

ARTICLE 7-C

LEGALIZATION OF INTERIM MULTIPLE DWELLINGS

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§ 280. Legislative findings. The legislature hereby finds and declares that a serious public emergency exists in the housing of considerable number of persons in cities having a population of over one million, which emergency has been created by the increasing number of conversions of commercial and manufacturing loft buildings to residential use without compliance with applicable building codes and laws and without compliance with local laws regarding minimum housing maintenance standards; that many such buildings do not conform to minimum standards for health, safety and fire protection; that housing maintenance services essential to maintain health, safety and fire protection are not being provided in many such buildings; that as a consequence of the acute shortage of housing as found and declared in the emergency tenant protection act of nineteen seventy-four the tenants in such buildings would suffer great hardship if forced to relocate; that as a result of the uncertain status of the tenancy in question the courts have been increasingly burdened with disputes between landlords and tenants regarding their respective rights and obligations under the existing circumstances; that some courts have declared such buildings "de facto" multiple dwellings; that illegal and unregulated residential conversions undermine the integrity of the local zoning resolution and threaten loss of jobs and industry; that the intervention of the state and local governments is necessary to effectuate legalization, consistent with the local zoning resolution, of the present illegal living arrangements in such "de facto" multiple dwellings, and to establish a system whereby residential rentals can be reasonably adjusted so that residential tenants can assist in paying the cost of such legalization without being forced to relocate; that in order to prevent uncertainty, hardship, and dislocation, the provisions of this article are necessary and designed to protect the public health, safety and general welfare.

§ 281. Definition of "interim multiple dwelling". 1. Except as provided in subdivision two of this section, the term "interim multiple dwelling" means any building or structure or portion thereof located in a city of more than one million persons which (i) at any time was occupied for manufacturing, commercial, or warehouse purposes; and (ii) lacks a certificate of compliance or occupancy pursuant to section three hundred one of this chapter; and (iii) on December first, nineteen hundred eighty-one was occupied for residential purposes since April first, nineteen hundred eighty as the residence or home of any three or more families living independently of one another.

2. Notwithstanding the definition set forth in subdivision one of this section, the term "interim multiple dwelling" includes only (i) buildings, structures or portions thereof located in a geographical area in which the local zoning resolution permits residential use as of right, or by minor modification or administrative certification of a local planning agency, (ii) buildings or structures which are not owned by a municipality, (iii) buildings, structures or portions thereof within an area designated by the local zoning resolution as a study area for possible rezoning to permit residential use, or (iv) buildings, structures or portions thereof which may be converted to residential use pursuant to a special permit granted by a local planning agency. In the case of classes of buildings specified by paragraphs (iii) and (iv) of this subdivision and those buildings specified by paragraph (i) of this subdivision which require a minor modification or administrative certification, however, the provisions of subdivision one of section two hundred eighty-four of this article regarding compliance with this chapter shall not be applicable, but the other provisions of this article shall be applicable. Upon rezoning of any such study area or the granting of any such special permit, minor modification or administrative certification to permit residential use of any such building or portion thereof, subdivision one of section two hundred eighty-four of this article shall be applicable, with the timing of compliance requirements set forth in such section commencing to run upon the effective date of such rezoning or permit approval. If such rezoning does not permit residential use of the building or a portion thereof, or if a special permit, minor modification or administrative certification is denied, such building shall be exempt from this article.

3. In addition to the residents of an interim multiple dwelling, residential occupants in units first occupied after April first, nineteen hundred eighty and prior to April first, nineteen hundred eighty-one shall be qualified for protection pursuant to this article, provided that the building or any portion thereof otherwise qualifies as an interim multiple dwelling, and the tenants are eligible under the local zoning resolution for such occupancy. A reduction in the number of occupied residential units in a building after December first, nineteen hundred eighty-one shall not eliminate the protections of this article for any remaining residential occupants qualified for such protections. Non-residential space in a building as of the effective date of the act which added this article shall be offered for residential use only after the obtaining of a residential certificate of occupancy for such space, and such space shall be exempt from this article, even if a portion of such building may be an interim multiple dwelling.

