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 Subdivision 2-a of section 352-e of the general business law is REPEALED and a new subdivision 2-a is added to read as follows: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

LBD11354-01-9

(iii) "Purchaser under the plan". A person who owns the shares allocated to a dwelling unit or who owns such dwelling unit itself.

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

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

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

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

(1) The plan may not be declared effective until at least fifty-one percent of those bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the plan is declared effective shall have executed and delivered written agreements to purchase under the plan. 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.

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

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

(4) The rentals of non-purchasing tenants who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and non-purchasing tenants who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing by the attorney general shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy. In determining comparability, consideration shall be given to such factors as building services, level of maintenance and operating expenses.

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

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

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

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

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

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

(d) It shall be unlawful for any person to engage in any course of conduct, including, but not limited to, interruption or discontinuance of essential services, which substantially interferes with or disturbs the comfort, repose, peace or quiet of any tenant in his use or occupancy of his dwelling unit or the facilities related thereto. The attorney general may apply to a court of competent jurisdiction for an order restraining such conduct and, if he deems it appropriate, an order restraining the owner from selling the shares allocated to the dwelling unit or the dwelling unit itself or from proceeding with the plan of conversion; provided that nothing contained herein shall be deemed to preclude the tenant from applying on his own behalf for similar relief.

(e) Any local legislative body may adopt local laws and any agency, officer or public body may prescribe rules and regulations with respect to the continued occupancy by tenants of dwelling units which are subject to regulation as to rentals and continued occupancy pursuant to law, provided that in the event that any such local law, rule or regulation shall be inconsistent with the provisions of this section, the provisions of this section shall control.

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

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

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

§ 4. Paragraph 7 of subdivision a of section 26-408 of the administrative code of the city of New York is REPEALED.

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

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

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

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

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

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

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

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

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

9. [~~No eviction plan for conversion to cooperative or condominium ownership for a building which is, or a portion of which is an interim multiple dwelling shall be submitted for filing to the department of law pursuant to the general business law until a residential certificate of occupancy is obtained as required by this article, and the residential occupants qualified for protection pursuant to this article are offered one, two or three year leases, as elected by such persons, in accordance with the provisions for establishment of initial legal regulated rent contained herein.~~] Non-eviction plans for such buildings may be submitted for filing only if the sponsor remains responsible for compliance with article seven-B and for all work in common areas required to obtain a residential certificate of occupancy. Cooperative conversion shall be fully in accordance with section three hundred [~~fifty-two-eeee~~] fifty-two-e of the general business law, the requirements of the code of the local real estate industry stabilization association, and with the rules and regulations promulgated by the attorney general.

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

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

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

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

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

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