

STATE OF NEW YORK

7743

2019-2020 Regular Sessions

IN ASSEMBLY

May 17, 2019

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Housing

AN ACT to amend the general business law, the multiple dwelling law, the private housing finance law and the administrative code of the city of New York, in relation to conversion to cooperative or condominium ownership; and to repeal certain provisions of the general business law and the administrative code of the city of New York relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2-a of section 352-e of the general business law is REPEALED and a new subdivision 2-a is added to read as follows:

2-a. (a) As used in this subdivision, the following words and terms shall have the following meanings:

(i) "Plan". Every offering statement or prospectus submitted to the department of law pursuant to this section for the conversion of a building or group of buildings or development from residential rental status to cooperative or condominium ownership or other form of cooperative interest in realty, other than an offering statement or prospectus for such conversion pursuant to article two, eight or eleven of the private housing finance law.

(ii) "Non-eviction plan". A plan which may not be declared effective until written purchase agreements have been executed and delivered for at least fifty-one percent of all dwelling units in the building or group of buildings or development by bona fide tenants in occupancy. As to tenants who were in occupancy on the date a letter was issued by the attorney general accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering made in good faith without fraud and discriminatory repurchase agreements or other discriminatory inducements.

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

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1 (iii) "Purchaser under the plan". A person who owns the shares allo-
2 cated to a dwelling unit or who owns such dwelling unit itself.

3 (iv) "Non-purchasing tenant". A person who has not purchased under the
4 plan and who is a tenant entitled to possession at the time the plan is
5 declared effective or a person to whom a dwelling unit is rented subse-
6 quent to the effective date. A person who sublets a dwelling unit from a
7 purchaser under the plan shall not be deemed a non-purchasing tenant.

8 (b) The attorney general shall refuse to issue a letter stating that
9 the offering statement or prospectus required in subdivision one of this
10 section has been filed whenever it appears that the offering statement
11 or prospectus offers for sale residential cooperative apartments or
12 condominium units pursuant to a plan unless:

13 (i) The plan provides that it will be deemed abandoned, void and of no
14 effect if it does not become effective within twelve months from the
15 date of issue of the letter of the attorney general stating that the
16 offering statement or prospectus has been accepted for filing and, in
17 the event of such abandonment, no new plan for the conversion of such
18 building or group of buildings or development shall be submitted to the
19 attorney general for at least fifteen months after such abandonment.

20 (ii) The plan provides a non-eviction plan, and provides further as
21 follows:

22 (1) The plan may not be declared effective until at least fifty-one
23 percent of those bona fide tenants in occupancy of all dwelling units in
24 the building or group of buildings or development on the date the plan
25 is declared effective shall have executed and delivered written agree-
26 ments to purchase under the plan. As to tenants who were in occupancy on
27 the date a letter was issued by the attorney general accepting the plan
28 for filing, the purchase agreement shall be executed and delivered
29 pursuant to an offering made in good faith without fraud and discrimina-
30 tory repurchase agreements or other discriminatory inducements.

31 (2) No eviction proceedings will be commenced at any time against
32 non-purchasing tenants for failure to purchase or any other reason
33 applicable to expiration of tenancy; provided that such proceedings may
34 be commenced for non-payment of rent, illegal use or occupancy of the
35 premises, refusal of reasonable access to the owner or a similar breach
36 by the non-purchasing tenant of such tenant's obligations to the owner
37 of the dwelling unit or the shares allocated thereto; and provided
38 further that an owner of a unit or of the shares allocated thereto may
39 not commence an action to recover possession of a dwelling unit from a
40 non-purchasing tenant on the grounds that such tenant seeks the dwelling
41 unit for the use and occupancy of such tenant or the family of such
42 tenant.

43 (3) Non-purchasing tenants who reside in dwelling units subject to
44 government regulation as to rentals and continued occupancy prior to the
45 conversion of the building or group of buildings or development to coop-
46 erative or condominium ownership shall continue to be subject thereto.

