

STATE OF NEW YORK

6788--A

2019-2020 Regular Sessions

IN ASSEMBLY

March 20, 2019

Introduced by M. of A. L. ROSENTHAL, DINOWITZ, SIMON, EPSTEIN, GLICK, JAFFEE, GALEF, RIVERA, COLTON, CRESPO, McMAHON, GOTTFRIED, M. G. MILLER, ABINANTI, FRONTUS, WRIGHT -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling law, in relation to limitations on smart access systems for entry and restricts information that may be gathered from such systems

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

1 Section 1. The multiple dwelling law is amended by adding a new
2 section 50-b to read as follows:

3 § 50-b. Entrances; keys and electronic or computerized entry system.

4 1. Consistent with the provisions of this title, for every entrance from
5 the street, passageway, court, yard, cellar, or similar entrance to a
6 class A multiple dwelling, a tenant, at their request, shall be provided
7 with a key that does not rely on an electronic or computerized entry
8 system to facilitate entrance to such multiple dwelling.

9 2. Data collection. a. Electronic and/or computerized data. If an
10 electronic and/or computerized entry system is utilized to gain entrance
11 to a class A multiple dwelling, the only information gathered by any
12 electronic and/or computerized entry system shall be limited to the
13 lessee or tenant's name and apartment number, and the preferred method
14 of contact for such lessee or tenant. A biometric identifier may be
15 collected pursuant to this section in order to register a lessee or
16 tenant for an electronic and/or computerized entry system.

17 (i) The owner of the multiple dwelling may collect only the minimum
18 data required by the technology used in the electronic and/or computer-
19 ized entry system to effectuate such entrance and protect the privacy of
20 such tenants.

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

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1 (ii) A copy of such data may be retained for reference at the point of
2 authentication by the electronic and/or computerized entry system. Such
3 reference data may be retained only for tenants or those authorized by
4 the tenant.

5 (iii) The owner of the multiple dwelling shall destroy the electronic,
6 physical, and/or computerized data collected, except for reference data,
7 within a reasonable time, but not later than thirty days after the date
8 collected.

9 (iv) Reference data for a tenant or those authorized by a tenant shall
10 be destroyed within thirty days of (1) the tenant permanently vacating
11 the dwelling, or (2) a request by the tenant to withdraw authorization
12 for those previously authorized by the tenant.

13 b. Biometric identifier. (i) For the purposes of this section, "biome-
14 tric identifier" means a retina or iris scan, fingerprint, voiceprint,
15 or record of hand, face geometry or other similar feature.

16 (ii) An entity may not capture a biometric identifier of an individual
17 to gain entrance to a class A multiple dwelling unless the person is a
18 tenant or person authorized by the tenant, and informs the individual
19 before capturing the biometric identifier; and receives their express
20 consent to capture the biometric identifier.

21 (iii) Any entity that possesses a biometric identifier of an individ-
22 ual that is captured to gain entrance to a class A multiple dwelling:

23 (1) May not sell, lease or otherwise disclose the biometric identifier
24 to another person unless pursuant to a grand jury subpoena or court
25 ordered warrant, subpoena, or other authorized court ordered process.

26 (2) Shall store, transmit and protect from disclosure the biometric
27 identifier using reasonable care and in a manner that is the same as or
28 more protective than the manner in which the person stores, transmits
29 and protects confidential information the person possesses; and

30 (3) Shall destroy the biometric identifier within a reasonable time,
31 but not later than forty-eight hours after the date collected, except
32 for reference data. If any prohibited information is collected, such as
33 the likeness of a minor or a non-tenant, the information shall be
34 destroyed immediately.

35 c. Policy. The owner of the multiple dwelling, or the managing agent,
36 must develop written procedures which describe the process used to add
37 persons authorized by the tenant to electronic and/or computerized entry
38 systems on a temporary or permanent basis, such as visitors, children,
39 their employees, and caregivers to such building.

40 (i) The procedures must clearly establish the retention schedule and
41 guidelines for permanently destroying the data collected.

42 (ii) The procedures cannot limit time or place of entrance by such
43 people authorized by the tenant.

44 3. Prohibitions. a. No form of location tracking, including but not
45 limited to satellite location based services, shall be included in any
46 equipment, key, or software provided to tenants or guests as part of an
47 electronic and/or computerized entry system.

48 b. It shall be prohibited to collect through an electronic and/or
49 computerized entry system the likeness of a minor occupant, information
50 on the relationship status of tenants, lessees and/or guests, the
51 frequency of the use of the electronic and/or computerized entry system
52 by a lessee, tenant or guest, or the frequency, time and use of guest
53 access codes.

54 c. Information that is acquired via the use of an electronic and/or
55 computerized entry system shall not be used for any purposes other than
56 monitoring building entrances and shall not be used as the basis or

1 support for an action to evict a lessee or tenant, or an administrative
2 hearing seeking a change in regulatory coverage for an individual or
3 unit. However, a tenant may authorize their information to be used by a
4 third party, but such a request must clearly state who will have access
5 to such information, for what purpose it will be used, and the privacy
6 policies which will protect their information. Under no circumstances
7 may a lease or a renewal be contingent upon authorizing such use.

8 d. Information and data collected shall not be made available to any
9 third party, unless authorized by the tenant as described above, includ-
10 ing but not limited to law enforcement, except upon a grand jury subpoe-
11 na or a court ordered warrant, subpoena, or other authorized court
12 ordered process.

13 4. Storage of information. Any information or data collected shall be
14 stored in a secure manner to prevent unauthorized access by both employ-
15 ees and contractors and those unaffiliated with the landlord or their
16 agents, except as otherwise provided in this section. Future or continu-
17 ing tenancy shall not be conditioned upon consenting to the use of an
18 electronic and/or computerized entry system.

19 5. Waiver of rights; void. Any agreement by a lessee or tenant of a
20 dwelling waiving or modifying his or her rights as set forth in this
21 section shall be void as contrary to public policy.

22 6. Penalties. A person who violates this section is subject to a civil
23 penalty of not more than five thousand dollars for each violation. The
24 attorney general may bring an action to recover the civil penalty. An
25 individual injured by a violation of this section may bring an action to
26 recover damages. A court may also award attorneys' fees to a prevailing
27 plaintiff.

28 7. Exemption. Nothing herein shall apply to multiple dwellings owned
29 or managed by an entity subject to 42 U.S.C. § 1437 et seq., or any of
30 its subsidiaries.

31 § 2. Severability. If any provision of this act, or any application of
32 any provision of this act, is held to be invalid, that shall not affect
33 the validity or effectiveness of any other provision of this act, or of
34 any other application of any provision of this act, which can be given
35 effect without that provision or application; and to that end, the
36 provisions and applications of this act are severable.

37 § 3. This act shall take effect immediately.