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

8154

I N S E N A T E

June 11, 2010

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to an action for willful neglect of residential real property

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

Section 1. The real property actions and proceedings law is amended by adding a new section 854 to read as follows:

S 854. ACTION FOR WILLFUL NEGLECT OF RESIDENTIAL REAL PROPERTY; TREBLE DAMAGES. 1. IF A TENANT IS FORCED TO VACATE RESIDENTIAL REAL PROPERTY BECAUSE OF WILLFUL NEGLECT OF SUCH PROPERTY BY THE PERSON OR ENTITY REQUIRED BY STATE OR LOCAL LAW TO MAINTAIN SUCH PROPERTY, HE OR SHE IS ENTITLED TO RECOVER TREBLE DAMAGES IN AN ACTION OR COUNTERCLAIM AGAINST SUCH PERSON OR ENTITY. IN LIEU OF TREBLE DAMAGES, AT THE TENANT'S OPTION, THE PERSON OR ENTITY REQUIRED TO MAINTAIN THE PROPERTY MUST RELOCATE THE TENANT TO A COMPARABLE HOUSING ACCOMMODATION IN A CLOSELY PROXIMATE AREA THAT IS THE SAME OR LOWER RENT.

2. WILLFUL NEGLECT SHALL INCLUDE IMPROPER MAINTENANCE OR LACK OF MAINTENANCE RESULTING IN SUBSTANTIAL DETERIORATION OF THE PROPERTY SUCH AS TO RENDER IT UNINHABITABLE. WILLFUL NEGLECT MAY BE CONSIDERED WHENEVER THERE HAS BEEN A VACATE ORDER OR ORDER FOR THE DEMOLITION OF THE PROPERTY ISSUED BY AN AGENCY OR OFFICIAL OF STATE OR LOCAL GOVERNMENT. WILLFUL NEGLECT SHALL NOT INCLUDE CONDITIONS BEYOND THE CONTROL OF THE PERSON OR ENTITY REQUIRED TO MAINTAIN THE PROPERTY, SUCH AS A NATURAL DISASTER OR AN ACT OF WAR OR TERRORISM.

3. THE PERSON OR ENTITY REQUIRED BY LAW TO MAINTAIN RESIDENTIAL REAL PROPERTY SHALL INCLUDE, BUT NOT BE LIMITED TO, A PLAINTIFF IN A FORECLOSURE ACTION HAVING A DUTY TO MAINTAIN PROPERTY PURSUANT TO SECTION THIRTEEN HUNDRED SEVEN OF THIS CHAPTER.

4. RESIDENTIAL REAL PROPERTY SHALL MEAN REAL PROPERTY LOCATED IN THIS STATE IMPROVED BY ANY BUILDING OR STRUCTURE THAT IS OR MAY BE USED, IN WHOLE OR IN PART, AS THE HOME OR RESIDENCE OF ONE OR MORE PERSONS, AND SHALL INCLUDE ANY BUILDING OR STRUCTURE USED FOR BOTH RESIDENTIAL AND COMMERCIAL PURPOSES.

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

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5. THIS SECTION SHALL NOT PREEMPT, REDUCE OR LIMIT ANY RIGHTS OR OBLIGATIONS IMPOSED BY ANY STATE OR LOCAL LAWS WITH RESPECT TO PROPERTY MAINTENANCE AND A LOCALITY'S ABILITY TO ENFORCE THOSE LAWS.

S 2. This act shall take effect immediately.