

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

128--C

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. MONTESANO, STEVENSON, M. MILLER -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to authorized on-site inspections of housing in violation of zoning laws

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

1 Section 1. The general municipal law is amended by adding a new
2 section 99-w to read as follows:
3 S 99-w. INSPECTION AUTHORIZED. ANY ADVERTISEMENT OR LISTING, INCLUD-
4 ING, BUT NOT LIMITED TO, NEWSPAPER, "PENNYSAVER" OR SUPERMARKET PAPER,
5 ADVERTISING FLYER, INTERNET LISTING, ELECTRONIC MAIL LIST OR OTHER LIST-
6 ING, OFFERING FOR RENT ANY RESIDENTIAL DWELLING UNIT IN EXCESS OF THAT
7 PERMITTED BY THE APPLICABLE ZONING CODE OR LAW OR ANY CERTIFICATE OF
8 OCCUPANCY OR CERTIFICATE OF PRIOR NON-CONFORMING USE ON FILE WITH THE
9 MUNICIPAL OR GOVERNMENTAL ENTITY HAVING JURISDICTION OVER THE PREMISES,
10 SHALL CREATE A REBUTTABLE PRESUMPTION THAT SUCH USE VIOLATES SUCH CODE,
11 LAW OR CERTIFICATE, WHICH PRESUMPTION SHALL BE SUFFICIENT CAUSE TO
12 AUTHORIZE, UNDER THIS SECTION, UPON OBTAINING A SEARCH WARRANT, AN
13 ON-SITE INSPECTION BY A MUNICIPAL HOUSING OR BUILDING INSPECTOR OR TAX
14 ASSESSOR FOR THE LIMITED PURPOSE OF CONFIRMING COMPLIANCE WITH THE
15 APPLICABLE ZONING CODE OR LAW AFFECTING THE PREMISES, OR CERTIFICATE OF
16 OCCUPANCY, CERTIFICATE OF PRIOR NON-CONFORMING USE OR ANY OTHER CERTIF-
17 ICATE, NOTICE, FORM OR OTHER DOCUMENT RELATING TO AUTHORIZED OCCUPANCY
18 OR USAGE WHICH IS ISSUED BY A MUNICIPAL OR GOVERNMENTAL ENTITY HAVING

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

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1 JURISDICTION OVER SUCH MATTERS. PURSUANT TO THIS SECTION, SUCH ADVER-
2 TISEMENT OR LISTING MAY CONSTITUTE PROBABLE CAUSE FOR THE ISSUANCE OF A
3 SEARCH WARRANT PURSUANT TO ARTICLE SIX HUNDRED NINETY OF THE CRIMINAL
4 PROCEDURE LAW.
5 A NOTICE OF VIOLATION MAY BE ISSUED TO THE OWNER OF THE PREMISES, AT
6 THE ADDRESS LISTED ON THE LATEST AVAILABLE TAX ASSESSOR'S RECORDS, UPON
7 DELIVERY OF WHICH THE OWNER SHALL HAVE AT LEAST SEVEN DAYS TO PROVIDE
8 PROOF OF COMPLIANCE WITH THE ZONING CODE OR LAW OR CERTIFICATE. THE
9 PRODUCTION OF PROOF OF COMPLIANCE SHALL SERVE TO REBUT THE PRESUMPTION
10 AND NO SUMMONSES, VIOLATIONS OR APPEARANCE TICKETS SHALL BE ISSUED.
11 S 2. This act shall take effect immediately.