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I N   A S S E M B L Y

February 3, 2010

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

AN ACT to amend the multiple dwelling law, in relation to prohibiting the owner, agent or operator of a multiple dwelling from hiring as a building superintendent, managing agent, or resident manager any person who is registered as a level two or level three sex offender in New York state, and to amend the real property law, in relation to providing that sexual harassment of a tenant by any owner, agent or operator of a multiple dwelling or any employee or contractor of such owner, agent or operator constitutes a violation of the warranty of habitability

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 309-b to read as follows:  
3     S 309-B. PROHIBITED HIRING. 1.     AN OWNER, AGENT OR OPERATOR OF A  
4     MULTIPLE DWELLING SHALL NOT HIRE AS A BUILDING SUPERINTENDENT, MANAGING  
5     AGENT, OR RESIDENT MANAGER ANY PERSON WHO IS REGISTERED AS A LEVEL TWO  
6     OR LEVEL THREE SEX OFFENDER IN NEW YORK STATE.  
7     2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO TENANT  
8     SHALL BE REQUIRED TO GIVE ACCESS TO HIS OR HER APARTMENT TO ANY PERSON  
9     WHO IS A REGISTERED SEX OFFENDER.  
10    S 2. The real property law is amended by adding a new section 235-g to  
11    read as follows:  
12    S 235-G. SEXUAL HARASSMENT. 1. IT SHALL BE UNLAWFUL AND SHALL CONSTI-  
13    TUTE A VIOLATION OF THE WARRANTY OF HABITABILITY FOR ANY OWNER, AGENT OR  
14    OPERATOR OF A MULTIPLE DWELLING OR FOR ANY EMPLOYEE OR CONTRACTOR OF  
15    SUCH OWNER, AGENT OR OPERATOR TO SUBJECT ANY TENANT OF THE BUILDING TO  
16    SEXUAL HARASSMENT.  
17    2. AS USED IN THIS SECTION:  
18    (A) "TENANT" MEANS A PERSON OR BUSINESS OCCUPYING OR RESIDING AT THE  
19    PREMISES PURSUANT TO A WRITTEN LEASE OR OTHER RENTAL AGREEMENT; AND

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

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1 (B) "SEXUAL HARASSMENT" MEANS UNWELCOME SEXUAL ADVANCES, UNWELCOME  
2 REQUESTS FOR SEXUAL FAVORS, AND OTHER UNWELCOME VERBAL OR PHYSICAL  
3 CONDUCT OF A SEXUAL NATURE.

4 3. A TENANT MAY APPLY TO THE SUPREME COURT FOR AN ORDER ENJOINING ACTS  
5 OR PRACTICES WHICH CONSTITUTE HARASSMENT UNDER SUBDIVISION ONE OF THIS  
6 SECTION; AND UPON SUFFICIENT SHOWING, THE SUPREME COURT MAY ISSUE A  
7 TEMPORARY OR PERMANENT INJUNCTION, RESTRAINING ORDER OR OTHER ORDER, ALL  
8 OF WHICH MAY, AS THE COURT DETERMINES IN THE EXERCISE OF ITS SOUND  
9 DISCRETION, BE GRANTED WITHOUT BOND. IN THE EVENT THE COURT ISSUES A  
10 PRELIMINARY INJUNCTION IT SHALL MAKE PROVISION FOR AN EXPEDITIOUS TRIAL  
11 OF THE UNDERLYING ACTION.

12 4. THE POWERS AND REMEDIES SET FORTH IN THIS SECTION SHALL BE IN ADDI-  
13 TION TO ALL OTHER POWERS AND REMEDIES IN RELATION TO HARASSMENT INCLUD-  
14 ING THE AWARD OF DAMAGES. NOTHING CONTAINED IN THIS SECTION SHALL BE  
15 CONSTRUED TO AMEND, REPEAL, MODIFY OR AFFECT ANY EXISTING LOCAL LAW OR  
16 ORDINANCE, OR PROVISION OF THE CHARTER OR ADMINISTRATIVE CODE OF THE  
17 CITY OF NEW YORK, OR TO LIMIT OR RESTRICT THE POWER OF THE CITY TO AMEND  
18 OR MODIFY ANY EXISTING LOCAL LAW, ORDINANCE OR PROVISION OF THE CHARTER  
19 OR ADMINISTRATIVE CODE, OR TO RESTRICT OR LIMIT ANY POWER OTHERWISE  
20 CONFERRED BY LAW WITH RESPECT TO HARASSMENT.

21 5. ANY AGREEMENT BY A TENANT IN A WRITTEN LEASE OR OTHER RENTAL AGREE-  
22 MENT WAIVING OR MODIFYING HIS OR HER RIGHTS AS SET FORTH IN THIS SECTION  
23 SHALL BE VOID AS CONTRARY TO PUBLIC POLICY.

24 S 3. This act shall take effect immediately.