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

4285--B

Cal. No. 212

2011-2012 Regular Sessions

I N S E N A T E

March 28, 2011

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general municipal law, in relation to authorized on-site inspections of housing in violation of zoning laws

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

Section 1. The general municipal law is amended by adding a new section 99-w to read as follows:

S 99-W. INSPECTION AUTHORIZED. ANY ADVERTISEMENT OR LISTING, INCLUDING, BUT NOT LIMITED TO, NEWSPAPER, "PENNYSAVER" OR SUPERMARKET PAPER, ADVERTISING FLYER, INTERNET LISTING, ELECTRONIC MAIL LIST OR OTHER LISTING, OFFERING FOR RENT ANY RESIDENTIAL DWELLING UNIT IN EXCESS OF THAT PERMITTED BY THE APPLICABLE ZONING CODE OR LAW OR ANY CERTIFICATE OF OCCUPANCY OR CERTIFICATE OF PRIOR NON-CONFORMING USE ON FILE WITH THE MUNICIPAL OR GOVERNMENTAL ENTITY HAVING JURISDICTION OVER THE PREMISES, SHALL CREATE A REBUTTABLE PRESUMPTION THAT SUCH USE VIOLATES SUCH CODE, LAW OR CERTIFICATE, WHICH PRESUMPTION SHALL BE SUFFICIENT CAUSE TO AUTHORIZE, UNDER THIS SECTION, UPON OBTAINING A SEARCH WARRANT, AN ON-SITE INSPECTION BY A MUNICIPAL HOUSING OR BUILDING INSPECTOR OR TAX ASSESSOR FOR THE LIMITED PURPOSE OF CONFIRMING COMPLIANCE WITH THE APPLICABLE ZONING CODE OR LAW AFFECTING THE PREMISES, OR CERTIFICATE OF OCCUPANCY, CERTIFICATE OF PRIOR NON-CONFORMING USE OR ANY OTHER CERTIFICATE, NOTICE, FORM OR OTHER DOCUMENT RELATING TO AUTHORIZED OCCUPANCY OR USAGE WHICH IS ISSUED BY A MUNICIPAL OR GOVERNMENTAL ENTITY HAVING JURISDICTION OVER SUCH MATTERS. PURSUANT TO THIS SECTION, SUCH ADVER-

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

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TISEMENT OR LISTING MAY CONSTITUTE PROBABLE CAUSE FOR THE ISSUANCE OF A SEARCH WARRANT PURSUANT TO ARTICLE SIX HUNDRED NINETY OF THE CRIMINAL PROCEDURE LAW.

A NOTICE OF VIOLATION MAY BE ISSUED TO THE OWNER OF THE PREMISES, AT THE ADDRESS LISTED ON THE LATEST AVAILABLE TAX ASSESSOR'S RECORDS, UPON DELIVERY OF WHICH THE OWNER SHALL HAVE AT LEAST SEVEN DAYS TO PROVIDE PROOF OF COMPLIANCE WITH THE ZONING CODE OR LAW OR CERTIFICATE. THE PRODUCTION OF PROOF OF COMPLIANCE SHALL SERVE TO REBUT THE PRESUMPTION AND NO SUMMONSES, VIOLATIONS OR APPEARANCE TICKETS SHALL BE ISSUED.

S 2. This act shall take effect immediately.