47 (4) The rentals of non-purchasing tenants who reside in dwelling units
48 not subject to government regulation as to rentals and continued occu-
49 pancy and non-purchasing tenants who reside in dwelling units with
50 respect to which government regulation as to rentals and continued occu-
51 pancy is eliminated or becomes inapplicable after the plan has been
52 accepted for filing by the attorney general shall not be subject to
53 unconscionable increases beyond ordinary rentals for comparable apart-
54 ments during the period of their occupancy. In determining comparabili-
55 ty, consideration shall be given to such factors as building services,
56 level of maintenance and operating expenses.

1 (5) The rights granted under the plan to purchasers under the plan and
2 to non-purchasing tenants may not be abrogated or reduced notwithstanding
3 any expiration of, or amendment to, this section.

4 (6) After the issuance of the letter from the attorney general stating
5 that the offering statement or prospectus required in subdivision one of
6 this section has been filed, the offeror shall, on the thirtieth, sixtieth,
7 eighty-eighth and ninetieth day after such date and at least once
8 every thirty days until the plan is declared effective or is abandoned,
9 as the case may be, and on the second day before the expiration of any
10 exclusive purchase period provided in a substantial amendment to the
11 plan, (A) file with the attorney general a written statement, under
12 oath, setting forth the percentage of bona fide tenants in occupancy of
13 all dwelling units in the building or group of buildings or development
14 who have executed and delivered written agreements to purchase under the
15 plan as of the date of such statement, (B) before noon on the day such
16 statement is filed post a copy of such statement in a prominent place
17 accessible to all tenants in each building covered by the plan.

18 (iii) The attorney general finds that an excessive number of long-term
19 vacancies did not exist on the date that the offering statement or pros-
20 pectus was first submitted to the department of law. "Long-term vacan-
21 cies" shall mean dwelling units not leased or occupied by bona fide
22 tenants for more than five months prior to the date of such submission
23 to the department of law. "Excessive" shall mean a vacancy rate in
24 excess of the greater of (1) ten percent and (2) a percentage that is
25 double the normal average vacancy rate for the building or group of
26 buildings or development for two years prior to the January preceding
27 the date the offering statement or prospectus was first submitted to the
28 department of law.

29 (iv) The attorney general finds that, following the submission of the
30 offering statement or prospectus to the department of law, each tenant
31 in the building or group of buildings or development was provided with a
32 written notice stating that such offering statement or prospectus has
33 been submitted to the department of law for filing. Such notice shall be
34 accompanied by a copy of the offering statement or prospectus and a
35 statement that the statements submitted pursuant to clause six of
36 subparagraph (ii) of this paragraph, whichever is applicable, will be
37 available for inspection and copying at the office of the department of
38 law where the submission was made and at the office of the offeror or a
39 selling agent of the offeror. Such notice shall also be accompanied by a
40 statement that tenants or their representatives may physically inspect
41 the premises at any time subsequent to the submission of the plan to the
42 department of law, during normal business hours, upon written request
43 made by them to the offeror, provided such representatives are regis-
44 tered architects or professional engineers licensed to practice in the
45 state of New York. Such notice shall be sent to each tenant in occupancy
46 on the date the plan is first submitted to the department of law and to
47 the clerk of the municipality wherein such building or group of build-
48 ings or development is located.

49 (c) All dwelling units occupied by non-purchasing tenants shall be
50 managed by the same managing agent who manages all other dwelling units
51 in the building or group of buildings or development. Such managing
52 agent shall provide to non-purchasing tenants all services and facili-
53 ties required by law on a non-discriminatory basis. The offeror shall
54 guarantee the obligation of the managing agent to provide all such
55 services and facilities until such time as the offeror surrenders
56 control to the board of directors or board of managers, at which time

1 the cooperative corporation or the condominium association shall assume
2 responsibility for the provision of all services and facilities required
3 by law on a non-discriminatory basis.

