

4851

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 6, 2009

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Introduced by M. of A. ALESSI -- Multi-Sponsored by -- M. of A. FIELDS,  
SCHROEDER -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to providing recourse  
for manufactured homeowners in manufactured home parks, who are  
confronted with unjustifiable rent increases

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

1     Section 1. Legislative findings. The legislature finds and declares  
2     that:

3     (a) Factors unique to home ownership in manufactured home parks in New  
4     York state require that the owners of such manufactured homes be  
5     protected from involuntary forfeiture of their homes due to unreasonable  
6     increases in lot rent.

7     (b) Homeownership in such manufactured home parks differs from other  
8     forms of homeownership as well as from the traditional landlord-tenant  
9     relationship. Unlike other homeowners, because the manufactured homeown-  
10    ers do not control the land on which their manufactured homes exist,  
11    they have no control over this substantial portion of their housing  
12    costs.

13    (c) Vacant lots on which to place an existing manufactured home are  
14    extremely rare in New York state, and the cost of relocating a manufac-  
15    tured home, even if such a vacancy exists, is prohibitively high and  
16    threatens the structural integrity of many manufactured homes.

17    (d) The manufactured homeowners' total lack of bargaining power  
18    disrupts the normal operation of market forces and renders such manufac-  
19    tured homeowners captive to whatever terms a manufactured home park  
20    owner may choose to impose. Although many manufactured home park owners  
21    choose not to take advantage of their superior bargaining power, many  
22    do. This often results in manufactured homeowners being evicted because  
23    of manufactured home park rents they can no longer afford, and as a

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

LBD08081-01-9

1 result, losing their manufactured home altogether because there is no  
2 alternative site on which to place such home.

3 (e) Under current law, manufactured homeowners who rent lots in manu-  
4 factured home parks have no legal remedy for an unjustifiable and unrea-  
5 sonable rent increase.

6 S 2. Subdivision e of section 233 of the real property law is amended  
7 by adding a new paragraph 4 to read as follows:

8 4. ALL RENT INCREASES, INCLUDING ALL FEES, RENTS, CHARGES, ASSESSMENTS  
9 AND UTILITIES, SHALL BE SUBJECT TO JUDICIAL CHALLENGE PURSUANT TO  
10 SECTION TWO HUNDRED THIRTY-THREE-B OF THIS ARTICLE FOR MANUFACTURED  
11 HOMEOWNERS.

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

15 2. A manufactured home park owner or operator shall be required to  
16 fully disclose in writing all fees, charges, assessments, including  
17 rental fees, rules and regulations prior to [a manufactured home tenant  
18 assuming occupancy] ENTERING INTO A RENTAL AGREEMENT WITH A PROSPECTIVE  
19 TENANT in the manufactured home park.

20 S 4. The real property law is amended by adding a new section 233-b to  
21 read as follows:

22 S 233-B. UNJUSTIFIED RENT INCREASES IN MANUFACTURED HOME PARKS. 1.  
23 LOCAL OPTION. THE PROVISIONS OF THIS SECTION SHALL APPLY IN ANY COUNTY  
24 IN WHICH THE GOVERNING BOARD OF SUCH COUNTY HAS PASSED A LOCAL LAW  
25 ADOPTING THE PROVISIONS OF THIS SECTION.

26 2. SCOPE. TO BE ELIGIBLE FOR THIS REMEDY, THE MANUFACTURED HOME MUST  
27 BE THE PRIMARY RESIDENCE OF THE MANUFACTURED HOMEOWNER.

28 3. PRIMA FACIE CASE. AN INCREASE IN RENT WHICH EXCEEDS THE PERCENTAGE  
29 INCREASE IN THE CONSUMER PRICE INDEX SINCE THE CURRENT LOT RENT BECAME  
30 EFFECTIVE MAY BE CHALLENGED BY AN AGGRIEVED MANUFACTURED HOMEOWNER AS  
31 UNJUSTIFIED. THE TERM "CONSUMER PRICE INDEX" MEANS THE INDEX PUBLISHED  
32 MONTHLY BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR  
33 STATISTICS, FOR THE APPLICABLE NEW YORK REGION. IN THIS SECTION,  
34 "INCREASE IN LOT RENT" INCLUDES ALL COST INCREASES, INCLUDING ALL  
35 INCREASED RENT, FEES, CHARGES, ASSESSMENTS AND UTILITIES.

36 4. JOINDER. MULTIPLE AGGRIEVED MANUFACTURED HOMEOWNERS MAY JOIN IN THE  
37 SAME ACTION WHERE THERE IS A COMMON QUESTION OF LAW OR FACT.

