

5942

2009-2010 Regular Sessions

I N A S S E M B L Y

February 23, 2009

Introduced by M. of A. DIAZ, BOYLAND, DINOWITZ, PHEFFER -- Multi-Sponsored by -- M. of A. ALFANO, BARRA -- read once and referred to the Committee on Aging

AN ACT to amend the elder law, in relation to establishing the bureau of the senior tenants' advocate in the state office for the aging

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

1 Section 1. The elder law is amended by adding a new section 224 to  
2 read as follows:

3 S 224. SENIOR TENANTS' ADVOCATE. 1. BUREAU ESTABLISHED. THERE IS  
4 HEREBY ESTABLISHED WITHIN THE OFFICE FOR THE AGING A BUREAU OF THE  
5 SENIOR TENANTS' ADVOCATE FOR THE PURPOSE OF ASSISTING SENIOR CITIZEN  
6 TENANTS IN RESOLVING COMPLAINTS THEY MAY HAVE WITH THE NEW YORK STATE  
7 DIVISION OF HOUSING AND COMMUNITY RENEWAL, LANDLORD DISPUTES, RENT  
8 INCREASES, AND OTHER HOUSING RELATED MATTERS.

9 2. APPOINTMENT OF SENIOR TENANTS' ADVOCATE. THE GOVERNOR SHALL APPOINT  
10 A FULL-TIME STATE SENIOR TENANTS' ADVOCATE TO ADMINISTER AND SUPERVISE  
11 THE BUREAU OF THE SENIOR TENANTS' ADVOCATE. SUCH APPOINTMENT SHALL BE  
12 FOR A PERIOD OF FOUR YEARS.

13 (A) THE SENIOR TENANTS' ADVOCATE SHALL BE SELECTED FROM AMONG INDIVID-  
14 UALS WITH EXPERTISE AND EXPERIENCE IN LANDLORD AND TENANT, AND SENIOR  
15 CITIZEN CARE ADVOCACY, AND WITH OTHER QUALIFICATIONS DETERMINED BY THE  
16 GOVERNOR TO BE APPROPRIATE FOR THE POSITION.

17 (B) THE SENIOR TENANTS' ADVOCATE SHALL, PERSONALLY OR THROUGH AUTHOR-  
18 IZED REPRESENTATIVES AS PROVIDED FOR IN PARAGRAPH (C) OF THIS SUBDIVI-  
19 SION:

20 (I) IDENTIFY, INVESTIGATE, AND ASSIST IN THE RESOLUTION OF COMPLAINTS  
21 THAT ARE MADE BY, OR ON BEHALF OF, SENIOR CITIZEN TENANTS IN THIS STATE  
22 AND THAT RELATE TO ACTIONS, INACTIONS, OR DECISIONS THAT MAY ADVERSELY  
23 AFFECT THE HOUSING AND RESIDENCY RIGHTS OF SUCH SENIOR CITIZEN TENANTS,  
24 IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SENIOR TENANTS' ADVO-

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

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1 CATE. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS AUTHORIZING THE  
2 SENIOR TENANTS' ADVOCATE TO INVESTIGATE FINAL ADMINISTRATIVE DETERMI-  
3 NATIONS MADE PURSUANT TO LAW BY ANY STATE AGENCY, WHERE SUCH DETERMI-  
4 NATION HAS BECOME THE SUBJECT OF THE COMPLAINT TO THE SENIOR TENANTS'  
5 ADVOCATE;

6 (II) PROVIDE SERVICES TO ASSIST SENIOR CITIZEN TENANTS IN PROTECTING  
7 THEIR RIGHTS AS TENANTS, INCLUDING BUT NOT LIMITED TO CONVEYING INFORMA-  
8 TION ABOUT THE INTERESTS OF SENIOR CITIZEN TENANTS TO GOVERNMENTAL AGEN-  
9 CIES AND RECOMMENDING APPROPRIATE ADMINISTRATIVE, LEGAL, AND OTHER REME-  
10 DIES TO PROTECT THEIR RESIDENTIAL STATUS;

