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

1853--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 12, 2009

Introduced by M. of A. NOLAN, GOTTFRIED -- Multi-Sponsored by -- M. of A. CAHILL, COLTON, COOK, McENENY, PHEFFER -- read once and referred to the Committee on Corporations, Authorities and Commissions -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general obligations law and the real property law, in relation to unenforceable liability exclusions in connection with window guards

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

Section 1. The general obligations law is amended by adding a new section 5-326.1 to read as follows:

S 5-326.1. AGREEMENTS WHICH LIMIT LIABILITY FROM THE RESPONSIBILITY TO PROVIDE WINDOW GUARDS. NO INDIVIDUAL, FIRM, PARTNERSHIP, PUBLIC OR PRIVATE CORPORATION, PUBLIC OR PRIVATE INSTITUTION, PUBLIC AUTHORITY, OR MUNICIPAL CORPORATION, INCLUDING THE MUNICIPAL OR LOCAL AUTHORITIES INTENDED TO ACCOMPLISH ANY OF THE PURPOSES IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE EIGHTEEN OF THE NEW YORK STATE CONSTITUTION, SHALL OFFER A RELEASE OR WAIVER OF ANY KIND PURPORTING TO LIMIT OR AVOID LIABILITY IN CASES WHERE SUCH RELEASE OR WAIVER RELIEVES LIABILITY FROM THE RESPONSIBILITY TO PROVIDE WINDOW GUARDS. ANY RELEASE OR WAIVER OBTAINED IN VIOLATION OF THIS SECTION SHALL BE VOID AS AGAINST THE PUBLIC POLICY OF THE STATE AND WHOLLY UNENFORCEABLE.

S 2. Section 235-c of the real property law is amended by adding a new subdivision 3 to read as follows:

3. ANY RELEASE OR WAIVER OF ANY KIND PURPORTING TO LIMIT OR AVOID LIABILITY OF AN INDIVIDUAL, FIRM, PARTNERSHIP, PUBLIC OR PRIVATE CORPORATION, PUBLIC OR PRIVATE INSTITUTION, PUBLIC AUTHORITY, OR MUNICIPAL CORPORATION, INCLUDING THE MUNICIPAL OR LOCAL AUTHORITIES INTENDED TO ACCOMPLISH ANY OF THE PURPOSES IN ACCORDANCE WITH THE REQUIREMENTS OF

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

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ARTICLE EIGHTEEN OF THE NEW YORK STATE CONSTITUTION, SHALL BE VOID AS AGAINST THE PUBLIC POLICY OF THE STATE AND WHOLLY UNENFORCEABLE IN CASES WHERE SUCH RELEASE OR WAIVER RELIEVES LIABILITY FROM THE RESPONSIBILITY TO PROVIDE WINDOW GUARDS. IF SUCH RELEASE OR WAIVER IS INCLUDED IN A LEASE OR RENEWAL THEREOF, ONLY THE RELEASE OR WAIVER SHALL BE VOID.

S 3. This act shall take effect immediately.