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

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I N A S S E M B L Y

March 24, 2016

Introduced by M. of A. HARRIS, MOSLEY, SEPULVEDA, BLAKE -- Multi-Sponsored by -- M. of A. ABBATE -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling law, the limited liability company law and the administrative code of the city of New York, in relation to liability and penalties for illegal conversion

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

Section 1. The multiple dwelling law is amended by adding a new section 170-b to read as follows:

S 170-B. ILLEGAL CONVERSION. 1. FOR THE PURPOSES OF THIS SECTION, AN ILLEGAL CONVERSION SHALL MEAN ANY CHANGE IN THE STRUCTURAL PARTS OR EXISTING FACILITIES OF ANY BUILDING, INCLUDING, BUT NOT LIMITED TO, THE SUBDIVISION OF ROOMS, OR ERECTION OR DEMOLITION OF WALLS, OR THE MOVING OF ANY BUILDING FROM ONE LOCATION OR POSITION TO ANOTHER, IN VIOLATION OF ANY STATE OR LOCAL LAW, ORDINANCE, CODE OR RULE OR REGULATION RELATING TO REAL PROPERTY, BUILDINGS OR MULTIPLE DWELLINGS.

2. A PERSON OR ENTITY WHO IS FOUND TO HAVE VIOLATED THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL BE COMPELLED TO REMIT TO THE DEPARTMENT OF TAXATION AND FINANCE THE TOTAL OF ALL TAX CREDITS AND/OR REBATES RECEIVED IN THE CALENDAR YEAR IN WHICH SUCH PERSON OR ENTITY IS FOUND TO HAVE COMMITTED SUCH VIOLATION WITHIN THIRTY DAYS AFTER NOTICE OF THE VIOLATION. IN ADDITION, SUCH DEPARTMENT SHALL FORWARD TO THE INTERNAL REVENUE SERVICE THE NAME AND ADDRESS OF ANY PERSON OR ENTITY THAT HAS BEEN FOUND TO HAVE VIOLATED THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION.

3. IN THE CASE OF AN ILLEGAL CONVERSION AUTHORIZED OR UNDERTAKEN BY A LIMITED LIABILITY CORPORATION, THE ATTORNEY GENERAL MAY, IN HIS OR HER DISCRETION, APPLY TO THE SUPREME COURT OF THE COUNTY IN WHICH THE REAL PROPERTY THAT IS SUBJECT OF SUCH ILLEGAL CONVERSION LIES, FOR JUDICIALLY DECREED DISSOLUTION PURSUANT TO SECTION SEVEN HUNDRED TWO OF THE LIMITED LIABILITY COMPANY LAW.

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

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4. FOR EACH DAY THAT SUCH PAYMENT TO THE DEPARTMENT OF TAXATION AND FINANCE IS DELINQUENT, INTEREST SHALL ACCRUE TO BE PAID BY SUCH VIOLATOR. FAILURE TO REMIT PURSUANT TO SUBDIVISION TWO OF THIS SECTION TO THE DEPARTMENT OF TAXATION AND FINANCE ON THE TOTAL AMOUNT SHALL RESULT IN A LATE PAYMENT PENALTY IN THE AMOUNT OF ONE PERCENT PER DAY UNTIL THE PAYMENT IS MADE.

S 2. Section 702 of the limited liability company law is amended to read as follows:

S 702. Judicial dissolution. 1. On application by or for a member, the supreme court in the judicial district in which the office of the limited liability company is located may decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with the articles of organization or operating agreement. A certified copy of the order of dissolution shall be filed by the applicant with the department of state within thirty days of its issuance.

2. ON APPLICATION BY THE ATTORNEY GENERAL, THE SUPREME COURT IN THE JUDICIAL DISTRICT IN WHICH THE OFFICE OF THE LIMITED LIABILITY COMPANY IS LOCATED MAY DECREE DISSOLUTION OF A LIMITED LIABILITY COMPANY WHENEVER SUCH COMPANY IS FOUND TO HAVE VIOLATED THE PROVISIONS OF SECTION ONE HUNDRED SEVENTY-B OF THE MULTIPLE DWELLING LAW.

S 3. The administrative code of the city of New York is amended by adding a new section 28-210.5 to read as follows:

S 28-210.5 LIABILITY FOR ILLEGAL CONVERSION. A. FOR THE PURPOSES OF THIS SECTION, AN "ILLEGAL CONVERSION" SHALL MEAN THE CREATION OR MODIFICATION OF A HOUSING UNIT OR UNITS, FOR WHICH APPROVAL OR PERMITS ARE REQUIRED BY LAW OR REGULATION, WITHOUT FIRST OBTAINING SUCH APPROVAL OR PERMITS FROM THE DEPARTMENT OF BUILDINGS.

B. IN THE EVENT AN ILLEGAL CONVERSION HAS OCCURRED, DETERMINED BY ORDER OR JUDGMENT OF THE ENVIRONMENTAL CONTROL BOARD, THE CONTRACTOR OR INDIVIDUAL WHO PERFORMED THE CONSTRUCTION SHALL BE HELD LIABLE FOR ANY MONETARY PENALTIES AS DESCRIBED IN SUBDIVISION C OF THIS SECTION.

C. ANY INDIVIDUAL OR CONTRACTOR WHO IS FOUND PERFORMING AN ILLEGAL CONVERSION PURSUANT TO SUBDIVISION B OF THIS SECTION, SHALL REMIT TO THE DEPARTMENT OF TAXATION AND FINANCE THE TOTAL OF ALL TAX CREDITS AND/OR REBATES RECEIVED IN THE CALENDAR YEAR IN WHICH SUCH PERSON IS FOUND TO HAVE COMMITTED SUCH VIOLATION WITHIN THIRTY DAYS AFTER NOTICE OF THE VIOLATION. IN ADDITION, SUCH DEPARTMENT SHALL FORWARD TO THE INTERNAL REVENUE SERVICE THE NAME AND ADDRESS OF ANY PERSON THAT HAS BEEN FOUND TO HAVE VIOLATED THE PROVISIONS OF SUBDIVISION B OF THIS SECTION. FOR EACH DAY THAT SUCH PAYMENT TO THE DEPARTMENT OF TAXATION AND FINANCE IS DELINQUENT, INTEREST SHALL ACCRUE TO BE PAID BY SUCH VIOLATOR. FAILURE TO REMIT PURSUANT TO THIS SUBDIVISION ON THE TOTAL AMOUNT SHALL RESULT IN A LATE PAYMENT PENALTY IN THE AMOUNT OF ONE PERCENT PER DAY UNTIL THE PAYMENT IS MADE.

D. IT SHALL BE A COMPLETE AND AFFIRMATIVE DEFENSE TO ANY VIOLATIONS ISSUED BY THE DEPARTMENT OF BUILDINGS FOR ILLEGAL CONVERSIONS OR WORK DONE WITHOUT A PERMIT THAT:

(I) THE DEPARTMENT OF FINANCE RECORDS AND THE DEPARTMENT OF BUILDINGS RECORDS CONFLICT AS TO THE DESCRIPTION OR ASSESSMENT OF THE SUBJECT PROPERTY; OR

(II) THE OWNER OF THE BUILDING PURCHASED SAID PROPERTY IN THE ILLEGAL CONVERSION CONDITION.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.