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

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I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. O'DONNELL, DINOWITZ, CLARK, ALFANO -- Multi-Sponsored by -- M. of A. BARRA, GLICK, PHEFFER, WRIGHT -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to enhancing legal protections and remedies for tenants against threats to health and safety

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

Section 1. Subdivision 1 of section 770 of the real property actions and proceedings law, as amended by chapter 877 of the laws of 1982, is amended to read as follows:

1. One-third or more of the tenants occupying a dwelling located in the city of New York or the commissioner of the department of the city of New York charged with enforcement of the housing maintenance code of such city, or in the counties of Nassau, Suffolk, Rockland and Westchester may maintain a special proceeding as provided in this article, upon the ground that there exists in such dwellings or in any part thereof a lack of heat or of running water or of light or of electricity or of adequate sewage disposal facilities, or [any other condition dangerous to life, health or safety, which has existed for five days, or an infestation by rodents, or any combination of such conditions;] *AN INFESTATION OF RODENTS* or course of conduct by the owner or his agents of harassment, illegal eviction, continued deprivation of services [or other acts dangerous to life, health or safety]; *OR ANY OTHER CONDITION DANGEROUS TO LIFE, HEALTH OR SAFETY WHICH HAS EXISTED FOR FIVE DAYS, AND THAT, EITHER IMMEDIATELY OR OVER AN EXTENDED PERIOD OF TIME, POSES A CREDIBLE THREAT OF DISEASE, INJURY OR DEATH, SUCH THAT AN AVERAGE PERSON'S PROBABILITY OF INCURRING DISEASE, INJURY OR DEATH IS INCREASED. ANY COMBINATION OF SUCH CONDITIONS SIMILARLY PROVIDES GROUNDS FOR SPECIAL PROCEEDING.*

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

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S 2. Subdivision c of section 775 of the real property actions and proceedings law, as amended by chapter 877 of the laws of 1982, is amended and a new subdivision d is added to read as follows:

c. Any tenant or resident of the dwelling has refused entry to the owner or his agent to a portion of the premises for the purpose of correcting such condition or conditions[.]; OR

D. THE OWNER'S ACTIONS ARE NOT CREATING A CONDITION DANGEROUS TO LIFE, HEALTH, OR SAFETY. SUCH DEFENSE BY AN OWNER SHALL BE CORROBORATED BY THE TESTIMONY OF A RELIABLE PROFESSIONAL EXPERT IN THE MEDICAL OR SCIENTIFIC FIELD THAT THE OWNER'S ACTIONS ARE NOT POSING A THREAT TO SUCH PETITIONER'S HEALTH.

S 3. The real property actions and proceedings law is amended by adding a new section 784 to read as follows:

S 784. "CREDIBLE THREAT OF DISEASE" DEFINED. AS USED IN THIS ARTICLE, THE TERM "CREDIBLE THREAT OF DISEASE" SHALL INCLUDE, BUT NOT BE LIMITED TO, PROLONGED EXPOSURE TO KNOWN OR SUSPECTED CARCINOGENS, AS IDENTIFIED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND OTHER POTENTIALLY HARMFUL CARCINOGENS INCLUDING, BUT NOT LIMITED TO, RADIATION, MAGNETIC FIELDS, TOXIC SUBSTANCES AND HAZARDOUS MATERIALS.

S 4. This act shall take effect immediately.