

STATE OF NEW YORK

5125

2019-2020 Regular Sessions

IN SENATE

April 10, 2019

Introduced by Sen. MONTGOMERY -- 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 limitations on smart access systems for entry and restricts information that may be gathered from such systems

The People of the State of New York, represented in Senate and Assembly, 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 § 235-h. Smart access systems for entry. 1. A landlord shall not
4 require a lessee or tenant to use a smart access system for means of
5 entry as the only method of entry for building entrances, common areas,
6 elevators, garage gates, or apartment entry doors. A traditional method
7 of entry shall be provided to any lessee or tenant that requests a
8 traditional method of entry and such lessee or tenant shall not be
9 restricted to access building entrances, common areas, elevators, garage
10 gates, apartment entry doors or other conveniences of the building. A
11 landlord shall not assess any fee or other charge for a lessee or tenant
12 that chooses not to use a smart access system.

13 2. (a) Information gathered by any smart access system shall be limit-
14 ed to the lessee or tenant's name and apartment number and the preferred
15 method of contact for such lessee or tenant. Also, information gathered
16 may include a guest's name, time in and out and the apartment to be
17 visited.

18 (b) It shall be prohibited to collect any information or the likeness
19 of a minor resident or guest, information on the relationship status of
20 tenants, lessee and/or guests, the frequency of the use of the smart
21 access system by a lessee, tenant or guest, or the frequency, time and
22 use of guest access codes.

23 3. GPS monitoring may only record lessee, tenant or guest location at
24 the point of entry to the building, and shall not record or store data

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

LBD10358-01-9

1 about movement within the building after the point of entry or anywhere
2 outside of the building. In addition, users of the smart access system
3 must be provided with a mechanism for turning the GPS on and off.

4 4. (a) Information collected pursuant to subdivision two or three of
5 this section shall not be stored for longer than twenty-four hours.

6 (b) Information that is acquired via the use of a smart access system
7 shall not be used for any purposes other than monitoring building
8 entrances and shall not be used as the basis for an action to evict a
9 lessee or tenant.

10 (c) Data collected through a smart access system may only be shared
11 with third parties with the express consent of the lessee or tenant. Use
12 of the smart access system shall not be made conditional upon the shar-
13 ing of such data.

14 (d) Information or data collected shall not be made available to
15 government or law enforcement unless upon a warrant or other govern-
16 mental process.

17 5. (a) Future or continuing tenancy shall not be conditioned upon
18 consenting to the use of a smart access system.

19 (b) Any agreement by a lessee or tenant of a dwelling waiving or modi-
20 fying his or her rights as set forth in this section shall be void as
21 contrary to public policy.

22 6. For purposes of this section, "smart access system" means any elec-
23 tronic based system that allows keyless entry. A "smart access system"
24 may include the use of, but not be limited to, smart phones, mobile
25 apps, wi-fi or Bluetooth technology.

26 § 2. The real property law is amended by adding a new section 339-11
27 to read as follows:

28 § 339-11. Smart access systems for entry. 1. A condominium association
29 shall not require a unit owner to use a smart access system for means of
30 entry as the only method of entry for building entrances, common areas,
31 elevators, garage gates, or entry doors. A traditional method of entry
32 shall be provided to any unit owner that requests a traditional method
33 of entry and such unit owner shall not be restricted to access building
34 entrances, common areas, elevators, garage gates, entry doors or other
35 conveniences of the building. A condominium association shall not assess
36 any fee or other charge for a unit owner that chooses not to use a smart
37 access system.

38 2. (a) Information gathered by any smart access system shall be limit-
39 ed to the owner or tenant's name and unit number and the preferred meth-
40 od of contact for such owner or tenant. Also, information gathered may
41 include a guest's name, time in and out and the unit to be visited.

42 (b) It shall be prohibited to collect any information or the likeness
43 of a minor resident or guest, information on the relationship status of
44 owners, tenants and/or guests, the frequency of the use of the smart
45 access system by an owner, tenant or guest, or the frequency, time and
46 use of guest access codes.

47 3. GPS monitoring may only record owner, tenant or guest location at
48 the point of entry to the building, and shall not record or store data
49 about movement within the building after the point of entry or anywhere
50 outside of the building. In addition, users of the smart access system
51 must be provided with a mechanism for turning the GPS on and off.

52 4. (a) Information collected pursuant to subdivision two or three of
53 this section shall not be stored for longer than twenty-four hours.

54 (b) Information that is acquired via the use of a smart access system
55 shall not be used for any purposes other than monitoring building

1 entrances and shall not be used as the basis for an action against an
2 owner or tenant.

3 (c) Data collected through a smart access system may only be shared
4 with third parties with the express consent of the owner or tenant. Use
5 of the smart access system shall not be made conditional upon the shar-
6 ing of such data.

7 (d) Information or data collected shall not be made available to
8 government or law enforcement unless upon a warrant or other govern-
9 mental process.

10 5. (a) Future or continuing ownership or tenancy shall not be condi-
11 tioned upon consenting to the use of a smart access system.

12 (b) Any agreement by a owner or tenant of a dwelling waiving or modi-
13 fying his or her rights as set forth in this section shall be void as
14 contrary to public policy.

15 6. For purposes of this section, "smart access system" means any elec-
16 tronic based system that allows keyless entry. A "smart access system"
17 may include the use of, but not be limited to, smart phones, mobile
18 apps, wi-fi or Bluetooth technology.

19 § 3. This act shall take effect immediately.