4. Interim multiple dwellings shall also include buildings, structures or portions thereof that had residential occupants on May first, nineteen hundred eighty-seven in units occupied residentially since December first, nineteen hundred eighty-one that were occupied for residential purposes since April first, nineteen hundred eighty and those units shall be qualified for protection pursuant to this article, provided that the building or any portion thereof meets the requirements set out in subdivision one of this section, regardless of whether the buildings, structures or portions thereof meets the requirements set out in paragraphs (i), (iii) and (iv) of subdivision two of this section.

5. Notwithstanding the provisions of paragraphs (i), (iii) and (iv) of subdivision two of this section, but subject to paragraphs (i) and (ii) of subdivision one of this section and paragraph (ii) of subdivision two of this section, the term "interim multiple dwelling" shall include buildings, structures or portions thereof that are located in a city of more than one million persons which were occupied for residential purposes as the residence or home of any three or more families living independently from one another for a period of twelve consecutive months during the period commencing January first, two thousand eight, and ending December thirty-first, two thousand nine, provided that the unit: is not located in a basement or cellar and has at least one entrance that does not require passage through another residential unit to obtain access to the unit, has at least one window opening onto a street or a lawful yard or court as defined in the zoning resolution for such municipality, and is at least five hundred fifty square feet in area. The term "interim multiple dwelling" as used in this subdivision shall not include (i) any building in an industrial business zone established pursuant to chapter six-D of title twenty-two of the administrative code of the city of New York except that a building in the Williamsburg/Greenpoint or North Brooklyn industrial business zones and a building located in that portion of the Long Island city industrial business zone that has frontage on either side of forty-seventh street or is located north of forty-seventh street and south of Skillman avenue or in that portion of the Long Island city industrial business zone that is located north of forty-fourth drive, south of Queens plaza north, and west of twenty-third street may be included in the term "interim multiple dwelling," or (ii) units in any building that, at the time this subdivision shall take effect, also contains a use actively and currently pursued, which use is set forth in use groups fifteen through eighteen, as described in the zoning resolution of such municipality in effect on June twenty-first, two thousand ten, and which the loft board has determined in rules and regulation is inherently incompatible with residential use in the same building, provided that if a building does not contain such active uses at the time this subdivision takes effect, no subsequent use by the owner of the building shall eliminate the protections of this section for any residential occupants in the building already qualified for such protections. The term "interim multiple dwelling," as used in this subdivision shall also include buildings, structures or portions thereof that are located north of West 24th Street and south of West 27th Street and west of tenth avenue and east of eleventh avenue in a city of more than one million persons which were occupied for residential purposes as the residence or home of any two or more families living independently from one another for a period of twelve consecutive months during the period commencing January first, two thousand eight, and ending December thirty-first, two thousand nine and subject to all the conditions and limitations of this subdivision other than the number of units in the building. A reduction in the number of occupied residential units in a building after meeting the aforementioned twelve consecutive month requirement shall not eliminate the protections of this section for any remaining residential occupants qualified for such protections. Non-residential space in a building as of the effective date of this subdivision shall be offered for residential use only after the obtaining of a residential certificate of occupancy for such space

and such space shall be exempt from this article, even if a portion of such building may be an interim multiple dwelling.

