

1801

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. ESPAILLAT -- 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 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:

1 Section 1. Subdivisions 1, 2 and 4 of section 223-b of the real prop-
2 erty law, as amended by chapter 584 of the laws of 1991, are amended to
3 read as follows:
4 1. No landlord of premises or units to which this section is applica-
5 ble shall serve a notice to quit upon any tenant or commence any action
6 to recover real property or summary proceeding to recover possession of
7 real property in retaliation for:
8 a. A good faith complaint, by or in behalf of the tenant, to a govern-
9 mental authority of the landlord's alleged violation of any health or
10 safety law, regulation, code, or ordinance, or any law or regulation
11 which has as its objective the regulation of premises used for dwelling
12 purposes or which pertains to the offense of rent gouging in the third,
13 second or first degree; or
14 b. Actions taken in good faith, by or in behalf of the tenant, to
15 secure or enforce any rights under the lease or rental agreement, under
16 section two hundred thirty-five-b of this chapter, or under any other
17 law of the state of New York, or of its governmental subdivisions, or of
18 the United States which has as its objective the regulation of premises
19 used for dwelling purposes or which pertains to the offense of rent
20 gouging in the third, second or first degree; or
21 c. The tenant's participation in the activities of a tenant's organ-
22 ization; OR

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

LBD02222-02-3

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

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

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

23 S 2. Subparagraph (i) of paragraph (d) of subdivision 2 of section 390
24 of the social services law, as amended by chapter 416 of the laws of
25 2000, is amended to read as follows:

26 (i) The office of children and family services shall promulgate regu-
27 lations for licensure and for registration of child day care pursuant to
28 this section. Procedures for obtaining a license or registration or
29 renewing a license shall include a satisfactory inspection of the facil-
30 ity by the office of children and family services prior to issuance of
31 the license or registration or renewal of the license AND SHALL INCLUDE
32 A REQUIREMENT THAT ANY GROUP FAMILY DAY CARE HOME OR FAMILY DAY CARE
33 HOME OPERATING ON LEASED OR RENTED PREMISES SHALL OBTAIN INSURANCE THAT
34 INSULATES THE PROPERTY OWNER FROM LIABILITY.

35 S 3. This act shall take effect immediately.