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

2103

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. BENJAMIN -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, GREENE, MILLER, ORTIZ, PHEFFER -- read once and referred to the Committee on Housing

AN ACT to amend the public housing law, in relation to creating the voluntary medical condition alert registry in public housing of the city of New York

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

Section 1. The public housing law is amended by adding a new article 12-A to read as follows:

ARTICLE 12-A

PUBLIC HOUSING VOLUNTARY MEDICAL ALERT PROGRAM

SECTION 310. SHORT TITLE.
311. LEGISLATIVE FINDINGS.
312. DEFINITIONS.
313. VOLUNTARY MEDICAL ALERT REGISTRY.
314. FEES.
315. LIABILITY.
316. SEVERABILITY.

S 310. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "PUBLIC HOUSING VOLUNTARY MEDICAL ALERT PROGRAM".

S 311. LEGISLATIVE FINDINGS. THE LEGISLATURE FINDS THAT:

(1) THE STATE HAS A DUTY TO PROVIDE PUBLIC HOUSING THAT IS DECENT AND SAFE FOR ALL TENANTS;

(2) THE EXPANSION OF LAW ENFORCEMENT POWERS, INCLUDING BUT NOT LIMITED TO THE EXECUTION OF "NO KNOCK" WARRANTS, HAS BEEN UTILIZED IN PUBLIC HOUSING PROJECTS, ESPECIALLY IN CITIES OF ONE MILLION OR MORE PERSONS;

(3) LAW ENFORCEMENT PERSONNEL NEED TO BE INFORMED AT THE EARLIEST POSSIBLE TIME OF THE PRESENCE OF A TENANT WITH A DEBILITATING OR LIFE THREATENING MEDICAL CONDITION;

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

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(4) AGGRAVATING SUCH A MEDICAL CONDITION MAY BE AN UNINTENTIONAL CONSEQUENCE OF LOCALIZED OR EMERGENCY MEDICAL, FIRE, OR LAW ENFORCEMENT ACTIVITY LEADING TO POSSIBLE CIVIL, MUNICIPAL, AND STATE LIABILITY;

(5) PROVIDING TENANTS WITH A PUBLIC HOUSING VOLUNTARY MEDICAL ALERT REGISTRY AND CORRESPONDING MEDICAL ALERT DECAL FOR THE TENANT'S APARTMENT DOOR IS ONE WAY TO PROVIDE LAW ENFORCEMENT PERSONNEL AND EMERGENCY MEDICAL PERSONNEL WITH IMMEDIATE NOTICE, AND IS IN THE PUBLIC INTEREST.

S 312. DEFINITIONS. "ELIGIBLE TENANT" MEANS EACH TENANT OF RECORD AND EACH FAMILY MEMBER OF SUCH TENANT, AS FAMILY MEMBER IS DEFINED IN SUBDIVISION FOUR OF SECTION FOURTEEN OF THIS CHAPTER, AND WHO HAS A DEBILITATING OR LIFE THREATENING MEDICAL CONDITION THAT COULD BE AGGRAVATED BY THE PRESENCE OF EMERGENCY MEDICAL, FIRE, OR LAW ENFORCEMENT ACTIVITY AT OR NEAR SUCH TENANT'S APARTMENT.

S 313. VOLUNTARY MEDICAL ALERT REGISTRY. (1) THE COMMISSIONER SHALL ESTABLISH A VOLUNTARY MEDICAL ALERT REGISTRY AT EACH PUBLIC HOUSING MANAGEMENT OFFICE SITE IN CITIES WITH ONE MILLION OR MORE PERSONS. SUCH REGISTRY SHALL BE MAINTAINED BY A DESIGNATED HOUSING AUTHORITY EMPLOYEE AT EACH LOCAL PUBLIC HOUSING SITE. SUCH REGISTRY SHALL INCLUDE, BUT NOT BE LIMITED TO, EACH ELIGIBLE TENANT'S NAME, ADDRESS, AND A BRIEF LETTER FROM THE ELIGIBLE TENANT'S DOCTOR VERIFYING THAT THE TENANT HAS A DEBILITATING OR LIFE THREATENING MEDICAL CONDITION THAT COULD BE AGGRAVATED BY THE PRESENCE OF EMERGENCY MEDICAL, FIRE, OR LAW ENFORCEMENT ACTIVITY AT OR NEAR THE TENANT'S APARTMENT. SUCH REGISTRY SHALL NOT REQUIRE A SPECIFIC MEDICAL DIAGNOSIS IN ORDER TO PROTECT THE ELIGIBLE TENANT'S MEDICAL PRIVACY. SUCH REGISTRY SHALL BE UPDATED WHENEVER THE TENANT'S MEDICAL CONDITION CHANGES OR AT THE TENANT'S ANNUAL PUBLIC HOUSING RECERTIFICATION OR LEASE RENEWAL, WHICHEVER IS SOONER.

