

5649

2009-2010 Regular Sessions

I N S E N A T E

May 26, 2009

Introduced by Sen. ESPADA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the administrative code of the city of New York, in relation to permitting access by property owners to dwelling units in certain circumstances

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

1 Section 1. Section 27-2123 of the administrative code of the city of
2 New York is amended to read as follows:
3 S 27-2123 Court order of access to inspect premises. a. (1) A judge
4 of any civil court of competent jurisdiction may, upon appropriate
5 application by the department OF BUILDINGS OR THE DEPARTMENT OF HOUSING
6 PRESERVATION AND DEVELOPMENT OR THE FIRE DEPARTMENT supported by an
7 affidavit or affirmation, issue an order directing that access be
8 provided to an officer or inspector of the department OF BUILDINGS, OR
9 THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT OR THE FIRE
10 DEPARTMENT to any premises or part thereof, whenever an inspection of
11 any premises or part thereof is required or authorized by any state or
12 local law or regulation or entry to such area is necessary for
13 correction of a condition violating such law or regulation.
14 (2) A JUDGE OF ANY CIVIL COURT OF COMPETENT JURISDICTION MAY, UPON
15 APPROPRIATE APPLICATION BY THE REGISTERED OWNER OR MANAGING AGENT OF ANY
16 DWELLING OR MULTIPLE DWELLING PURSUANT TO SECTION 27-2008 OF THIS CODE
17 OR OTHER PROVISION OF LAW OR LEASE, SUPPORTED BY AN AFFIDAVIT OR AFFIR-
18 MATION, ISSUE AN ORDER DIRECTING THAT ACCESS BE PROVIDED TO SUCH OWNER
19 OR AGENT, TO ANY PREMISES OR PART THEREOF, WHENEVER AN INSPECTION OF ANY
20 PREMISES OR PART THEREOF IS REQUIRED OR AUTHORIZED BY ANY STATE OR LOCAL
21 LAW OR REGULATION OR ENTRY TO SUCH AREA IS NECESSARY FOR CORRECTION OF A
22 CONDITION VIOLATING SUCH LAW OR REGULATION, INCLUDING BUT NOT LIMITED TO
23 UNLAWFUL ALTERATIONS SUCH AS THE INSTALLATION OF PARTITIONS OR OTHER

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

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1 FORMS OF ROOM DIVIDERS WITHOUT THE REQUISITE APPROVAL OF THE DEPARTMENT
2 OF BUILDINGS, THE UNLAWFUL USE OF ROOMS FOR LIVING PURPOSES, AND THE
3 UNLAWFUL INSTALLATION OF LOCKING DEVICES ON ROOMS USED FOR SLEEPING
4 PURPOSES.

5 b. If the application PURSUANT TO PARAGRAPHS ONE OR TWO OF SUBDIVISION
6 A OF THIS SECTION is found appropriate, the court may issue an order to
7 show cause why the order of access should not be issued. If the respond-
8 ent cannot with due diligence be served personally within the time fixed
9 in such order, service may be made on such person by posting a copy
10 thereof in a conspicuous place in the premises to which access is sought
11 and by sending a copy thereof by certified mail, return receipt
12 requested, to such person at his or her last known address.

13 c. The court shall set in the order of access specific dates and times
14 for access.

15 d. The person, officer or inspector gaining access shall, before
16 entry, give notice of his or her authority and purpose to any occupant
17 of the premises and show such occupant the order or a copy thereof upon
18 request.

19 e. Notwithstanding any other provision contained in section 27-2118 of
20 article three of this subchapter, a person who after service of a certi-
21 fied copy of the order upon such person does not provide access or
22 refuses to allow access to the person authorized to enter may be found
23 guilty of contempt of court and may be required to pay a fine of a maxi-
24 mum of two hundred fifty dollars for willfully failing to provide or
25 refusing to allow access. Service of the order shall be as the court
26 directs or by personal service but if such cannot be made with due dili-
27 gence within five days, service may be made by posting a copy of the
28 order in a conspicuous place in the premises which is the subject of the
29 order, and by sending a copy thereof by certified mail, return receipt
30 requested, to such person at his or her last known address. Such person
31 shall not be in contempt of court or be required to pay a fine if he or
32 she establishes good and sufficient reason for a failure to be present
33 when access was demanded.

34 f. Nothing herein shall be deemed to authorize an officer or inspector
35 of the department OR THE REGISTERED OWNER OR AGENT to enter any premises
36 or part thereof if a person to whom an order is directed does not
37 provide or refuses access.

38 g. Nothing herein shall affect the validity of inspections authorized
39 and conducted under any other provision of law, rule or regulation with-
40 out the issuance of an inspection warrant as provided in this article.

41 S 2. This act shall take effect immediately.