§ 282. Establishment of special loft unit. In order to resolve complaints of owners of interim multiple dwellings and of residential occupants of such buildings qualified for the protection of this article, and to act upon hardship applications made pursuant to this article, a special loft unit referred to herein as the "loft board" shall be established which shall consist of from four to nine members representative of the public, the real estate industry, loft residential tenants, and loft manufacturing interests, and a chairperson, all to be appointed by the mayor of the municipality and to serve such terms as he may designate. The compensation of the members of the loft board shall be fixed by the mayor. The members of the loft board shall not be considered employees of the state or the municipality, provided, however, that state or municipal employees or officers may be named to the loft board. The mayor shall establish the loft board within ninety days of the effective date of chapter three hundred forty-nine of the laws of nineteen hundred eighty-two. The loft board shall have such office and staff as shall be necessary to carry out functions conferred upon it and may request and receive assistance from any state or municipal agency or department. The loft board shall have the following duties: (a) the determination of interim multiple dwelling status and other issues of coverage pursuant to this article; (b) the resolution of all hardship appeals brought under this article; (c) the determination of any claim for rent adjustment under this article by an owner or tenant; (d) the issuance, after a public hearing, and the enforcement of rules and regulations governing minimum housing maintenance standards in interim multiple dwellings (subject to the provisions of this chapter and any local building code), rent adjustments prior to legalization, compliance with this article and the hearing of complaints and applications made to it pursuant to this article; and (e) determination of controversies arising over the fair market value of a residential tenant's fixtures or reasonable moving expenses. The violation of any rule or regulation promulgated by the loft board shall be punishable by a civil penalty determined by the loft board not to exceed seventeen thousand five hundred dollars which may be recovered by the municipality by a proceeding in any court of competent jurisdiction. The loft board may designate provisions of such rules and regulations for enforcement in proceedings before the environmental control board of such municipality. Notices of violation returnable to such environmental control board may be issued by officers and employees of the department of buildings of such municipality and served in the same manner as violations returnable to such board within the jurisdiction of such department. The environmental control board, when acting as the designee of the loft board, shall have the power to impose civil penalties, not to exceed seventeen thousand five hundred dollars for each violation, and to issue judgments, which may be docketed and enforced as set forth in section one thousand forty-nine-a of the New York city charter. The loft board may charge and collect reasonable fees in the execution of its responsibilities. The loft board may administer oaths, take affidavits, hear testimony, and take proof under oath at public or private hearings.

§ 282-a. Limitation on applications for coverage of interim multiple dwellings and residential units. All applications for registration as an interim multiple dwelling or for coverage of residential units under this article shall be filed with the loft board within six months after the date the loft board shall have adopted all rules or regulations necessary in order to implement the provisions of the chapter of the laws of 2010 which added this section. The loft board may subsequently amend such rules and regulations but such amendments shall not recommence the time period in which applications may be filed. Notwithstanding any other provision of this article, after such date no further applications for registration or coverage as an interim multiple dwelling or for coverage under this article shall be accepted for owners or occupants of buildings that would otherwise qualify as interim multiple dwellings or for coverage pursuant to this article.

§ 283. Occupancy permitted. Notwithstanding any other provision of this chapter or any other law, code, rule or regulation, occupancy for residential purposes of residential units covered by this article is permitted, if such occupancy is in compliance with this article. Nothing contained herein shall be construed to limit local authorities from issuing vacate orders for hazardous conditions, if appropriate.

§ 284. Owner obligations. 1. (i) The owner of an interim multiple dwelling (A) shall file an alteration application within nine months from the effective date of chapter three hundred forty-nine of the laws of nineteen hundred eighty-two, and (B) shall take all reasonable and necessary action to obtain an approved alteration permit within twelve months from such effective date, and (C) shall achieve compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building within eighteen months from obtaining such alteration permit or eighteen months from such effective date, whichever is later, and (D) shall take all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure within thirty-six months from such effective date. The loft board may, upon good cause shown, and upon proof of compliance with the standards of safety and fire protection set forth in article seven-B of this chapter, twice extend the time of compliance with the requirement to obtain a residential certificate of occupancy for periods not to exceed twelve months each.

(ii) An owner of an interim multiple dwelling who has not complied with the requirements of paragraph (i) of this subdivision by the effective date of chapter two hundred twenty-seven of the laws of nineteen hundred ninety-two shall hereafter be deemed in compliance with this subdivision provided that such owner files an alteration application by October first, nineteen hundred ninety-two, takes all reasonable and necessary action to obtain an approved alteration permit by October first, nineteen hundred ninety-three, achieves compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building by April first, nineteen hundred ninety-five, or within eighteen months from obtaining an approved alteration permit, whichever is later, and takes all reasonable and necessary action to obtain a certificate of occupancy as a class A

multiple dwelling for the residential portions of the building or structure by October first, nineteen hundred ninety-five or within six months from achieving compliance with the aforementioned standards for the residential portions of the building, whichever is later.