11 (III) INFORM THE SENIOR CITIZEN TENANTS ABOUT MEANS OF OBTAINING  
12 SERVICES PROVIDED BY PUBLIC HEALTH, SOCIAL SERVICES, OR OTHER PUBLIC  
13 AGENCIES;

14 (IV) ANALYZE AND MONITOR THE DEVELOPMENT AND IMPLEMENTATION OF FEDER-  
15 AL, STATE, AND LOCAL LAWS, REGULATIONS, OR POLICIES WITH RESPECT TO THE  
16 ADEQUACY OF HOUSING MATTERS FOR SENIOR CITIZEN TENANTS WITHIN THE STATE;  
17 AND

18 (V) CARRY OUT SUCH OTHER ACTIVITIES AS THE SENIOR TENANTS' ADVOCATE  
19 DETERMINES TO BE APPROPRIATE PURSUANT TO PERTINENT STATE LAWS AND REGU-  
20 LATIONS.

21 (C) THE SENIOR TENANTS' ADVOCATE MAY APPOINT ONE OR MORE AUTHORIZED  
22 REPRESENTATIVES TO ASSIST THE SENIOR TENANTS' ADVOCATE IN THE PERFORM-  
23 ANCE OF HIS OR HER DUTIES UNDER THIS SECTION.

24 (D) NO SENIOR TENANTS' ADVOCATE, AUTHORIZED REPRESENTATIVE, OR IMMEDI-  
25 ATE FAMILY MEMBER OF SUCH PERSON SHALL:

26 (I) HAVE A DIRECT INVOLVEMENT IN THE LICENSING OR CERTIFICATION OF A  
27 SENIOR CITIZEN RESIDENTIAL HOUSING FACILITY OR OF A PROVIDER OF RESIDEN-  
28 TIAL HOUSING TO SENIOR CITIZENS;

29 (II) HAVE AN OWNERSHIP OR INVESTMENT INTEREST (REPRESENTED BY EQUITY,  
30 DEBT, OR OTHER FINANCIAL RELATIONSHIP) IN RESIDENTIAL RENTAL PROPERTY  
31 PROVIDING HOUSING TO SENIOR CITIZENS;

32 (III) BE EMPLOYED BY, OR PARTICIPATE IN THE MANAGEMENT OF, RESIDENTIAL  
33 RENTAL PROPERTY;

34 (IV) RECEIVE REMUNERATION (IN CASH OR IN KIND) UNDER A COMPENSATION  
35 ARRANGEMENT WITH AN OWNER OR OPERATOR OF RESIDENTIAL RENTAL PROPERTY  
36 THAT HAS TENANCIES CONSISTING OF ONE OR MORE SENIOR CITIZENS; AND

37 (V) BE EMPLOYED BY THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

38 (E) THE SENIOR TENANTS' ADVOCATE SHALL ESTABLISH WRITTEN PROCEDURES TO  
39 IDENTIFY AND REMOVE CONFLICTS OF INTEREST SET OUT IN PARAGRAPH (D) OF  
40 THIS SUBDIVISION AND SHALL INCLUDE ACTIONS THAT THE SENIOR TENANTS'  
41 ADVOCATE MAY REQUIRE HIMSELF OR HERSELF, AN AUTHORIZED REPRESENTATIVE,  
42 OR IMMEDIATE FAMILY MEMBER OF EITHER TO TAKE TO REMOVE SUCH CONFLICTS OF  
43 INTEREST.

44 (F) THE SENIOR TENANTS' ADVOCATE SHALL REPORT DIRECTLY TO THE DIRECTOR  
45 OF THE OFFICE FOR THE AGING.

