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:

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

§ 235-h. Smart access systems for entry. 1. A landlord shall not require a lessee or tenant to use a smart access system for means of entry as the only method of entry for building entrances, common areas, elevators, garage gates, or apartment entry doors. A traditional method of entry shall be provided to any lessee or tenant that requests a traditional method of entry and such lessee or tenant shall not be restricted to access building entrances, common areas, elevators, garage gates, apartment entry doors or other conveniences of the building. A landlord shall not assess any fee or other charge for a lessee or tenant that chooses not to use a smart access system.

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

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

3. GPS monitoring may only record lessee, tenant or guest location at 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

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

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

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

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

(d) Information or data collected shall not be made available to government or law enforcement unless upon a warrant or other governmental process.

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

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

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

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

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

2. (a) Information gathered by any smart access system shall be limited to the owner or tenant's name and unit number and the preferred method of contact for such owner or tenant. Also, information gathered may include a guest's name, time in and out and the unit to be visited.

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

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

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

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

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

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

(d) Information or data collected shall not be made available to government or law enforcement unless upon a warrant or other governmental process.

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

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

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

§ 3. This act shall take effect immediately.