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

4724

2009-2010 Regular Sessions

I N A S S E M B L Y

February 5, 2009

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

AN ACT to amend the real property actions and proceedings law, in relation to grounds for the removal of a tenant from a dwelling when use or occupancy is illegal

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

Section 1. Subdivisions 1, 2, 3 and 4 of section 715 of the real property actions and proceedings law, subdivision 1 as amended by chapter 555 of the laws of 1978, subdivisions 2 and 4 as added by chapter 494 of the laws of 1976, subdivision 3 as added and subdivision 4 as renumbered by chapter 206 of the laws of 1980, are amended to read as follows:

1. An owner or tenant, including a tenant of one or more rooms of an apartment house, tenement house or multiple dwelling, of any premises within [two hundred] ONE THOUSAND feet OR A LOCAL TENANT ORGANIZATION, NEIGHBORHOOD ASSOCIATION, BLOCK CLUB, NEIGHBORHOOD PROTECTION CLUB OR OTHER SIMILAR ORGANIZATION WHICH IS ORGANIZED FOR THE PURPOSE OF IMPROVING THE NEIGHBORHOOD IN AND ABOUT THE AREA WITHIN ONE THOUSAND FEET from other demised real property used or occupied in whole or in part as a bawdy-house, or house or place of assignation for lewd persons, or for purposes of prostitution, ILLEGAL GAMBLING OR ILLEGAL SALE OR POSSESSION OF A CONTROLLED SUBSTANCE OR MARIHUANA, or for any illegal trade, business or manufacture, or any domestic corporation organized for the suppression of vice, subject to or which submits to visitation by the state department of [social services] FAMILY ASSISTANCE and possesses a certificate from such department of such fact and of conformity with regulations of the department, or any duly authorized enforcement agency of the state or of a subdivision thereof, under a duty to enforce the provisions of the penal law or of any state or local law, ordinance, code, rule or regulation relating to buildings, may serve personally upon the owner or landlord of the premises so used or occupied, or upon

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

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his agent, a written notice SETTING FORTH PARTICULARS AS TO THE BASIS OF THE COMPLAINT AND requiring the owner or landlord to make an application for the removal of the person so using or occupying the same. If the owner or landlord or his agent does not make such application within [five] TEN days thereafter; or, having made it, does not in good faith diligently prosecute it, the person, corporation or enforcement agency giving the notice may bring a proceeding under this article for such removal as though the petitioner were the owner or landlord of the premises, and shall have precedence over any similar proceeding thereafter brought by such owner or landlord or to one theretofore brought by him and not prosecuted diligently and in good faith. Proof of the ill repute of the demised premises or of the inmates thereof or of those resorting thereto shall constitute presumptive evidence of the unlawful use of the demised premises required to be stated in the petition for removal. Both the person in possession of the property and the owner or landlord shall be made respondents in the proceeding.

2. For purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section 230.00, 230.05, 230.20, 230.25, 230.30 or 230.40 of the penal law arising out of conduct engaged in at the same real property consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law OR WITHIN ONE THOUSAND FEET OF SUCH DWELLING, shall be presumptive evidence of conduct constituting use of the premises for purposes of prostitution.

3. For the purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL LAW OR section 225.00, 225.05, 225.10, 225.15, 225.20, 225.30, 225.32, 225.35 or 225.40 of the penal law, arising out of conduct engaged in at the same premises consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law OR WITHIN ONE THOUSAND FEET OF SUCH DWELLING, shall be presumptive evidence of unlawful use of such premises and of the owner's knowledge of the same.

4. A court granting a petition pursuant to this section may, in addition to any other order provided by law, make an order imposing and requiring the payment by the respondent of a civil penalty not exceeding [five] TEN thousand dollars to the municipality in which the subject premises is located and, the payment of reasonable attorneys fees and the costs of the proceeding to the petitioner. In any such case multiple respondents shall be jointly and severally liable for any payment so ordered and the amounts of such payments shall constitute a lien upon the subject realty.

S 2. This act shall take effect immediately.