38 5. VENUE AND STATUTE OF LIMITATION. WITHIN NINETY DAYS OF THE NOTICE  
39 OF THE PROPOSED INCREASE, AN AGGRIEVED MANUFACTURED HOMEOWNER MAY CHAL-  
40 LENGE SUCH INCREASE BY FILING AN ACTION IN THE COUNTY WHERE THE REAL  
41 PROPERTY IS LOCATED SEEKING A DECLARATORY JUDGMENT THAT THE RENT  
42 INCREASE IS UNJUSTIFIABLE.

43 6. PRESUMPTION. IN ANY PROCEEDINGS UNDER THIS SECTION THERE SHALL BE  
44 AN IRREBUTTABLE PRESUMPTION THAT A RENT INCREASE IS JUSTIFIABLE WHEN THE  
45 AMOUNT OF SUCH INCREASE DOES NOT EXCEED THE TENANT'S PRO-RATA SHARE IN  
46 OPERATING COSTS AND PROPERTY TAXES FOR THE MANUFACTURED HOME PARK IN  
47 WHICH THE TENANT RESIDES.

48 7. STANDARD FOR JUDICIAL REVIEW. IN DETERMINING WHETHER THE PROPOSED  
49 RENT INCREASE IS UNJUSTIFIABLE, THE COURT SHALL CONSIDER:

50 (A) INCREASES IN THE MANUFACTURED HOME PARK OWNER'S OPERATING  
51 EXPENSES.

52 (B) INCREASES IN THE MANUFACTURED HOME PARK OWNER'S PROPERTY TAXES ON  
53 SUCH PARK.

54 (C) INCREASES IN THE COST OF DEBT SERVICE WHICH IS DIRECTLY RELATED TO  
55 ACQUISITION OR CAPITAL IMPROVEMENTS IN THE MANUFACTURED HOME PARK.

1 (D) THE RETURN ON THE MANUFACTURED HOME PARK OWNER'S EQUITY INVESTMENT  
2 OVER THE PAST THREE YEARS, AND THE REASONS OFFERED BY THE OWNER FOR  
3 SEEKING AN INCREASE IN THE RETURN ON HIS OR HER INVESTMENT.

4 (E) A SAMPLING OF CURRENT LOT RENTS IN THE REGION IN WHICH THE PARK IS  
5 LOCATED.

6 (F) ANY OTHER COSTS ASSERTED BY THE MANUFACTURED HOME PARK OWNER WHICH  
7 ARE RELEVANT AND PROBATIVE OF THE NEED FOR AN INCREASE.

8 8. CONDITIONAL APPROVAL. THE COURT MAY CONDITION ITS APPROVAL OF ANY  
9 JUSTIFIED INCREASE UPON THE REDRESS OF CONDITIONS IN THE MANUFACTURED  
10 HOME PARK WHICH THREATEN THE HEALTH AND SAFETY OF THE MANUFACTURED HOME  
11 PARK TENANTS.

12 9. ESCROW. WHILE A CHALLENGE TO A RENT INCREASE PURSUANT TO THIS  
13 SECTION IS PENDING, MANUFACTURED HOME PARK TENANTS SHALL PAY THE AMOUNT  
14 OF THE RENT INCREASE TO THE MANUFACTURED HOME PARK OWNER, WHO SHALL HOLD  
15 SUCH AMOUNTS IN ESCROW PENDING A MEDIATED AGREEMENT BETWEEN THE PARTIES  
16 OR A FINAL DECISION FROM THE COURT, PROVIDED, HOWEVER, THAT NO MANUFAC-  
17 TURED HOME PARK TENANT SHALL BE EVICTED FOR NON-PAYMENT OF THE RENT  
18 INCREASE PRIOR TO A FINAL DISPOSITION OF THE MATTER BY THE COURT IN THE  
19 COUNTY WHERE THE MANUFACTURED HOME PARK IS LOCATED. FAILURE BY THE MANU-  
20 FACTURED HOME PARK OWNER TO PLACE SUCH CHALLENGED RENT INCREASE IN  
21 ESCROW SHALL BE PUNISHABLE BY A CIVIL PENALTY OF NOT MORE THAN FIVE  
22 HUNDRED DOLLARS. IF THE PETITIONERS APPEAL, THE MANUFACTURED HOME PARK  
23 OWNER MAY REMOVE THE RENT INCREASE FUNDS FROM ESCROW, MINGLE SUCH FUNDS  
24 WITH ANY OTHER FUNDS, AND EVICT A TENANT WHO HAS NOT PAID THE INCREASE  
25 FOR NON-PAYMENT OF RENT. IF THE COURT ENTERS A FINAL JUDGMENT DECLARING  
26 THE RENT INCREASES OR ANY PART THEREOF UNJUSTIFIABLE, THE MANUFACTURED  
27 HOME PARK OWNER SHALL REFUND THE AMOUNT OF UNJUSTIFIABLE INCREASE TO  
28 EACH TENANT HOUSEHOLD.

29 S 5. This act shall take effect on the first of January next succeed-  
30 ing the date on which it shall have become a law.