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

5367

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to tenants' right to recover attorneys' fees incurred as a result of service of notice based upon false facts or allegations

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

Section 1. The real property law is amended by adding a new section 234-a to read as follows:

S 234-A. TENANTS' RIGHT TO RECOVER CERTAIN ATTORNEYS' FEES. THERE SHALL BE IMPLIED IN A LEASE OF RESIDENTIAL PROPERTY A COVENANT BY THE LANDLORD TO PAY TO THE TENANT THE REASONABLE ATTORNEYS' FEES AND/OR EXPENSES INCURRED BY THE TENANT AS THE RESULT OF THE SERVICE BY OR ON BEHALF OF THE LANDLORD OF A NOTICE TO CURE A VIOLATION OF THE LEASE, A NOTICE OF TERMINATION OF THE LEASE OR A NOTICE OF REFUSAL TO RENEW THE LEASE WHERE SUCH NOTICE CONTAINS ANY FACT OR ALLEGATION THAT IS NOT TRUE. WHERE SUCH NOTICE IS KNOWINGLY SERVED CONTAINING ANY FACT OR ALLEGATION THAT IS NOT TRUE, THE LANDLORD SHALL BE LIABLE FOR THREE TIMES THE AMOUNT OF SUCH ATTORNEYS' FEES AND/OR EXPENSES INCURRED BY THE TENANT REGARDLESS OF WHETHER AN ACTION OR SUMMARY PROCEEDING IS COMMENCED BY THE LANDLORD BASED ON SUCH NOTICE. SUCH FEES AND EXPENSES MAY BE RECOVERED AS PROVIDED BY LAW IN AN ACTION COMMENCED AGAINST THE LANDLORD OR BY WAY OF COUNTERCLAIM IN ANY ACTION OR SUMMARY PROCEEDING COMMENCED BY THE LANDLORD AGAINST THE TENANT. ANY WAIVER OF THIS SECTION SHALL BE VOID AS AGAINST PUBLIC POLICY.

S 2. This act shall take effect immediately.

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

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