46 3. REVIEW OF COMPLAINT. UPON RECEIPT OF A COMPLAINT, THE SENIOR  
47 TENANTS' ADVOCATE SHALL DETERMINE IMMEDIATELY WHETHER THERE ARE REASON-  
48 ABLE GROUNDS FOR AN INVESTIGATION. SUCH INVESTIGATION SHALL BE CONDUCTED  
49 IN A MANNER PRESCRIBED IN THE REGULATIONS SET FORTH BY THE DIRECTOR OF  
50 THE OFFICE FOR THE AGING. IF THE SENIOR TENANTS' ADVOCATE OR AUTHORIZED  
51 REPRESENTATIVE DETERMINES THAT THE INVESTIGATION AND RESOLUTION OF SUCH  
52 COMPLAINT IS MORE SUITABLY HANDLED BY ANOTHER STATE AGENCY, THEN SUCH  
53 SENIOR TENANTS' ADVOCATE OR AUTHORIZED REPRESENTATIVE SHALL IMMEDIATELY  
54 FORWARD SUCH COMPLAINT TO THE APPROPRIATE AGENCY. THE SENIOR TENANTS'  
55 ADVOCATE SHALL MAINTAIN A FILE CONCERNING SUCH COMPLAINTS THROUGH SUCH  
56 AGENCY'S COMPLETION OF ACTION THEREON.

1 ANY STATE AGENCY RECEIVING A COMPLAINT PURSUANT TO THIS SUBDIVISION  
2 SHALL PROVIDE THE SENIOR TENANTS' ADVOCATE WITH WRITTEN NOTICE OF THE  
3 FINAL DETERMINATION OF OR ACTION UPON SUCH COMPLAINT.

4 4. RETALIATORY DISCRIMINATION PROHIBITED. NO PERSON SHALL DISCRIMINATE  
5 AGAINST ANY TENANT BECAUSE SUCH TENANT OR ANY PERSON ACTING ON BEHALF OF  
6 SUCH TENANT HAS BROUGHT OR CAUSED TO BE BROUGHT ANY COMPLAINT TO THE  
7 SENIOR TENANTS' ADVOCATE FOR INVESTIGATION, OR AGAINST ANY OTHER PERSON  
8 WHO HAS GIVEN OR PROVIDED OR IS TO GIVE OR PROVIDE ANY STATEMENTS,  
9 TESTIMONY, OTHER EVIDENCE, OR COOPERATION IN CONNECTION WITH ANY SUCH  
10 COMPLAINT.

11 5. REGULATIONS. THE DIRECTOR OF THE OFFICE FOR THE AGING IS AUTHOR-  
12 IZED TO PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS  
13 SECTION.

14 6. ANNUAL REPORT. THE STATE SENIOR TENANTS' ADVOCATE SHALL SUBMIT AN  
15 ANNUAL REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAK-  
16 ER OF THE ASSEMBLY, AND THE DIRECTOR, AND MAKE SUCH REPORT AVAILABLE TO  
17 THE PUBLIC. SUCH REPORT SHALL:

18 (A) DESCRIBE THE ACTIVITIES CARRIED OUT BY THE BUREAU OF THE SENIOR  
19 TENANTS' ADVOCATE DURING THE PRIOR CALENDAR YEAR;

20 (B) CONTAIN AND ANALYZE DATA RELATING TO COMPLAINTS CONCERNING RESI-  
21 DENTIAL HOUSING FOR SENIOR CITIZEN TENANTS, FOR THE PURPOSE OF IDENTIFY-  
22 ING AND RESOLVING RECURRING PROBLEMS;

23 (C) EVALUATE THE PROBLEMS EXPERIENCED BY, AND THE COMPLAINTS MADE BY  
24 OR ON BEHALF OF, SENIOR CITIZEN TENANTS;

25 (D) CONTAIN RECOMMENDATIONS FOR:

26 (I) APPROPRIATE STATE LEGISLATION, RULES AND REGULATIONS AND OTHER  
27 ACTION TO PRESERVE AND PROMOTE THE RIGHTS OF SENIOR CITIZEN TENANTS; AND

28 (II) IMPROVING PUBLIC AWARENESS OF SENIOR CITIZEN TENANTS' RIGHTS, AND  
29 AVAILABILITY OF PUBLIC ASSISTANCE PROGRAMS TO SENIOR CITIZEN TENANTS;  
30 AND

31 (E) ANY OTHER MATTERS THAT THE SENIOR TENANTS' ADVOCATE DETERMINES TO  
32 BE APPROPRIATE.

33 S 2. This act shall take effect on the one hundred eightieth day after  
34 it shall have become a law; provided, however, that any rules or regu-  
35 lations necessary for the timely implementation of the provisions of  
36 this act on its effective date shall be promulgated on or before such  
37 date.