(iii) An owner of an interim multiple dwelling who has not complied with the requirements of paragraph (i) or (ii) of this subdivision by the effective date of chapter three hundred nine of the laws of nineteen hundred ninety-six shall hereafter be deemed in compliance with this subdivision provided that such owner files an alteration application by October first, nineteen hundred ninety-six, takes all reasonable and necessary action to obtain an approved alteration permit by October first, nineteen hundred ninety-seven, achieves compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building by April first, nineteen hundred ninety-nine or within eighteen months from obtaining an approved alteration permit whichever is later, and takes all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure by June thirtieth, nineteen hundred ninety-nine or within three months from achieving compliance with the aforementioned standards for the residential portions of the building, whichever is later.

(iv) An owner of an interim multiple dwelling who has not complied with the requirements of paragraph (i), (ii) or (iii) of this subdivision by the effective date of this paragraph as provided in chapter four hundred fourteen of the laws of nineteen hundred ninety-nine which added this paragraph shall hereafter be deemed in compliance with this subdivision provided that such owner files an alteration application by September first, nineteen hundred ninety-nine, takes all reasonable and necessary action to obtain an approved alteration permit by March first, two thousand, achieves compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building by May first, two thousand two or within twelve months from obtaining an approved alteration permit whichever is later, and takes all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure by May thirty-first, two thousand two or within one month from achieving compliance with the aforementioned standards for the residential portions of the building, whichever is later.

(v) An owner of an interim multiple dwelling who has not complied with the requirements of paragraph (i), (ii), (iii) or (iv) of this subdivision by the effective date of this paragraph as provided in chapter eighty-five of the laws of two thousand two shall hereafter be deemed in compliance with this subdivision provided that such owner filed an alteration application by September first, nineteen hundred ninety-nine, took all reasonable and necessary action to obtain an approved alteration permit by March first, two thousand, achieves compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building by June first, two thousand twelve or within twelve months from obtaining an approved alteration permit whichever is later, and takes all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the

building or structure by July second, two thousand twelve or within one month from achieving compliance with the aforementioned standards for the residential portions of the building, whichever is later.

(vi) Notwithstanding the provisions of paragraphs (i) through (v) of this subdivision the owner of an interim multiple dwelling made subject to this article by subdivision five of section two hundred eighty-one of this article (A) shall file an alteration application within nine months from the effective date of the chapter of the laws of two thousand ten which amended this subparagraph, and (B) shall take all reasonable and necessary action to obtain an approved alteration permit within twelve months from such effective date, and (C) shall achieve compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building within eighteen months from obtaining such alteration permit or eighteen months from such effective date, whichever is later, and (D) shall take all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure within thirty-six months from such effective date. The loft board may, upon good cause shown, and upon proof of compliance with the standards of safety and fire protection set forth in article seven-B of this chapter, twice extend the time of compliance with the requirement to obtain a residential certificate of occupancy for periods not to exceed twelve months each.

(vii) An owner who is unable to satisfy any requirement specified in paragraph (ii), (iii), (iv), (v), or (vi) of this subdivision for reasons beyond his/her control, including, but not limited to, a requirement to obtain a certificate of appropriateness for modification of a landmarked building, a need to obtain a variance from a board of standards and appeals, or the denial of reasonable access to a residential unit as required by paragraph (xi) of this subdivision, may apply to the loft board for an extension of time to meet the requirement specified in paragraph (ii), (iii), (iv), (v), or (vi) of this subdivision. The loft board may grant an extension of time to meet a requirement specified in paragraph (ii), (iii), (iv), (v), or (vi) of this subdivision provided that the owner demonstrates that he/she has made good faith efforts to satisfy the requirements.

(viii) If there is a finding by the loft board that an owner has failed to satisfy any requirement specified in paragraph (i), (ii), (iii), (iv), (v), or (vi) of this subdivision, such owner shall be subject to all penalties set forth in article eight of this chapter.

(ix) In addition to the penalties provided in article eight of this chapter, if there is a finding by the loft board that an owner has failed to satisfy any requirement specified in paragraph (i), (ii), (iii), (iv), (v), or (vi) of this subdivision, a court may order specific performance to enforce the provisions of this article upon the application of three occupants of separate residential units, qualified for the protection of this article, or upon the application of the municipality.

