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

9061--B

I N A S S E M B L Y

March 12, 2014

Introduced by M. of A. ROSENTHAL, MILLER, MOSLEY, DINOWITZ, COOK, SCARBOROUGH, ROBINSON, WRIGHT -- Multi-Sponsored by -- M. of A. CAMARA, GLICK, RIVERA -- read once and referred to the Committee on Housing -- 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 real property law, in relation to non-preferential opportunity for use of amenities in certain buildings and apartments

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. NON-PREFERENTIAL OPPORTUNITY FOR USE OF AMENITIES. 1. ANY RENTAL TENANT MUST BE PROVIDED WITH THE OPPORTUNITY TO USE AMENITIES THAT ARE ACCESSIBLE TO ANY OCCUPANT AND/OR NOT UNIQUE TO AN INDIVIDUAL UNIT, INCLUDING, BUT NOT LIMITED TO: POOLS, FITNESS CENTERS, STORAGE SPACES, PARKING, AND ROOFS OR GARDENS ACCESSIBLE TO BUILDING TENANTS, IN BUILDINGS OR COMPLEXES WHERE SUCH AMENITIES EXIST, PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ONE- OR TWO-FAMILY DWELLINGS.

2. AN OWNER MAY CHARGE A FEE TO RENTAL TENANTS FOR USE OF AMENITIES PROVIDED THAT SUCH FEE IS NOT PROHIBITIVE TO SUCH TENANTS, PROVIDED, HOWEVER, THAT SUCH FEE SHALL NOT BECOME PART OF THE RENT. NOTHING IN THIS SECTION SHALL PROHIBIT ANY OWNER FROM PROMULGATING UNIFORMLY APPLICABLE RULES ON THE USE OF AMENITIES THROUGH SYSTEMS, INCLUDING BUT NOT LIMITED TO: SIGN-UP SHEETS, WAITING LISTS, OR LOTTERIES, PROVIDED, HOWEVER THAT NO TENANT SHALL BE REQUIRED TO USE OR PAY A FEE FOR ANY AMENITY AS A CONDITION OF THE RENTAL OF THEIR RESIDENTIAL UNIT.

3. IN CASES WHERE THE USE OF AMENITIES BY ALL OCCUPANTS IS DENIED, SUCH DENIAL SHALL NOT PROVIDE THE BASIS FOR A RENT REDUCTION ORDER PURSUANT TO SECTION 26-405 OR 26-509 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, UNLESS USE OF THE AMENITIES WAS HISTORICALLY PROVIDED OR IS A REQUIRED SERVICE. AN OWNER MAY CHANGE OR COMPLETELY REMOVE ANY

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

LBD14371-11-4

AMENITY PURSUANT TO SUBDIVISION ONE OF THIS SECTION WITHOUT BEING SUBJECT TO A CLAIM OF DIMINUTION OF SERVICES.

4. AN OWNER OF A BUILDING OR COMPLEX THAT IS FOUND IN VIOLATION OF SUBDIVISION ONE OF THIS SECTION IS PUNISHABLE BY A FINE NOT TO EXCEED TWO THOUSAND DOLLARS. PRIOR TO THE APPLICATION OF ANY PENALTIES SET FORTH IN THIS SECTION, AN OWNER FOUND TO BE IN VIOLATION OF THIS SECTION SHALL BE GIVEN THIRTY DAYS FROM THE DATE OF RECEIVING SUCH FINDING TO CURE THE VIOLATING CONDITION OR CONDITIONS.

5. THE COMMISSIONER OF HOUSING PRESERVATION AND DEVELOPMENT IN CITIES HAVING A POPULATION OF ONE MILLION OR MORE OR THE COMMISSIONER OF HOMES AND COMMUNITY RENEWAL ARE HEREBY DIRECTED TO PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO:

(A) ENFORCEMENT MECHANISM OF PROVISIONS IN THIS SECTION;

(B) CREATING A SYSTEM OF RECEIVING AND INVESTIGATING COMPLAINTS REGARDING VIOLATIONS OF THIS SECTION, INCLUDING A SYSTEM ON HOW AN OWNER CAN CURE SUCH VIOLATIONS; AND

(C) SYSTEM OF NOTIFICATION FOR AN OWNER TO BE AWARE OF A FINDING OF VIOLATIONS AND WHAT WILL BE THE ENFORCEMENT MECHANISMS.

6. ANY PENALTY ASSESSED FOR THE VIOLATION OF ANY OF THE PROVISIONS OF THIS SECTION SHALL BE PAYABLE TO THE COMMISSIONER OF HOUSING PRESERVATION AND DEVELOPMENT IF THE VIOLATION OCCURRED IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE, OR THE COMMISSIONER OF HOMES AND COMMUNITY RENEWAL IF IT DID NOT.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.