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

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:

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

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

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

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

(B) THE SENIOR TENANTS' ADVOCATE SHALL, PERSONALLY OR THROUGH AUTHORIZED REPRESENTATIVES AS PROVIDED FOR IN PARAGRAPH (C) OF THIS SUBDIVISION:

(I) IDENTIFY, INVESTIGATE, AND ASSIST IN THE RESOLUTION OF COMPLAINTS THAT ARE MADE BY, OR ON BEHALF OF, SENIOR CITIZEN TENANTS IN THIS STATE AND THAT RELATE TO ACTIONS, INACTIONS, OR DECISIONS THAT MAY ADVERSELY AFFECT THE HOUSING AND RESIDENCY RIGHTS OF SUCH SENIOR CITIZEN TENANTS, 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.

LBD04956-01-9

CATE. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS AUTHORIZING THE SENIOR TENANTS' ADVOCATE TO INVESTIGATE FINAL ADMINISTRATIVE DETERMINATIONS MADE PURSUANT TO LAW BY ANY STATE AGENCY, WHERE SUCH DETERMINATION HAS BECOME THE SUBJECT OF THE COMPLAINT TO THE SENIOR TENANTS' ADVOCATE;

(II) PROVIDE SERVICES TO ASSIST SENIOR CITIZEN TENANTS IN PROTECTING THEIR RIGHTS AS TENANTS, INCLUDING BUT NOT LIMITED TO CONVEYING INFORMATION ABOUT THE INTERESTS OF SENIOR CITIZEN TENANTS TO GOVERNMENTAL AGENCIES AND RECOMMENDING APPROPRIATE ADMINISTRATIVE, LEGAL, AND OTHER REMEDIES TO PROTECT THEIR RESIDENTIAL STATUS;

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

(IV) ANALYZE AND MONITOR THE DEVELOPMENT AND IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, OR POLICIES WITH RESPECT TO THE ADEQUACY OF HOUSING MATTERS FOR SENIOR CITIZEN TENANTS WITHIN THE STATE; AND

(V) CARRY OUT SUCH OTHER ACTIVITIES AS THE SENIOR TENANTS' ADVOCATE DETERMINES TO BE APPROPRIATE PURSUANT TO PERTINENT STATE LAWS AND REGULATIONS.

(C) THE SENIOR TENANTS' ADVOCATE MAY APPOINT ONE OR MORE AUTHORIZED REPRESENTATIVES TO ASSIST THE SENIOR TENANTS' ADVOCATE IN THE PERFORMANCE OF HIS OR HER DUTIES UNDER THIS SECTION.

(D) NO SENIOR TENANTS' ADVOCATE, AUTHORIZED REPRESENTATIVE, OR IMMEDIATE FAMILY MEMBER OF SUCH PERSON SHALL:

(I) HAVE A DIRECT INVOLVEMENT IN THE LICENSING OR CERTIFICATION OF A SENIOR CITIZEN RESIDENTIAL HOUSING FACILITY OR OF A PROVIDER OF RESIDENTIAL HOUSING TO SENIOR CITIZENS;

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

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

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

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

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

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

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

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

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

5. REGULATIONS. THE DIRECTOR OF THE OFFICE FOR THE AGING IS AUTHORIZED TO PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

6. ANNUAL REPORT. THE STATE SENIOR TENANTS' ADVOCATE SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, AND THE DIRECTOR, AND MAKE SUCH REPORT AVAILABLE TO THE PUBLIC. SUCH REPORT SHALL:

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

(B) CONTAIN AND ANALYZE DATA RELATING TO COMPLAINTS CONCERNING RESIDENTIAL HOUSING FOR SENIOR CITIZEN TENANTS, FOR THE PURPOSE OF IDENTIFYING AND RESOLVING RECURRING PROBLEMS;

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

(D) CONTAIN RECOMMENDATIONS FOR:

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

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

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

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