION AS HIS OR HER PRIMARY RESIDENCE, OR (B) THE HOUSING ACCOMMO-  
33 DATION IS TO BE OCCUPIED UNDER PARAGRAPHS SIX OR TEN OF SUBDIVISION A OF  
34 SECTION FIVE OF THIS ACT.

35 S 4. Clause (i) of paragraph 3 of subdivision a of section 12 of  
36 section 4 of chapter 576 of the laws of 1974 constituting the emergency  
37 tenant protection act of nineteen seventy-four, as amended by chapter  
38 480 of the laws of 2009, is amended to read as follows:

39 (i) to have violated an order of the division OR SECTION FIVE-B OF  
40 THIS ACT the commissioner may impose by administrative order after hear-  
41 ing, a civil penalty in the amount of one thousand dollars for the first  
42 such offense and two thousand dollars for each subsequent offense; or

43 S 5. Section 26-512 of the administrative code of the city of New York  
44 is amended by adding a new subdivision g to read as follows:

45 G. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ACT OR THE  
46 PROVISIONS OF ANY CONTRACT, LEASE OR RENTAL AGREEMENT, NO OWNER OR ANY  
47 PERSON ACTING ON HIS OR HER BEHALF, AFTER THIS SECTION TAKES EFFECT,  
48 SHALL ESTABLISH OR RENEW A CONTRACT, LEASE, OR RENTAL AGREEMENT FOR  
49 OCCUPANCY OF A HOUSING ACCOMMODATION SUBJECT TO THIS CHAPTER:

50 (I) WHERE THE OWNER, OR PERSON ACTING ON BEHALF OF THE OWNER, HAS  
51 REASON TO KNOW THAT THE TENANT WILL NOT OCCUPY THE HOUSING ACCOMMODATION  
52 AS HIS OR HER PRIMARY RESIDENCE;

53 (II) WHERE THE TENANT IS A CORPORATION, PARTNERSHIP, OR OTHER BUSINESS  
54 OR NOT-FOR-PROFIT ENTITY, UNLESS THE HOUSING ACCOMMODATION (A) IS  
55 INTENDED TO BE OCCUPIED BY AN OFFICER, PARTNER, EMPLOYEE OR OTHER  
56 NATURAL PERSON PARTICIPATING IN THE DAY-TO-DAY OPERATIONS OF THE TENANT

ENTITY (OR WAS SUCH A PERSON AT THE COMMENCEMENT OF THE OCCUPANCY AND IS NOW RETIRED FROM BEING SUCH A PERSON) WHO WILL OCCUPY THE HOUSING ACCOMMODATION AS HIS OR HER PRIMARY RESIDENCE, OR (B) THE HOUSING ACCOMMODATION IS TO BE OCCUPIED UNDER SUBPARAGRAPH (C) OF PARAGRAPH NINE OF SUBDIVISION C OF SECTION 26-511 OF THIS CHAPTER.

S 6. Paragraph 1 of subdivision c of section 26-516 of the administrative code of the city of New York, as amended by chapter 480 of the laws of 2009, is amended to read as follows:

(1) to have violated an order of the division OR SUBDIVISION G OF SECTION 26-512 THIS CHAPTER the commissioner may impose by administrative order after hearing, a civil penalty in the amount of one thousand dollars for the first such offense and two thousand dollars for each subsequent offense; or

S 7. Subdivision a of section 12 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four is amended by adding a new paragraph 9 to read as follows:

(9) THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL MAY AUTHORIZE THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT IN THE CITY OF NEW YORK, OR ITS SUCCESSOR AGENCY, TO EXERCISE ANY OF THE DIVISION'S POWERS UNDER THIS ACT WITHIN THE CITY OF NEW YORK, PURSUANT TO AGREEMENT WITH THAT DEPARTMENT OR AGENCY.

S 8. Subdivision 1 of section 6 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 337 of the laws of 1961, is amended to read as follows:

1. (A) THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL MAY AUTHORIZE THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT IN THE CITY OF NEW YORK, OR ITS SUCCESSOR AGENCY, TO EXERCISE ANY OF THE DIVISION'S POWERS UNDER THIS ACT WITHIN THE CITY OF NEW YORK, PURSUANT TO AGREEMENT WITH THAT DEPARTMENT OR AGENCY.

(B) The commission is authorized to make such studies and investigations, to conduct such hearings, and to obtain such information as the commission deems necessary or proper in prescribing any regulation or order under this act or in the administration and enforcement of this act and regulations and orders thereunder.

S 9. Section 1802 of the New York city charter is amended by adding a new subdivision 7 to read as follows:

7. ALL POWERS, RIGHTS AND DUTIES AUTHORIZED BY AND PURSUANT TO AN AGREEMENT WITH THE NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, OR ITS SUCCESSOR AGENCY, UNDER SECTION TWELVE OF THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR AND SUBDIVISION ONE OF SECTION SIX OF THE EMERGENCY HOUSING RENT CONTROL LAW.

S 10. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, that shall not affect the validity or effectiveness of any other provision of this act, or of any other application of any provision of this act.

S 11. This act shall take effect immediately and shall apply to any matter pending before the attorney general at or after the time this act becomes a law; provided, however, that:

(a) the amendments to section 352-eeee of the general business law made by sections one and two of this act shall not affect the expiration of such section and shall expire therewith;

(b) sections three, four, five and six of this act shall take effect on the sixtieth day after it shall have become a law, provided that

(i) the amendments to the emergency tenant protection act of nineteen seventy-four made by sections three and four of this act shall expire on

1 the same date as such act expires and shall not affect the expiration of  
2 such act as provided in section 17 of chapter 576 of the laws of 1974;  
3 and  
4 (ii) the amendments to sections 26-512 and 26-516 of the administra-  
5 tive code of the city of New York made by sections five and six of this  
6 act shall expire on the same date as such sections expire and shall not  
7 affect the expiration of such sections as provided in section 26-520 of  
8 such code; and  
9 (c) provided that the amendments to section 12 of the emergency tenant  
10 protection act of nineteen seventy-four made by section seven of this  
11 act shall expire on the same date as such act expires and shall not  
12 affect the expiration of such act as provided in section 17 of chapter  
13 576 of the laws of 1974; and provided that the amendments to section 6  
14 of the emergency housing rent control law made by section eight of this  
15 act shall expire on the same date as such law expires and shall not  
16 affect the expiration of such law as provided in subdivision 2 of  
17 section 1 of chapter 274 of the laws of 1946.