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

457

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KRUEGER, DUANE, HUNTLEY, SERRANO -- 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 prohibiting certain prior housing court proceedings from being considered by landlords in the lease of property for residential purposes

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

Section 1. Legislative intent. The legislature hereby finds that some landlords refuse to offer available units because prospective tenants have previously been party to a judicial proceeding arising from a dispute between themselves and a prior landlord, and also finds that tenant screening reports are also being used by some landlords to inappropriately blacklist some prospective tenants. The legislature believes that a tenant's prior appearance in a judicial proceeding is not worthy of consideration when a landlord is reviewing a prospective tenant's application, except under the limited circumstances permitted by this act.

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

S 235-H. UNLAWFUL REFUSAL TO RENT TO A PROSPECTIVE TENANT. 1. AS USED IN THIS SECTION, THE TERMS:

(A) "HOUSING ACCOMMODATION" INCLUDES ANY BUILDING, STRUCTURE, OR PORTION THEREOF WHICH IS USED OR OCCUPIED OR IS INTENDED, ARRANGED OR DESIGNED TO BE USED OR OCCUPIED, AS THE HOME, RESIDENCE OR SLEEPING PLACE OF ONE OR MORE HUMAN BEINGS.

(B) "TENANT SCREENING REPORT" MEANS ANY WRITTEN, ORAL, OR OTHER COMMUNICATION OF ANY INFORMATION BY A CONSUMER REPORTING AGENCY BEARING ON A CONSUMER'S CREDIT WORTHINESS, CREDIT STANDING, CREDIT CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS, HISTORY OF CONTACT

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

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WITH ANY HOUSING, CIVIL OR CRIMINAL COURT OF ANY STATE, OR MODE OF LIVING, WHICH IS USED FOR OR EXPECTED TO BE USED OR COLLECTED IN WHOLE OR PART FOR THE PURPOSE OF SERVING AS A FACTOR IN EVALUATING A PROSPECTIVE TENANT.

(C) "PERSON" MEANS ANY NATURAL PERSON, FIRM, PARTNERSHIP, JOINT VENTURE, CORPORATION OR ASSOCIATION.

(D) "CONSUMER REPORTING AGENCY" MEANS ANY PERSON WHO, FOR MONETARY FEES, DUES, OR ON A COOPERATIVE NONPROFIT BASIS, REGULARLY ENGAGES IN WHOLE OR IN PART IN THE PRACTICE OF ASSEMBLING OR EVALUATING CONSUMER CREDIT INFORMATION OR OTHER INFORMATION ON CONSUMERS FOR THE PURPOSE OF FURNISHING CONSUMER REPORTS, TENANT SCREENING REPORTS OR OTHER INVESTIGATIVE CONSUMER REPORTS TO THIRD PARTIES.

2. IT SHALL BE AN UNLAWFUL PRACTICE FOR ANY PERSON, BEING THE OWNER, LANDLORD, LESSEE, PROPRIETOR, MANAGER, SUPERINTENDENT, AGENT OR EMPLOYEE OF ANY HOUSING ACCOMMODATION TO DENY ANY PERSON'S APPLICATION TO RENT OR LEASE A UNIT INTENDED TO BE USED PRIMARILY FOR RESIDENTIAL PURPOSES BASED, WHOLLY OR IN PART, ON INFORMATION OBTAINED FROM A TENANT SCREENING REPORT. IT SHALL ALSO BE UNLAWFUL TO DO SO BASED ON ANY INFORMATION INDICATING THAT SUCH PERSON WAS A LITIGANT IN AN ACTION OR PROCEEDING BROUGHT UNDER ARTICLE SEVEN OF THE REAL PROPERTY ACTIONS AND PROCEEDING LAW OR SECTION ONE HUNDRED TEN OF THE NEW YORK CITY CIVIL COURT ACT IN THE SUPREME COURT OR IN THE HOUSING PART OF THE NEW YORK CITY CIVIL COURT, OR BASED ON ANY OF THE FACTS OR ALLEGED FACTS DERIVED FROM SUCH A PROCEEDING, UNLESS:

(A) SUCH PERSON PREVIOUSLY APPEARED AS RESPONDENT OR DEFENDANT IN AN ACTION TO RECOVER REAL PROPERTY OR A SUMMARY PROCEEDING TO RECOVER POSSESSION OF REAL PROPERTY; AND

(B) A JUDGE RULED IN FAVOR OF THE PETITIONER OR PLAINTIFF; AND

(C) A WARRANT OF EVICTION WAS ISSUED AGAINST SUCH PERSON IN THAT ACTION OR PROCEEDING; AND

(D) SUCH PERSON, HAD NOT ENTERED INTO A VOLUNTARY AGREEMENT, SUCH AS A STIPULATION, CONSENT DECREE, OR ANY OTHER AGREEMENT CONSENTING TO A JUDGMENT OF POSSESSION.

3. ANY PERSON AGGRIEVED BY A VIOLATION OF THIS SECTION MAY MAINTAIN AN ACTION IN ANY COURT OF COMPETENT JURISDICTION FOR:

(A) AN INJUNCTION TO ENJOIN AND RESTRAIN SUCH UNLAWFUL PRACTICE;

(B) ACTUAL DAMAGES SUSTAINED AS A RESULT OF SUCH UNLAWFUL PRACTICE;

(C) COURT COSTS;

(D) LEGAL FEES;

(E) PUNITIVE DAMAGES AS DETERMINED BY THE TRIER OF FACT; AND

(F) COMPENSATORY DAMAGES AS DETERMINED BY THE TRIER OF FACT.

S 3. This act shall take effect immediately and shall apply to all landlord tenant relationships entered into or renewed on or after such date.