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

5779--A

2011-2012 Regular Sessions

I N S E N A T E

June 16, 2011

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to prohibiting retaliation by landlords against legal occupants who operate certain family day care homes; and to amend the social services law, in relation to requiring family day care homes to carry certain insurance

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

Section 1. Subdivisions 1, 2 and 4 of section 223-b of the real property law, as amended by chapter 584 of the laws of 1991, are amended to read as follows:

1. No landlord of premises or units to which this section is applicable shall serve a notice to quit upon any tenant or commence any action to recover real property or summary proceeding to recover possession of real property in retaliation for:

a. A good faith complaint, by or in behalf of the tenant, to a governmental authority of the landlord's alleged violation of any health or safety law, regulation, code, or ordinance, or any law or regulation which has as its objective the regulation of premises used for dwelling purposes or which pertains to the offense of rent gouging in the third, second or first degree; or

b. Actions taken in good faith, by or in behalf of the tenant, to secure or enforce any rights under the lease or rental agreement, under section two hundred thirty-five-b of this chapter, or under any other law of the state of New York, or of its governmental subdivisions, or of the United States which has as its objective the regulation of premises used for dwelling purposes or which pertains to the offense of rent gouging in the third, second or first degree; or

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

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c. The tenant's participation in the activities of a tenant's organization; OR

D. THE TENANT'S OR OTHER LEGAL OCCUPANT'S OPERATION OF A GROUP FAMILY DAY CARE HOME OR FAMILY DAY CARE HOME PURSUANT TO SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW.

2. No landlord or premises or units to which this section is applicable shall substantially alter the terms of the tenancy in retaliation for any actions set forth in paragraphs a, b, [and] c, AND D of subdivision one of this section. Substantial alteration shall include, but is not limited to, the refusal to continue a tenancy of the tenant or, upon expiration of the tenant's lease, to renew the lease or offer a new lease; provided, however, that a landlord shall not be required under this section to offer a new lease or a lease renewal for a term greater than one year and after such extension of a tenancy for one year shall not be required to further extend or continue such tenancy.

4. In any action to recover real property or summary proceeding to recover possession of real property, judgment shall be entered for the tenant if the court finds that the landlord is acting in retaliation for any action set forth in paragraphs a, b, [and] c, AND D of subdivision one of this section and further finds that the landlord would not otherwise have commenced such action or proceeding. Retaliation shall be asserted as an affirmative defense in such action or proceeding. The tenant shall not be relieved of the obligation to pay any rent for which he is otherwise liable.

S 2. Subparagraph (i) of paragraph (d) of subdivision 2 of section 390 of the social services law, as amended by chapter 416 of the laws of 2000, is amended to read as follows:

(i) The office of children and family services shall promulgate regulations for licensure and for registration of child day care pursuant to this section. Procedures for obtaining a license or registration or renewing a license shall include a satisfactory inspection of the facility by the office of children and family services prior to issuance of the license or registration or renewal of the license AND SHALL INCLUDE A REQUIREMENT THAT ANY GROUP FAMILY DAY CARE HOME OR FAMILY DAY CARE HOME OPERATING ON LEASED OR RENTED PREMISES SHALL OBTAIN INSURANCE THAT INSULATES THE PROPERTY OWNER FROM LIABILITY.

S 3. This act shall take effect immediately.