4 (d) It shall be unlawful for any person to engage in any course of
5 conduct, including, but not limited to, interruption or discontinuance
6 of essential services, which substantially interferes with or disturbs
7 the comfort, repose, peace or quiet of any tenant in his use or occupan-
8 cy of his dwelling unit or the facilities related thereto. The attorney
9 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 (e) Any local legislative body may adopt local laws and any agency,
16 officer or public body may prescribe rules and regulations with respect
17 to the continued occupancy by tenants of dwelling units which are
18 subject to regulation as to rentals and continued occupancy pursuant to
19 law, provided that in the event that any such local law, rule or regu-
20 lation shall be inconsistent with the provisions of this section, the
21 provisions of this section shall control.

22 (f) Any provision of a lease or other rental agreement which purports
23 to waive a tenant's rights under this subdivision or rules and regu-
24 lations promulgated pursuant hereto shall be void as contrary to public
25 policy.

26 § 2. Section 352-eee of the general business law is REPEALED.

27 § 3. Section 352-eeee of the general business law is REPEALED.

28 § 4. Paragraph 7 of subdivision a of section 26-408 of the administra-
29 tive code of the city of New York is REPEALED.

30 § 5. The opening paragraph of subdivision a and subdivision c of
31 section 26-504 of the administrative code of the city of New York,
32 subdivision c as amended by chapter 289 of the laws of 1985, are amended
33 to read as follows:

34 Class A multiple dwellings not owned as a cooperative or as a condo-
35 minium, except as provided in section three hundred [~~fifty-two-eeee~~]
36 fifty-two-e of the general business law, containing six or more dwelling
37 units which:

38 c. Dwelling units in a building or structure receiving the benefits of
39 section 11-243 or section 11-244 of the code or article eighteen of the
40 private housing finance law, not owned as a cooperative or as a condo-
41 minium, except as provided in section three hundred [~~fifty-two-eeee~~]
42 fifty-two-e of the general business law and not subject to chapter three
43 of this title. Upon the expiration or termination for any reason of the
44 benefits of section 11-243 or section 11-244 of the code or article
45 eighteen of the private housing finance law any such dwelling unit shall
46 be subject to this chapter until the occurrence of the first vacancy of
47 such unit after such benefits are no longer being received or if each
48 lease and renewal thereof for such unit for the tenant in residence at
49 the time of the expiration of the tax benefit period has included a
50 notice in at least twelve point type informing such tenant that the unit
51 shall become subject to deregulation upon the expiration of such tax
52 benefit period and states the approximate date on which such tax benefit
53 period is scheduled to expire, such dwelling unit shall be deregulated
54 as of the end of the tax benefit period; provided, however, that if such
55 dwelling unit would have been subject to this chapter or the emergency
56 tenant protection act of nineteen seventy-four in the absence of this

1 subdivision, such dwelling unit shall, upon the expiration of such bene-
2 fits, continue to be subject to this chapter or the emergency tenant
3 protection act of nineteen seventy-four to the same extent and in the
4 same manner as if this subdivision had never applied thereto.

5 § 6. Section 26-701 of the administrative code of the city of New York
6 is amended to read as follows:

7 § 26-701 Application. The provisions of this chapter shall apply to
8 conversions from rental to cooperative or condominium status of a build-
9 ing or a group of buildings or a development for which a plan must be
10 filed with the state department of law pursuant to section three hundred
11 ~~[fifty-two-eeee]~~ fifty-two-e of the general business law.