(x) If, as a consequence of an owner's unlawful failure to comply with the provisions of paragraph (i), (ii), (iii), (iv), (v), or (vi) of this subdivision, any residential occupant qualified for protection pursuant to this article is required to vacate his or her

unit as a result of a municipal vacate order, such occupant may recover from the owner the fair market value of any improvements made by such tenant and reasonable moving costs. Any vacate order issued as to such unit by a local government shall be deemed an order to the owner to correct the non-compliant conditions, subject to the provisions of this article. Furthermore, when such correction has been made, such occupant shall have the right to re-occupy his or her unit and shall be entitled to all applicable tenant protections of this article.

(xi) The occupants of a building shall, upon appropriate notice regarding the timing and scope of the work required, afford the owner reasonable access to their units so that the work necessary for compliance with this article can be carried out. Access shall also be afforded, upon reasonable prior notice, for the purpose of inspecting and surveying units as may be required to comply with the provisions of this article and article seven-B of this chapter. Failure to comply with an order of the loft board regarding access shall be grounds for eviction of a tenant.

2. Every owner of an interim multiple dwelling, every lessee of a whole building part of which is an interim multiple dwelling, and every agent or other person having control of such a dwelling, shall, within sixty days of the effective date of the act which added this article, file with the loft board or any other authority designated by the mayor a notice in conformity with all provisions of section three hundred twenty-five of this chapter and with rules and regulations to be promulgated by the loft board.

§ 285. Owner protection. 1. Notwithstanding the provisions of section three hundred two or three hundred twenty-five of this chapter, the owner of an interim multiple dwelling may recover rent payable from residential occupants qualified for the protection of this article on or after April first, nineteen hundred eighty, and maintain an action or proceeding for possession of such premises for non-payment of rent, provided that he is in compliance with this article.

2. Notwithstanding any other provision of this article, an owner may apply to the loft board for exemption of a building or portion thereof from this article on the basis that compliance with this article in obtaining a legal residential certificate of occupancy would cause an unjustifiable hardship either because: (i) it would cause an unreasonably adverse impact on a non-residential conforming use tenant within the building or (ii) the cost of compliance renders legal residential conversion infeasible. Residential and other tenants shall be given not less than sixty days notice in advance of the hearing date for such application. If the loft board approves such application, the building or portion thereof shall be exempt from this article, and may be converted to non-residential conforming uses, provided, however, that the owner shall, as a condition of approval of such application, agree to file an irrevocable recorded covenant in form satisfactory to the loft board enforceable for fifteen years by the municipality, that the building will not be re-converted to residential uses during such time. The standard for granting such hardship application for a building or portion thereof shall be as follows: (a) the loft board shall only grant the minimum relief necessary to relieve any alleged hardship with the understanding if compliance is reasonably possible it should be achieved even if it requires alteration of units,

relocation of tenants to vacant space within the building, re-design of space or application for a non-use-related variance, special permit, minor modification or administrative certification; (b) self-created hardship shall not be allowed; (c) the test for cost infeasibility shall be that of a reasonable return on the owner's investment not maximum return on investment; (d) the test for unreasonably adverse impact on a non-residential conforming use tenant shall be whether residential conversion would necessitate displacement. Such hardship applications shall be submitted to the loft board within nine months of the establishment of the loft board (or, in the case of interim multiple dwellings referred to in subdivision four of section two hundred eighty-one of this article, within nine months of the effective date of such subdivision four or in the case of interim multiple dwellings made subject to this article by subdivision five of section two hundred eighty-one of this article, within nine months of the effective date of such subdivision five), but shall not be considered, absent a waiver by the loft board, unless the owner has also filed an alteration application. In determination of any such hardship application, the loft board may demand such information as it deems necessary. In approving any such hardship application, the loft board may fix reasonable terms and conditions for the vacating of residential occupancy.

3. An owner of an interim multiple dwelling shall be exempt from paying a conversion contribution required by the zoning resolution of the city of New York for that portion of any building or structure determined by the loft board to be an interim multiple dwelling.

§ 286. Tenant protection. 1. It shall not be a ground for an action or proceeding to recover possession of a unit occupied by a residential occupant qualified for the protection of this article that the occupancy of the unit is illegal or in violation of provisions of the tenant's lease or rental agreement because a residential certificate of occupancy has not been issued for the building, or because residential occupancy is not permitted by the lease or rental agreement.