(2) THE COMMISSIONER, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND OTHER PUBLIC HEALTH PROFESSIONALS, SHALL ESTABLISH A LIST OF POSSIBLE MEDICAL CONDITIONS THAT MAY BE LIFE THREATENING IF AGGRAVATED BY EMERGENCY MEDICAL, FIRE, OR LAW ENFORCEMENT ACTIVITY. THIS LIST SHALL BE DISTRIBUTED TO LOCAL HOUSING AUTHORITIES AS AN AID TO EMPLOYEES AND TENANTS.

(3) THE COMMISSIONER, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND OTHER PUBLIC HEALTH PROFESSIONALS, SHALL CREATE OR HAVE CREATED A DECAL WITH A DISTINCTIVE SYMBOL REPRESENTING MEDICAL ALERT. SUCH DECAL SHALL BE ISSUED BY THE DESIGNATED HOUSING AUTHORITY EMPLOYEE CHARGED WITH MAINTAINING THE VOLUNTARY MEDICAL ALERT REGISTRY. THE COMMISSIONER SHALL PROMULGATE GUIDELINES FOR THE ISSUANCE OF SUCH DECAL AND DISTRIBUTE SUCH GUIDELINES TO THE LOCAL HOUSING AUTHORITIES AND TO LOCAL EMERGENCY MEDICAL, FIRE FIGHTING AND LAW ENFORCEMENT OFFICIALS. SUCH ENTITIES SHALL EXERCISE DUE CARE WHEN RESPONDING TO AN EMERGENCY AT OR NEAR AN APARTMENT BEARING SUCH SYMBOL.

(4) EACH TENANT OF RECORD SHALL BE NOTIFIED IN WRITING AS SOON AS SUCH REGISTRY IS ESTABLISHED. EACH ELIGIBLE TENANT, WHO VOLUNTEERS TO PARTICIPATE IN THE MEDICAL ALERT PROGRAM, SHALL PROVIDE HIS OR HER LOCAL PUBLIC HOUSING MANAGEMENT OFFICE WITH A LETTER FROM HIS OR HER DOCTOR VERIFYING THE EXISTENCE OF A DEBILITATING OR LIFE THREATENING MEDICAL CONDITION THAT COULD BE AGGRAVATED BY THE PRESENCE OF EMERGENCY MEDICAL, FIRE, OR LAW ENFORCEMENT ACTIVITY AT OR NEAR THE TENANT'S APARTMENT. THE LOCAL HOUSING AUTHORITY SHALL ISSUE TO EACH PARTICIPATING TENANT THE MEDICAL ALERT DECAL TO BE AFFIXED TO SUCH TENANT'S APARTMENT DOOR. IF MORE THAN ONE ELIGIBLE TENANT OCCUPIES THE SAME APARTMENT, ONLY ONE DECAL SHALL BE ISSUED. EACH ELIGIBLE TENANT SHALL PROVIDE UPDATED DOCUMENTATION OF SUCH MEDICAL CONDITION WHENEVER A CHANGE IN THE CONDI-

TION OCCURS OR AT SUCH TENANT'S ANNUAL RECERTIFICATION OR LEASE RENEWAL, WHICHEVER IS SOONER.

(5) THE COMMISSIONER SHALL PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO FURTHER IMPLEMENT AND ENFORCE THIS ARTICLE.

S 314. FEES. THE COMMISSIONER IS AUTHORIZED TO CHARGE A NOMINAL, ADMINISTRATIVE FEE OF TEN DOLLARS PER DECAL ISSUED. LOST, STOLEN OR DAMAGED DECALS MAY BE REPLACED AT NO COST TO THE TENANT UPON THE FIRST REQUEST, AND FOR A NOMINAL FEE OF TWO DOLLARS FOR EACH REQUEST THEREAFTER. SUCH FEES MAY BE PAID IN INSTALLMENTS BY SUCH TENANT OR BE WAIVED BY THE LOCAL HOUSING AUTHORITY, FOR GOOD CAUSE SHOWN.

S 315. LIABILITY. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AUTOMATICALLY INCREASE OR DECREASE CIVIL, MUNICIPAL OR STATE LIABILITY FOR THE WILLFUL MISCONDUCT, GROSS NEGLIGENCE OR RECKLESS ACTIONS OF ITS EMPLOYEES. EVIDENCE OF THE PRESENCE OF SUCH DECAL ON AN ELIGIBLE TENANT'S DOOR SHALL BE CONSIDERED ONE FACTOR TO ASSIST A TRIER OF FACT IN DETERMINING WHETHER THE STATE ACTORS INVOLVED HAD NOTICE OF SUCH TENANT'S MEDICAL CONDITION AND WHETHER SUCH ACTORS EXERCISED REASONABLE CARE UNDER THE CIRCUMSTANCES.

S 316. SEVERABILITY. IF ANY PROVISION OF THIS ARTICLE OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES IS ADJUDGED INVALID BY A COURT OF COMPETENT JURISDICTION, SUCH JUDGMENT SHALL NOT AFFECT OR IMPAIR THE VALIDITY OF THE OTHER PROVISIONS OF THIS ARTICLE OR THE APPLICATION THEREOF TO OTHER PERSONS AND CIRCUMSTANCES.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.