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

856--A

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. KELLNER, GUNTHER, SPANO, MARKEY, REILLY, HOYT, GIBSON, HIKIND, MENG, ROBINSON, SCARBOROUGH, CASTRO -- Multi-Sponsored by -- M. of A. CRESPO, CROUCH, CYMBROWITZ, FINCH, GABRYSZAK, GALEF, GLICK, KOLB, McDONOUGH, J. MILLER, M. MILLER, MOLINARO, PERRY, PHEFFER, SALADINO, TITONE -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling law, in relation to prohibiting the owner, agent or operator of a multiple dwelling from hiring as a building superintendent, managing agent, or resident manager any person who is registered as a level two or level three sex offender in New York state, and to amend the real property law, in relation to providing that sexual harassment of a tenant by any owner, agent or operator of a multiple dwelling or any employee or contractor of such owner, agent or operator constitutes a violation of the warranty of habitability

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

Section 1. The multiple dwelling law is amended by adding a new section 309-b to read as follows:

S 309-B. PROHIBITED HIRING. 1. AN OWNER, AGENT OR OPERATOR OF A MULTIPLE DWELLING SHALL NOT HIRE AS A BUILDING SUPERINTENDENT, MANAGING AGENT OR RESIDENT MANAGER ANY PERSON WHO IS REGISTERED AS A LEVEL TWO OR LEVEL THREE SEX OFFENDER IN THIS STATE PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW.

2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO TENANT SHALL BE REQUIRED TO GIVE ACCESS TO HIS OR HER APARTMENT TO ANY PERSON WHO IS A REGISTERED SEX OFFENDER.

S 2. The real property law is amended by adding a new section 235-h to read as follows:

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

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S 235-H. SEXUAL HARASSMENT. 1. IT SHALL BE UNLAWFUL AND SHALL CONSTITUTE A VIOLATION OF THE WARRANTY OF HABITABILITY FOR ANY OWNER, AGENT OR OPERATOR OF A MULTIPLE DWELLING OR FOR ANY EMPLOYEE OR CONTRACTOR OF SUCH OWNER, AGENT OR OPERATOR TO SUBJECT ANY TENANT OF THE BUILDING TO SEXUAL HARASSMENT.

2. AS USED IN THIS SECTION:

(A) "TENANT" MEANS A PERSON OR BUSINESS OCCUPYING OR RESIDING AT THE PREMISES PURSUANT TO A WRITTEN LEASE OR OTHER RENTAL AGREEMENT; AND

(B) "SEXUAL HARASSMENT" MEANS UNWELCOME SEXUAL ADVANCES, UNWELCOME REQUESTS FOR SEXUAL FAVORS, AND OTHER UNWELCOME VERBAL OR PHYSICAL CONDUCT OF A SEXUAL NATURE.

3. A TENANT MAY APPLY TO THE SUPREME COURT FOR AN ORDER ENJOINING ACTS OR PRACTICES WHICH CONSTITUTE SEXUAL HARASSMENT UNDER SUBDIVISION ONE OF THIS SECTION; AND UPON SUFFICIENT SHOWING, THE SUPREME COURT MAY ISSUE A TEMPORARY OR PERMANENT INJUNCTION, RESTRAINING ORDER OR OTHER ORDER, ALL OF WHICH MAY, AS THE COURT DETERMINES IN THE EXERCISE OF ITS SOUND DISCRETION, BE GRANTED WITHOUT BOND. IN THE EVENT THE COURT ISSUES A PRELIMINARY INJUNCTION IT SHALL MAKE PROVISION FOR AN EXPEDITIOUS TRIAL OF THE UNDERLYING ACTION.

4. THE POWERS AND REMEDIES SET FORTH IN THIS SECTION SHALL BE IN ADDITION TO ALL OTHER POWERS AND REMEDIES IN RELATION TO SEXUAL HARASSMENT INCLUDING THE AWARD OF DAMAGES. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO AMEND, REPEAL, MODIFY OR AFFECT ANY EXISTING LOCAL LAW OR ORDINANCE, OR PROVISION OF THE CHARTER OR ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, OR TO LIMIT OR RESTRICT THE POWER OF THE CITY OF NEW YORK TO AMEND OR MODIFY ANY EXISTING LOCAL LAW, ORDINANCE OR PROVISION OF THE CHARTER OR ADMINISTRATIVE CODE, OR TO RESTRICT OR LIMIT ANY POWER OTHERWISE CONFERRED BY LAW WITH RESPECT TO SEXUAL HARASSMENT.

5. ANY AGREEMENT BY A TENANT IN A WRITTEN LEASE OR OTHER RENTAL AGREEMENT WAIVING OR MODIFYING HIS OR HER RIGHTS AS SET FORTH IN THIS SECTION SHALL BE VOID AS CONTRARY TO PUBLIC POLICY.

S 3. This act shall take effect immediately.