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

5251

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

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

AN ACT to amend the penal law, in relation to harassment of a rent regulated tenant in the first and second degree; to amend the state finance law, in relation to establishing the "quality affordable housing preservation fund"; and to amend the rent regulation reform act of 1997, in relation to making certain provisions permanent

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

Section 1. Section 241.05 of the penal law, as added by chapter 116 of the laws of 1997, is amended to read as follows:

S 241.05 Harassment of a rent regulated tenant IN THE FIRST DEGREE.

An owner is guilty of harassment of a rent regulated tenant when with intent to cause a rent regulated tenant to vacate a housing accommodation, such owner OR HIS OR HER REPRESENTATIVE:

1. With intent to cause physical injury to such tenant OR INTIMIDATE SUCH TENANT, causes [such] injury to such tenant or to a third person; [or]

2. Recklessly causes physical injury to such tenant or to a third person[.];

3. ENGAGES IN CONDUCT THAT VIOLATES THE PROVISIONS OF SECTION 241.10 OF THIS ARTICLE AND THE HEALTH OR SAFETY OF AN INDIVIDUAL OR A CONSIDERABLE NUMBER OF PERSONS HAVE BEEN COMPROMISED AS A RESULT OF THE OWNER OR HIS OR HER REPRESENTATIVE'S FAILURE TO REMEDIATE IMPROPER CONDITIONS AFTER RECEIVING THREE OR MORE COMPLAINTS FROM A TENANT OR TENANTS RELATIVE TO THOSE CONDITIONS; OR

4. CONDUCTS OR MAINTAINS ANY PREMISES, HOUSING UNITS, PLACE OR COMMON AREAS WHERE PERSONS GATHER FOR PURPOSES OF ENGAGING IN UNLAWFUL CONDUCT.

Harassment of a rent regulated tenant IN THE FIRST DEGREE is a class E felony.

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

LBD11223-01-1

S 2. The penal law is amended by adding a new section 241.10 to read as follows:

S 241.10 HARASSMENT OF A RENT REGULATED TENANT IN THE SECOND DEGREE.

1. AN OWNER IS GUILTY OF HARASSMENT OF A RENT REGULATED TENANT IN THE SECOND DEGREE WHEN WITH INTENT TO CAUSE A RENT REGULATED TENANT TO VACATE A HOUSING ACCOMMODATION, SUCH OWNER OR HIS OR HER REPRESENTATIVE ENGAGES IN CONDUCT EITHER UNLAWFUL OR UNREASONABLE UNDER THE CIRCUMSTANCES, KNOWINGLY OR RECKLESSLY CREATES OR MAINTAINS A CONDITION(S) WHICH ENDANGER(S) THE SAFETY OR HEALTH OF AN INDIVIDUAL OR A CONSIDERABLE NUMBER OF PERSONS AND THE TENANT OR TENANTS HAVE NOTIFIED THE LANDLORD ON THREE SUCCESSIVE OCCASIONS AND SUCH OWNER OR REPRESENTATIVE IGNORES COMPLAINTS RELATIVE TO THOSE CONDITIONS.

2. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR, AND UPON CONVICTION THEREOF SHALL PAY A FINE OF THREE THOUSAND DOLLARS FOR EACH OFFENSE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED INTO THE QUALITY AFFORDABLE HOUSING PRESERVATION FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-Q OF THE STATE FINANCE LAW FOR THE INVESTIGATION AND PROSECUTION OF CRIMES UNDER THIS ARTICLE.

HARASSMENT OF A RENT REGULATED TENANT IN THE SECOND DEGREE IS A MISDEMEANOR.

S 3. The state finance law is amended by adding a new section 99-u to read as follows:

S 99-U. QUALITY AFFORDABLE HOUSING PRESERVATION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL A FUND TO BE KNOWN AS THE "QUALITY AFFORDABLE HOUSING PRESERVATION FUND".

2. SUCH FUND SHALL CONSIST OF ALL MONEYS COLLECTED PURSUANT TO THE PROVISIONS OF SECTIONS 241.05 AND 241.10 OF THE PENAL LAW AND ALL OTHER MONEYS APPROPRIATED, CREDITED, OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW. ANY INTEREST RECEIVED BY THE COMPTROLLER ON MONEYS ON DEPOSIT IN SUCH FUND SHALL BE RETAINED IN AND BECOME PART OF SUCH FUND.

3. MONEYS OF THIS ACCOUNT SHALL BE AVAILABLE TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL TO PAY FOR THE COSTS OF INVESTIGATING AND PROSECUTING VIOLATIONS OF ARTICLE TWO HUNDRED FORTY-ONE OF THE PENAL LAW.

4. ALL PAYMENTS FROM THE FUND SHALL BE MADE ON THE AUDIT AND WARRANT OF THE COMPTROLLER.

S 4. Subdivision 6 of section 46 of chapter 116 of the laws of 1997, constituting the rent regulation reform act of 1997, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

6. sections [twenty-eight,] twenty-eight-a, twenty-eight-b and twenty-eight-c of this act shall expire and be deemed repealed after June 15, 2011;

S 5. This act shall take effect immediately; provided, however, sections one, two and three of this act shall take effect on the ninetieth day after it shall have become a law.