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CONDOS & CO-OPS CORNER

Albany still not listening to landlord/tenant concerns

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It's been about four months since the sweeping Housing Stability and Tenant Protection Law was passed by the New York state legislature and signed by the governor.

Now that sufficient time has passed to fairly judge its impact, we can pointedly highlight several of the shortcomings in the law and earnestly encourage everyone who lives in a co-operative building to closely consider the effect the law is beginning to have on their financial stability and way of life.

In its defense, the bill was ostensibly authored to enhance and protect the rights of those who rent their apartments — a laudable objective.

But the new law was formulated by Albany legislators without any input from the vast and growing co-op/condo community. Some legislators have openly indicated that they did not even consider that the new statutes would have any impact in co-ops and condos.

As a result of this negligence, today the broad impact of the law on the co-op community is becoming horribly clear, and a few examples are apropos.

• Co-ops can no longer require a deposit or advance payment exceeding one month's maintenance. This prohibits the widespread and generous custom of enabling prospective purchases who do not meet the financial guidelines of a given building to place maintenance money in escrow.

This practice has been often used to enable first-time homebuyers to purchase a property of their own, even though they haven't yet developed a substantial financial foundation, thereby strengthening and revitalizing our community with an infusion of an increasingly young and growing population.

• If a shareholder fails to pay maintenance within five days of the due date, the co-op must now give notice by certified mail — and in an eviction proceeding, any failure of the co-op to do so in a timely manner is now a valid defense against the action.

So in the extreme, one can picture a recalcitrant individual failing to pay repeatedly and clocking the exact time that each successive notice is received, just hoping for a lapse in delivery.

• If a shareholder continues to fail to pay maintenance after the five-day notice, and the co-op wishes to properly uphold its responsibility by requesting payment, it must do so only using a process server under a provision of the new law. If the co-op wishes to regain other unpaid charges — such as assessments or fees for garage use, storage bins or gym memberships — it must start separate legal proceedings for each, and the co-op can no longer recover attorney's fees if the shareholder defaults the action.

• Late fees under the new law are limited to 5 percent of the maintenance, or $50, whichever is less. It also apparently voids the collection of interest on late fees.

The law applies to late fees regardless of past practice or precedence, or provisions in the house rules or proprietary leases.

• Co-ops now are required to give a written receipt for payment of maintenance in any form other than check. Seriously? One could easily argue that most payments today are made via electronic methods, while some people may still elect to pay via money orders or even cash.

This new mandate will do little other than impose an undue burden on co-ops and managing agents who must establish and implement a brand-new system for complying, at considerable and unforeseen additional expense.

All the issues described above, along with many others in the new law, were specifically designed for renters in dealing with landlords. In co-ops, the regulations are not needed — and in certain cases, border the absurd in their application.

Rather than offer any improved condition through the legislation, co-operators are simply being punished by the terms of this new law, which in no way will improve, protect or stabilize their living conditions, and ultimately each individual shareholder — in the obvious absence of any "landlord") — must bear the burden of new and unwarranted costs.

To date, there has been no plan forthcoming from our elected officials in Albany that will provide the equity and fairness due to the tens of thousands of cooperators in the Bronx and throughout the city. Co-ops and condos simply must be exempted from the provisions of the new law that were specifically crafted in the interest of renters.

The Association of Riverdale Cooperatives & Condominiums, along with other representative groups throughout the city, continues to be vocal in its opposition to the blanket provisions of the new law.

Now it behooves every individual who lives in a co-op or condo to lend their voices to the effort by contacting their legislators directly in order to firmly underscore the critical need for urgently needed amendments or revisions to the Housing Stability and Tenant Protection Law that will specifically exempt co-ops and condos.

The author is president of the Association of Riverdale Cooperatives & Condominiums.