2. (i) Prior to compliance with safety and fire protection standards of article seven-B of this chapter, residential occupants qualified for protection pursuant to this article shall be entitled to continued occupancy, provided that the unit is their primary residence, and shall pay the same rent, including escalations, specified in their lease or rental agreement to the extent to which such lease or rental agreement remains in effect or, in the absence of a lease or rental agreement, the same rent most recently paid and accepted by the owner; if there is no lease or other rental agreement in effect, rent adjustments prior to article seven-B compliance shall be in conformity with guidelines to be set by the loft board for such residential occupants within six months from the effective date of this article.

(ii) In addition to any rent adjustment pursuant to paragraph (i) of this subdivision, on or after June twenty-first, nineteen hundred ninety-two, the rent for residential units in interim multiple dwellings that are not yet in compliance with the requirements of subdivision one of section two hundred eighty-four of this article shall be adjusted as follows:

(A) Upon the owners' filing of an alteration application, as required by paragraph (ii), (iii), (iv), (v), or (vi) of subdivision one of section two hundred eighty-four of this article, an adjustment equal to six percent of the rent in effect at the time the owner files the alteration application.

(B) Upon obtaining an alteration permit, as required by paragraph (ii), (iii), (iv), (v), or (vi) of subdivision one of section two hundred eighty-four of this article, an adjustment equal to eight percent of the rent in effect at the time the owner obtains the alteration permit.

(C) Upon achieving compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building, an adjustment equal to six percent of the rent in effect at the time the owner achieves such compliance.

(D) Owners who filed an alteration application prior to the effective date of this subparagraph shall be entitled to a prospective adjustment equal to six percent of the rent on the effective date of this subparagraph.

(E) Owners who obtained an alteration permit prior to June twenty-first, nineteen hundred ninety-two shall be entitled to a prospective adjustment equal to fourteen percent of the rent on June twenty-first, nineteen hundred ninety-two.

(F) Owners who achieved compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building prior to June twenty-first, nineteen hundred ninety-two shall be entitled to a prospective adjustment equal to twenty percent of the rent on June twenty-first, nineteen hundred ninety-two.

(iii) Any rent adjustments pursuant to paragraph (ii) of this subdivision shall not apply to units which were rented at market value after June twenty-first, nineteen hundred eighty-two and prior to June twenty-first, nineteen hundred ninety-two. This paragraph shall not apply to units made subject to this article by subdivision five of section two hundred eighty-one of this article.

(iv) Payment of any rent adjustments pursuant to paragraph (ii) of this subdivision shall commence the month immediately following the month in which the act entitling the owner to the adjustment occurred.

3. Upon or after compliance with the safety and fire protection standards of article seven-B of this chapter, an owner may apply to the loft board for an adjustment of rent based upon the cost of such compliance. Upon approval by the loft board of such compliance, the loft board shall set the initial legal regulated rent, and each residential occupant qualified for protection pursuant to this article shall be offered a residential lease subject to the provisions regarding evictions and regulation of rent set forth in the emergency tenant protection act of nineteen seventy-four, except to the extent the provisions of this article are inconsistent with such act.

4. The initial legal regulated rent established by the loft board shall be equal to (i) the rent in effect, including escalations, as of the date of application for adjustment ("base rent"), plus, (ii) the maximum annual amount of any increase allocable to compliance as provided herein; and (iii) the percentage increase then applicable to one, two or three year leases, as elected by the tenant, as established by the local rent guidelines

board, and applied to the base rent, provided, however, such percentage increases may be adjusted downward by the loft board if prior increases based on loft board guidelines cover part of the same time period to be covered by the rent guidelines board adjustments.

