

1278

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 9, 2015

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Introduced by M. of A. ROSENTHAL, MILLER, MOSLEY, DINOWITZ, COOK, SCAR-  
BOROUGH, ROBINSON, WRIGHT, HOOPER -- Multi-Sponsored by -- M. of A.  
CAMARA, GLICK, RIVERA -- read once and referred to the Committee on  
Housing

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The real property law is amended by adding a new section  
2     235-h to read as follows:  
3     S 235-H. NON-PREFERENTIAL OPPORTUNITY FOR USE OF AMENITIES. 1. ANY  
4     RENTAL TENANT MUST BE PROVIDED WITH THE OPPORTUNITY TO USE AMENITIES  
5     THAT ARE ACCESSIBLE TO ANY OCCUPANT AND/OR NOT UNIQUE TO AN INDIVIDUAL  
6     UNIT, INCLUDING, BUT NOT LIMITED TO: POOLS, FITNESS CENTERS, STORAGE  
7     SPACES, PARKING, AND ROOFS OR GARDENS ACCESSIBLE TO BUILDING TENANTS, IN  
8     BUILDINGS OR COMPLEXES WHERE SUCH AMENITIES EXIST, PROVIDED, HOWEVER,  
9     THAT THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ONE- OR TWO-FAMI-  
10    LY DWELLINGS.  
11    2. AN OWNER MAY CHARGE A FEE TO RENTAL TENANTS FOR USE OF AMENITIES  
12    PROVIDED THAT SUCH FEE IS NOT PROHIBITIVE TO SUCH TENANTS, PROVIDED,  
13    HOWEVER, THAT SUCH FEE SHALL NOT BECOME PART OF THE RENT. NOTHING IN  
14    THIS SECTION SHALL PROHIBIT ANY OWNER FROM PROMULGATING UNIFORMLY APPLI-  
15    CABLE RULES ON THE USE OF AMENITIES THROUGH SYSTEMS, INCLUDING BUT NOT  
16    LIMITED TO: SIGN-UP SHEETS, WAITING LISTS, OR LOTTERIES, PROVIDED,  
17    HOWEVER THAT NO TENANT SHALL BE REQUIRED TO USE OR PAY A FEE FOR ANY  
18    AMENITY AS A CONDITION OF THE RENTAL OF THEIR RESIDENTIAL UNIT.  
19    3. IN CASES WHERE THE USE OF AMENITIES BY ALL OCCUPANTS IS DENIED,  
20    SUCH DENIAL SHALL NOT PROVIDE THE BASIS FOR A RENT REDUCTION ORDER  
21    PURSUANT TO SECTION 26-405 OR 26-509 OF THE ADMINISTRATIVE CODE OF THE  
22    CITY OF NEW YORK, UNLESS USE OF THE AMENITIES WAS HISTORICALLY PROVIDED  
23    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.

LBD04297-01-5

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

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

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

14 (A) ENFORCEMENT MECHANISM OF PROVISIONS IN THIS SECTION;

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

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

20 6. ANY PENALTY ASSESSED FOR THE VIOLATION OF ANY OF THE PROVISIONS OF  
21 THIS SECTION SHALL BE PAYABLE TO THE COMMISSIONER OF HOUSING PRESERVA-  
22 TION AND DEVELOPMENT IF THE VIOLATION OCCURRED IN A CITY HAVING A POPU-  
23 LATION OF ONE MILLION OR MORE, OR THE COMMISSIONER OF HOMES AND COMMUNI-  
24 TY RENEWAL IF IT DID NOT.

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