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

4140

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. ALESSI, JOHN, V. LOPEZ -- Multi-Sponsored by -- M. of A. DIAZ, KOON, MAGEE -- read once and referred to the Committee on Housing

AN ACT to amend the real property law, in relation to fees, charges, and assessments applicable to manufactured home tenants

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

Section 1. Paragraph 1, subparagraph (i) of paragraph 2, and paragraph 3 of subdivision e of section 233 of the real property law, as amended by chapter 566 of the laws of 1996, are amended to read as follows:

1. The manufactured home park owner or operator shall offer every manufactured home tenant prior to occupancy, the opportunity to sign a lease for a minimum of one year, which offer shall be made in writing, AND WHICH LEASE SHALL NOT BE INCONSISTENT WITH THE PROVISIONS OF THIS SUBDIVISION.

(i) On or before, as appropriate, (a) the first day of October of each calendar year with respect to a manufactured home owner then in good standing who is not currently a party to a written lease with a manufactured home park owner or operator or (b) the ninetieth day next preceding the expiration date of any existing written lease between a manufactured home owner then in good standing and a manufactured home park owner or operator, the manufactured home park owner or operator shall submit to each such manufactured home owner a written offer to lease for a term of at least twelve months from the commencement date thereof unless the manufactured home park owner or operator has previously furnished the manufactured home owner with written notification of a proposed change of use pursuant to paragraph six of subdivision b of this section. Any such offer shall include a copy of the proposed lease containing such terms and conditions, including provisions for rent and other charges, as the manufactured home park owner shall deem appropriate; provided such terms and conditions are consistent with all rules

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

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and regulations AND SCHEDULES OF FEES, CHARGES, AND ASSESSMENTS promulgated by the manufactured home park operator prior to the date [of] the offer WAS REQUIRED TO BE MADE and are not otherwise prohibited or limited by applicable law. Such offer shall also contain a statement advising the manufactured home owner that if he or she fails to execute and return the lease to the manufactured home park owner or operator within thirty days after submission of such lease, the manufactured home owner shall be deemed to have declined the offer of a lease and shall not have any right to a lease from the manufactured home park owner or operator for the next succeeding twelve months. PROVIDED THAT THE TENANT IS OFFERED AND RECEIVES A LEASE IN COMPLIANCE WITH THIS PARAGRAPH, SUCH LEASE SHALL BE SUBJECT TO ALL RULES, REGULATIONS, AND SCHEDULES OF FEES, CHARGES, AND ASSESSMENTS WHICH HAVE BECOME EFFECTIVE PURSUANT TO THIS SECTION PRIOR TO THE COMMENCEMENT OF THE LEASE. IF SUCH TERMS DIFFER FROM THE TERMS OF THE PROPOSED LEASE OFFERED TO THE TENANT, THE MANUFACTURED HOME PARK OWNER SHALL PROVIDE THE TENANT WITH AN APPROPRIATE AMENDMENT TO THE LEASE WITHIN THIRTY DAYS OF THE COMMENCEMENT OF THE LEASE.

3. No lease provision shall be inconsistent with any rule or regulation OR SCHEDULE OF FEES, CHARGES, OR ASSESSMENTS in effect [at the commencement of the lease] ON THE DATE THE LEASE WOULD COMMENCE IF OFFERED AND ENTERED INTO IN COMPLIANCE WITH THE PROVISIONS OF THIS SUBDIVISION.

S 2. Paragraph 3 of subdivision g of section 233 of the real property law, as amended by chapter 566 of the laws of 1996, is amended to read as follows:

3. No fees, charges, assessments or rental fees may be increased by THE manufactured home park owner or operator without specifying the date of implementation of said fees, charges, assessments or rental fees which date shall be no less than ninety days after written notice to all manufactured home tenants. NO SUCH INCREASE SHALL APPLY TO ANY EXISTING LEASES UNTIL THE EXPIRATION OF THE TENANT'S LEASE OR SUCH NINETY DAYS HAVE ELAPSED, WHICHEVER IS LATER. NO LEASE SHALL CONTAIN ANY ESCALATION CLAUSES OR OTHER PROVISIONS WHICH PERMIT INCREASES IN RENTAL FEES OR OTHER CHARGES DURING THE TERM OF THE LEASE, PROVIDED, HOWEVER, IF A FEE, CHARGE, OR ASSESSMENT IN EFFECT AT THE COMMENCEMENT OF A LEASE IS FOR GOODS OR SERVICES PROVIDED BY A PARTY UNRELATED TO AND NOT CONTROLLED BY THE MANUFACTURED HOME PARK OWNER OR OPERATOR, THE LEASE MAY PROVIDE FOR THE PASSALONG TO THE MANUFACTURED HOME TENANT OF ANY INCREASES IN SUCH FEE, CHARGE, OR ASSESSMENT, PROVIDED THAT THE LEASE PROVIDES FOR A PASSALONG OF ANY DECREASES IN SUCH SUMS AND PROVIDED FURTHER THAT THE FEE, CHARGE, OR ASSESSMENT PAID BY THE MANUFACTURED HOME TENANT DOES NOT EXCEED THE SUM CHARGED BY THE UNRELATED PARTY FOR SUCH GOODS OR SERVICES. Failure on the part of the manufactured home park owner or operator to fully disclose all fees, charges or assessments shall prevent the manufactured home park owner or operator from collecting said fees, charges or assessments, and refusal by the manufactured home tenant to pay any undisclosed charges shall not be used by the manufactured home park owner or operator as a cause for eviction in any court of law.

S 3. Subdivision g of section 233 of the real property law is amended by adding a new paragraph 3-a to read as follows:

3-A. RENTAL FEES, OTHER FEES, CHARGES, AND ASSESSMENTS CHARGED TO TENANTS WITHOUT LEASES SHALL BE AT THE SAME RATE CHARGED TO TENANTS WITH LEASES FOR COMPARABLE LOTS AND SERVICES.

S 4. This act shall take effect immediately; provided, that no offer of lease shall be required to be made in conformity with the provisions of this act until the first of October next succeeding the date on which it shall have become a law with respect to leases which expire within ninety days of the effective date of this act.