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

1454

2011-2012 Regular Sessions

I N A S S E M B L Y

January 10, 2011

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law and the administrative code of the city of New York, in relation to imposing civil penalties on landlords for including unenforceable provisions in residential leases

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

Section 1. The real property law is amended by adding a new section 235-h to read as follows:

S 235-H. CIVIL PENALTY. IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW, A COURT MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS PER VIOLATION, UPON PROOF TO THE SATISFACTION OF THE COURT THAT AN OWNER HAS INCLUDED IN A RESIDENTIAL LEASE CLAUSE OR RIDER ANY PROVISION THAT IS PROHIBITED UNDER STATE OR LOCAL LAW, RENDERING THAT PROVISION VOID OR UNENFORCEABLE. SUCH CIVIL PENALTY MAY BE SOUGHT BY APPLICATION BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK AND SHALL BE PAYABLE TO THE MUNICIPALITY IN WHICH THE SUBJECT PREMISES IS LOCATED.

S 2. The administrative code of the city of New York is amended by adding a new section 26-516.1 to read as follows:

S 26-516.1 CIVIL PENALTY. IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW, THE COMMISSIONER OF THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS PER VIOLATION, UPON PROOF TO THE SATISFACTION OF THE COMMISSIONER THAT AN OWNER HAS INCLUDED IN A LEASE CLAUSE OR RIDER ANY PROVISION THAT IS PROHIBITED UNDER STATE OR LOCAL LAW, RENDERING THAT PROVISION VOID OR UNENFORCEABLE. SUCH CIVIL PENALTY MAY BE RECOVERED BY ADMINISTRATIVE ORDER AFTER A HEARING. SUCH ORDER SHALL BE DEEMED A FINAL DETERMINATION FOR THE PURPOSES OF JUDICIAL REVIEW. SUCH ACTION SHALL BE BROUGHT ON BEHALF OF THE CITY AND ANY AMOUNT RECOVERED SHALL BE PAID INTO THE CITY TREASURY. SUCH PENALTY MAY, UPON THE EXPIRATION OF THE PERIOD FOR SEEK-

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

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ING REVIEW PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES, BE DOCKETED AND ENFORCED IN THE MANNER OF A JUDGMENT OF THE SUPREME COURT.

S 3. This act shall take effect immediately; and provided that the addition of section 26-516.1 to chapter 4 of title 26 of the administrative code of the city of New York made by section two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law.