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

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. V. LOPEZ, DINOWITZ, CLARK, GREENE, KAVANAGH -- Multi-Sponsored by -- M. of A. BRENNAN, GLICK, GOTTFRIED, PERRY -- read once and referred to the Committee on Housing

AN ACT to amend the real property law, in relation to late charges paid by a residential tenant for delinquent rent payment

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 235-g to read as follows:

S 235-G. LATE CHARGE PROVISIONS IN RESIDENTIAL LEASES. 1. WHENEVER A LEASE FOR THE RENTAL OF RESIDENTIAL PROPERTY CONTAINS A PROVISION WHEREBY THE LESSOR RETAINS THE RIGHT TO COLLECT A LATE CHARGE ON ANY INSTALLMENT OF RENT WHICH HAS BECOME DUE AND REMAINS UNPAID, SUCH CHARGE ON ANY SUCH DELINQUENT INSTALLMENT, REGARDLESS OF THE PERIOD IT REMAINS IN DEFAULT, SHALL NOT EXCEED AND SHALL ONLY BE ENFORCEABLE TO THE EXTENT OF UP TO TWO PERCENT OF THE DELINQUENT INSTALLMENT; PROVIDED, HOWEVER, THAT NO CHARGE SHALL BE IMPOSED ON ANY INSTALLMENT PAID WITHIN TEN DAYS AFTER THE SPECIFIED DUE DATE. THE AMOUNT OF ANY SUCH LATE CHARGE SHALL NOT BE COLLECTED FROM ANY REGULAR RENT PAYMENT, BUT SHALL BE SEPARATELY BILLED AND COLLECTED BY THE LESSOR.

2. NO LESSOR SHALL BE ENTITLED TO ANY ADDITIONAL CHARGE AGAINST A RESIDENTIAL TENANT DUE TO THE LATE PAYMENT OF RENT UNLESS THE LEASE SPECIFICALLY PROVIDES FOR SUCH ADDITIONAL CHARGE AND SUCH CHARGES ARE IN ACCORDANCE WITH THIS SECTION.

3. ANY PROVISION OF A LEASE PURPORTING TO WAIVE A PROVISION OF THIS SECTION SHALL BE VOID AS CONTRARY TO PUBLIC POLICY.

4. IN ANY ACTION OR PROCEEDING TO ENFORCE A PROVISION IN A LEASE WHICH CALLS FOR THE IMPOSITION OF ADDITIONAL CHARGES AGAINST THE TENANT DUE TO LATE PAYMENT OF THE RENT RESERVED THEREIN, THE COURT SHALL HAVE THE DISCRETION TO FORGIVE SUCH OBLIGATION OR REQUIRE THAT PAYMENT OF SUCH SUM BE MADE ONLY UPON CONDITIONS SET BY THE COURT, EXCEPT THAT SUCH

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

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CONDITIONS MAY NOT REQUIRE A PAYMENT IN EXCESS OF THOSE ALLOWED BY THIS SECTION.

5. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REDUCE OR IMPAIR ANY RIGHT OR REMEDY OTHERWISE AVAILABLE TO ANY PERSON RESIDING IN ANY HOUSING ACCOMMODATION SUBJECT TO ANY OTHER LAW, INCLUDING BUT NOT LIMITED TO THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, THE CITY RENT AND REHABILITATION LAW AND THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR.

S 2. This act shall take effect immediately and shall apply to all residential leases entered into or renewed on or after such date.