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

1447

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Housing

AN ACT to amend the rent regulation reform act of 1997, in relation to the adoption of rules or regulations

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

Section 1. Section 44 of chapter 116 of the laws of 1997, constituting the rent regulation reform act of 1997, is amended to read as follows:

S 44. Any rule or regulation or form necessary for the implementation of this act, or any section of this act, is directed to be made and completed within 180 days after the effective date of this act. NOTWITHSTANDING THE FOREGOING, OR ANY OTHER PROVISION OF LAW, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL IS PROHIBITED FROM ADOPTING ANY RULE OR REGULATION PROVIDING:

(A) THAT THE GIVING OF WRITTEN NOTICE BY A TENANT TO AN OWNER OR OWNER'S AGENT WILL BE REQUIRED BEFORE FILING WITH THE DIVISION OF HOUSING AND COMMUNITY RENEWAL OF A TENANT'S APPLICATION FOR A REDUCTION OF THE LEGAL REGULATED RENT BASED ON AN ALLEGED FAILURE TO MAINTAIN REQUIRED SERVICES; OR

(B) THAT A TENANT'S APPLICATION FOR A REDUCTION OF THE LEGAL REGULATED RENT BASED ON AN ALLEGED FAILURE TO MAINTAIN REQUIRED SERVICES DUE TO A LACK OF ADEQUATE HEAT OR HOT WATER MUST BE ACCOMPANIED BY A REPORT FROM A CITY AGENCY FINDING SUCH LACK OF ADEQUATE HEAT OR HOT WATER; OR

(C) FOR ANY SCHEDULE OF BUILDING OR APARTMENT CONDITIONS THAT WILL BE CONSIDERED DE MINIMIS IN NATURE AND NOT AMOUNTING TO A FAILURE TO MAINTAIN REQUIRED SERVICES; OR

(D) THAT THE PASSAGE OF TIME DURING WHICH A DISPUTED SERVICE WAS NOT PROVIDED AND DURING WHICH NO COMPLAINT WAS FILED BY A TENANT ALLEGING FAILURE BY AN OWNER TO MAINTAIN SUCH SERVICE SHALL BE EVIDENCE THAT SUCH

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

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SERVICE CONDITION IS DE MINIMIS AND NOT A FAILURE TO MAINTAIN A REQUIRED SERVICE; OR

(E) THAT THE PASSAGE OF FOUR YEARS OR MORE DURING WHICH A DISPUTED SERVICE WAS NOT PROVIDED AND DURING WHICH NO COMPLAINT WAS FILED BY A TENANT ALLEGING FAILURE TO MAINTAIN SUCH SERVICE SHALL BE CONSIDERED PRESUMPTIVE EVIDENCE THAT SUCH SERVICE CONDITION IS DE MINIMIS; OR

(F) FOR THE CREATION OF ANY PRESUMPTION WITH REGARD TO A COMPLAINT OF FAILURE TO MAINTAIN REQUIRED SERVICES OR AN ALLEGATION OF DEFECTIVE OPERATION OF A MAJOR CAPITAL IMPROVEMENT THAT A BUILDING-WIDE CONDITION EXISTS, DOES NOT EXIST, OR WAS CORRECTED BASED UPON THE AFFIDAVIT OF A LICENSED ARCHITECT OR ENGINEER; OR

(G) FOR THE SPECIFICATION OF ANY PARTICULAR ITEMS OF EVIDENCE TO BE CONSIDERED BY A COURT OR AN ADMINISTRATIVE AGENCY IN MAKING A DETERMINATION AS TO WHETHER A HOUSING ACCOMMODATION IS OCCUPIED AS A PRIMARY RESIDENCE; OR

(H) FOR THE SPECIFICATION OF ANY MAXIMUM RENTAL THAT MAY BE CHARGED A PERSON IN OCCUPANCY OF A HOUSING ACCOMMODATION PURSUANT TO SECTION 235-F OF THE REAL PROPERTY LAW; OR

(I) THAT FOR PURPOSES OF DETERMINING AN OVERCHARGE, WHERE A HOUSING ACCOMMODATION IS VACANT OR TEMPORARILY EXEMPT FROM REGULATION, THE LEGAL REGULATED RENT SHALL BE THE RENT AGREED TO BY THE OWNER AND THE FIRST RENT STABILIZED TENANT TAKING OCCUPANCY AFTER SUCH VACANCY OR TEMPORARY EXEMPTION; OR

(J) THAT FOR PURPOSES OF DETERMINING AN OVERCHARGE, THE RENT CHARGED SHALL BE UTILIZED TO ESTABLISH THE LEGAL REGULATED RENT, RATHER THAN THE RENT SHOWN IN THE ANNUAL REGISTRATION STATEMENT FILED FOUR YEARS PRIOR TO THE MOST RECENT REGISTRATION STATEMENT (OR, IF MORE RECENTLY FILED, THE INITIAL REGISTRATION STATEMENT); OR

(K) FOR THE COLLECTION BY AN OWNER OF SURCHARGES FROM A TENANT, WHO HAS INSTALLED A PERMANENT OR PORTABLE WASHING MACHINE, DRYER, OR DISHWASHER; OR

(L) FOR THE COLLECTION BY AN OWNER OF SURCHARGES FROM A TENANT FOR PROVIDING A UTILITY SERVICE (INCLUDING, BUT NOT LIMITED TO, ELECTRICITY, GAS, CABLE, OR TELECOMMUNICATIONS); OR

(M) THAT THE WITHDRAWAL OF A COMPLAINT PENDING BEFORE THE DIVISION OF HOUSING AND COMMUNITY RENEWAL BY A TENANT SHALL BE BINDING UPON SUBSEQUENT TENANTS; OR

(N) THAT A TENANT WHO IS UNREPRESENTED BY COUNSEL MAY WAIVE BENEFITS OF ANY LAW OR REGULATION BY WITHDRAWING A COMPLAINT PENDING BEFORE THE DIVISION OF HOUSING AND COMMUNITY RENEWAL; OR

(O) THAT BARS THE FILING OF A FAIR MARKET RENT APPEAL FILED MORE THAN FOUR YEARS AFTER THE VACANCY WHICH CAUSED THE HOUSING ACCOMMODATION TO NO LONGER BE SUBJECT TO RENT CONTROL; OR

(P) THAT DEPRIVES THE DIVISION OF HOUSING AND COMMUNITY RENEWAL OF THE AUTHORITY TO EXTEND LEASE RENEWAL RIGHTS TO A FAMILY MEMBER BASED ON DUE CONSIDERATION OF EQUITIES.

S 2. This act shall take effect immediately.