

1794

2011-2012 Regular Sessions

I N S E N A T E

January 12, 2011

Introduced by Sens. KLEIN, HASSELL-THOMPSON, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to requiring landlords to hold a public forum with tenants prior to contracting with cell phone service carriers to mount cell phone towers on residential buildings; and to amend the education law, in relation to requiring school districts to provide parents and school faculty with written notification of cell phone towers being mounted onto school facilities

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

1 Section 1. The real property law is amended by adding a new section
2 238-a to read as follows:
3 S 238-A. DUTY OF LANDLORD TO HOLD A PUBLIC FORUM PRIOR TO MOUNTING
4 CELLULAR PHONE TOWERS ONTO RESIDENTIAL BUILDING STRUCTURES. 1. THE
5 TERMS "CELLULAR PHONE TOWER", "CELLULAR PHONE ANTENNA" AND "BASE
6 STATION" AS USED IN THIS SECTION SHALL MEAN A STRUCTURE CONSISTING OF
7 RADIOS, COMPUTERIZED SWITCHING EQUIPMENT AND ANTENNAS THAT RECEIVE AND
8 TRANSMIT RADIO FREQUENCY SIGNALS WHICH FACILITATE CELLULAR PHONE TRANS-
9 MISSION AND RECEPTION. THE TERM "RESIDENTIAL BUILDING" AS USED IN THIS
10 SECTION SHALL MEAN A RESIDENTIAL BUILDING THAT HAS FOUR OR MORE DWELLING
11 UNITS OR APARTMENTS.
12 2. A LANDLORD SHALL BE REQUIRED TO HOLD A PUBLIC FORUM WITH HIS OR HER
13 TENANTS NOT LESS THAN FORTY-FIVE DAYS PRIOR TO CONTRACTING WITH A CELL
14 PHONE SERVICE CARRIER TO MOUNT OR ATTACH A CELL PHONE TOWER, CELL PHONE
15 ANTENNA OR BASE STATION ONTO THE RESIDENTIAL BUILDING STRUCTURE. EACH
16 SUCH LANDLORD SHALL PROVIDE WRITTEN NOTICE OF SUCH PUBLIC FORUM TO EACH
17 TENANT OF THE RESIDENTIAL BUILDING NOT LESS THAN TEN DAYS PRIOR TO THE
18 PUBLIC FORUM. THE NOTICE SHALL INCLUDE THE DATE, TIME, PLACE AND PURPOSE
19 OF SUCH FORUM. EVERY PUBLIC FORUM SHALL BE HELD AT A COMMON AREA WITH
20 THE RESIDENTIAL BUILDING TO WHICH IT RELATES. THE PUBLIC FORUMS REQUIRED

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

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1 BY THIS SECTION SHALL BE OPEN SOLELY TO THE LANDLORD AND HIS OR HER
2 AGENTS, AND THE TENANTS OF THE AFFECTED RESIDENTIAL BUILDING.

3 3. A LANDLORD WHO VIOLATES SUBDIVISION TWO OF THIS SECTION SHALL BE
4 SUBJECT, IN ADDITION TO ANY OTHER PENALTIES THAT MAY BE PRESCRIBED BY
5 LAW, TO A CIVIL PENALTY OF TWO HUNDRED FIFTY DOLLARS FOR EACH DAY THAT
6 PASSES AFTER A BUILDING PERMIT HAS BEEN APPROVED TO BUILD A CELLULAR
7 PHONE TOWER, CELLULAR PHONE ANTENNA OR BASE STATION, TO BE MOUNTED OR
8 ATTACHED ONTO A RESIDENTIAL BUILDING STRUCTURE WITHOUT PROPER NOTIFICA-
9 TION TO TENANTS.

10 S 2. The education law is amended by adding a new section 414-a to
11 read as follows:

12 S 414-A. NOTIFICATION ABOUT CELL PHONE TOWERS LOCATED ON SCHOOL FACIL-
13 ITIES. 1. FOR PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE
14 THE MEANINGS SET FORTH BELOW: (A) "SCHOOL" SHALL MEAN ANY PUBLIC SCHOOL
15 DISTRICT, PRIVATE OR PAROCHIAL SCHOOL, OR BOARD OF COOPERATIVE EDUCA-
16 TIONAL SERVICES.

17 (B) "FACILITY" MEANS ANY SCHOOL BUILDING USED FOR INSTRUCTIONAL
18 PURPOSES AND ITS SURROUNDING GROUNDS, SITES AND OTHER GROUNDS TO BE USED
19 FOR PLAYGROUNDS, ATHLETICS AND OTHER INSTRUCTIONAL PURPOSES, AND ANY
20 ADMINISTRATIVE OFFICES.

21 (C) "WRITTEN NOTIFICATION" SHALL MEAN NOTICE IN WRITING THAT IS:
22 PROVIDED DIRECTLY TO STUDENTS' PARENTS OR GUARDIANS AND TO SCHOOL STAFF
23 MEMBERS; OR MAILED TO STUDENTS' PARENTS OR GUARDIANS AND TO STAFF
24 MEMBERS' LAST KNOWN ADDRESS; OR DELIVERED BY ANY OTHER REASONABLE METH-
25 ODS AUTHORIZED BY THE CHANCELLOR, SCHOOL DISTRICT SUPERINTENDENT, PRIN-
26 CIPAL OR HEADMASTER INCLUDING, BUT NOT LIMITED TO, INTERNET NOTIFICA-
27 TION.

28 2. SCHOOLS SHALL PROVIDE WRITTEN NOTIFICATION TO THE PARENT OR GUARDI-
29 AN OF A STUDENT AND TO SCHOOL FACULTY, STAFF AND ADMINISTRATORS NOT LESS
30 THAN FORTY-FIVE DAYS BEFORE CELL PHONE TOWERS, CELL PHONE ANTENNAS OR
31 BASE STATIONS ARE PLACED, MOUNTED OR ATTACHED ONTO SCHOOL FACILITIES.

32 3. ANY SCHOOL THAT VIOLATES SUBDIVISION TWO OF THIS SECTION SHALL BE
33 SUBJECT TO A CIVIL PENALTY OF FIVE HUNDRED DOLLARS FOR EACH DAY THAT
34 PASSES AFTER A BUILDING PERMIT HAS BEEN APPROVED TO BUILD A CELLULAR
35 PHONE TOWER, CELLULAR PHONE ANTENNA OR BASE STATION, TO BE MOUNTED OR
36 ATTACHED ONTO A SCHOOL FACILITY WITHOUT PROPER NOTIFICATION TO THE
37 PARENT OR GUARDIAN OF A STUDENT OR TO SCHOOL FACULTY, STAFF AND ADMINIS-
38 TRATORS.

39 S 3. Severability. If any provision of this act or the application
40 thereof to any person or circumstance is adjudged invalid by a court of
41 competent jurisdiction, such judgment shall not affect or impair any
42 other provisions or applications of this act which can be effected with-
43 out the invalid provision or application, and to this end the provisions
44 of this act are severable.

45 S 4. This act shall take effect on the one hundred eightieth day after
46 it shall have become a law.