12 § 7. Section 26-705 of the administrative code of the city of New York
13 is amended to read as follows:

14 § 26-705 Posting of violations. The offeror, not later than the thir-
15 tieth day following the acceptance of a plan for filing by the state
16 department of law pursuant to section three hundred ~~[fifty-two-eeee]~~
17 fifty-two-e of the general business law and until the closing of the
18 conversion pursuant to such plan, shall post and maintain in a prominent
19 place, accessible to all tenants in each building covered by the plan, a
20 listing of all violations of record against such buildings as determined
21 by the department of buildings and the department of housing preserva-
22 tion and development. All newly issued violations shall be posted within
23 forty-eight hours of their issuance and maintained as described above.
24 The offeror may satisfy the requirements of this section by designating
25 an agent on the premises with whom such listing shall be made available
26 for inspection by the tenants.

27 § 8. Subdivision 9 of section 286 of the multiple dwelling law, as
28 added by chapter 349 of the laws of 1982, is amended to read as follows:

29 9. ~~[No eviction plan for conversion to cooperative or condominium
30 ownership for a building which is, or a portion of which is an interim
31 multiple dwelling shall be submitted for filing to the department of law
32 pursuant to the general business law until a residential certificate of
33 occupancy is obtained as required by this article, and the residential
34 occupants qualified for protection pursuant to this article are offered
35 one, two or three year leases, as elected by such persons, in accordance
36 with the provisions for establishment of initial legal regulated rent
37 contained herein.]~~ Non-eviction plans for such buildings may be submit-

38 ted for filing only if the sponsor remains responsible for compliance
39 with article seven-B and for all work in common areas required to obtain
40 a residential certificate of occupancy. Cooperative conversion shall be
41 fully in accordance with section three hundred ~~[fifty-two-eeee]~~ fifty-
42 two-e of the general business law, the requirements of the code of the
43 local real estate industry stabilization association, and with the rules
44 and regulations promulgated by the attorney general.

45 § 9. Paragraph (g) of subdivision 3 of section 1102 of the private
46 housing finance law, as amended by chapter 121 of the laws of 1988, is
47 amended to read as follows:

48 (g) In the case of a rental project, that the project shall be oper-
49 ated initially as a rental property, and when located in the city of New
50 York shall be subject to the rent stabilization law of nineteen hundred
51 sixty-nine, and when located in a municipality which has elected to be
52 covered by the provisions of the emergency tenant protection act of
53 nineteen seventy-four, be subject to the provisions of such act. Any
54 subsequent conversion to cooperative or condominium ownership during the
55 period in which such property remains subject to the provisions of this
56 article shall only be allowed with the consent of the corporation and if

1 done pursuant to section three hundred [~~fifty-two-eeee or three hundred~~
2 ~~fifty-two-eee~~] fifty-two-e of the general business law shall only be
3 allowed pursuant to a non-eviction plan. The conversion of a rental
4 project to cooperative or condominium ownership shall make the cooper-
5 ative or condominium subject to the provisions of this article for coop-
6 erative or condominium projects for the remaining term which the rental
7 project was to be subject to the provisions of this article.

8 § 10. Subdivision 8 of section 1152 of the private housing finance
9 law, as added by chapter 639 of the laws of 1989, is amended to read as
10 follows:

11 8. If the eligible project is a rental project, no conversion to a
12 cooperative or condominium shall be permitted for a period of twenty
13 years after initial occupancy, and unless (i) the agency's share of the
14 loan is prepaid upon such conversion, (ii) the conversion shall be done
15 pursuant to section three hundred [~~fifty-two-eeee~~] fifty-two-e of the
16 general business law as a non-eviction plan, and (iii) apartments occu-
17 pied by non-purchasing tenants continue to be subject to the rent
18 stabilization law of nineteen hundred sixty-nine as amended, until the
19 occurrence of a vacancy.

20 § 11. This act shall take effect on the thirtieth day after it shall
21 have become a law; provided that the amendments to section 26-504 of
22 chapter 4 of title 26 of the administrative code of the city of New York
23 made by section five of this act shall expire on the same date as such
24 law expires and shall not affect the expiration of such law as provided
25 under section 26-520 of such law.