5. An owner may apply to the loft board for rent adjustments once based upon the cost of compliance with article seven-B of this chapter and once based upon the obtaining of a residential certificate of occupancy. If the initial legal regulated rent has been set based only upon article seven-B compliance, a further adjustment may be obtained upon the obtaining of a residential certificate of occupancy. Upon receipt of such records as the loft board shall require, the loft board shall determine the costs necessarily and reasonably incurred, including financing, in obtaining compliance with this article pursuant to a schedule of reasonable costs to be promulgated by it. The adjustment in maximum rents for compliance with this article shall be determined either (i) by dividing the amount of the cash cost of such improvements exclusive of interest and service charges over a ten year period of amortization, or (ii) by dividing the amount of the cash cost of such improvements exclusive of interest and service charges over a fifteen year period of amortization, plus the actual annual mortgage debt service attributable to interest and service charges in each year of indebtedness to an institutional lender, or other lender approved by the loft board, incurred by the owner to pay the cash cost of the improvements, provided that the maximum amount of interest charged includable in rent shall reflect an annual amortization factor of one-fifteenth of the outstanding principal balance. Rental adjustments to each residential unit shall be determined on a basis approved by the loft board. An owner may elect that the loft board shall deem the total cost of compliance with this article to be the amounts certified by the local department of housing preservation and development of such municipality in any certificate of eligibility issued in connection with an application for tax exemption or tax abatement to the extent such certificate reflects categories of costs approved by the loft board as reasonable and necessary for such compliance. Rental adjustments attributable to the cost of compliance with this article shall not become part of the base rent for purposes of calculating rents adjusted pursuant to rent guidelines board increases.

6. Notwithstanding any provision of law to the contrary, a residential tenant qualified for protection pursuant to this chapter may sell any improvements to the unit made or purchased by him to an incoming tenant provided, however, that the tenant shall first offer the improvements to the owner for an amount equal to their fair market value. Upon purchase of such improvements by the owner, any unit subject to rent regulation solely by reason of this article and not receiving any benefits of real estate tax exemption or tax abatement, shall be exempted from the provisions of this article requiring rent regulation if such building had fewer than six residential units as of the effective date of the act which added this article, or rented at market value subject to subsequent rent regulation if such building had six or more residential units at such time. The loft board shall establish rules and regulations regarding such sale of improvements which shall include provisions that such right to sell improvements may be exercised only once for each unit subject to this article, and that the opportunity for

decontrol or market rentals shall not be available to an owner found guilty by the loft board of harassment of tenants.

7. The local rent guidelines board shall annually establish guidelines for rent adjustments for the category of buildings covered by this article in accordance with the standards established pursuant to the emergency tenant protection act of nineteen seventy-four. The local rent guidelines board shall consider the necessity of a separate category for such buildings, and a separately determined guideline for rent adjustments for those units in which heat is not required to be provided by the owner, and may establish such separate category and guideline. The loft board shall annually commission a study by an independent consultant to assist the rent guidelines board in determining the economics of loft housing.

8. Cooperative and condominium units occupied by owners or tenant-shareholders shall not be subject to rent regulation pursuant to this article.

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 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.

10. The functions of the local conciliation and appeals board of such municipality regarding owners and tenants subject to rent regulation pursuant to this article shall be carried out by the loft board until such time as provided otherwise by local law.

11. Residential occupants qualified for protection pursuant to this article shall be afforded the protections available to residential tenants pursuant to the real property law and the real property actions and proceedings law.

12. No waiver of rights pursuant to this article by a residential occupant qualified for protection pursuant to this article made prior to the effective date of the act which added this article shall be accorded any force or effect; however, subsequent to the effective date an owner and a residential occupant may agree to the purchase by the owner of such person's rights in a unit.

13. The applicability of the emergency tenant protection act of nineteen seventy-four to buildings occupied by residential tenants qualified for protection pursuant to this article shall be subject to a declaration of emergency by the local legislative body. In the event such act expires prior to the expiration of this article, tenants in interim multiple dwellings shall be included in coverage of the rent stabilization law of nineteen hundred sixty-nine of the city of New York.

§ 287. Alternative compliance. In any case in which a local building code or this chapter provides an alternative means of meeting the fire and safety standards of article seven-B of this chapter, an owner of an interim multiple dwelling may, to the extent permitted by such local code or this chapter, elect to comply with the standards of such code or this chapter rather than with article seven-B. Such an election shall not affect an owner's obligations to meet the deadlines for compliance set forth in this article, and in such cases references herein to article seven-B shall be deemed to include any such local building code or the applicable provisions of this chapter.