

# STATE OF NEW YORK

5125--B

2019-2020 Regular Sessions

## IN SENATE

April 10, 2019

Introduced by Sens. MONTGOMERY, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling 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 multiple dwelling law is amended by adding a new  
2 section 50-b to read as follows:

3 § 50-b. Entrances; keys and electronic or computerized entry system.  
4 1. Consistent with the provisions of this title, for every entrance from  
5 the street, passageway, court, yard, cellar, or similar entrance to a  
6 class A multiple dwelling, a tenant, at their request, shall be provided  
7 with a key at no charge that does not rely on an electronic or computer-  
8 ized entry system to facilitate entrance to such multiple dwelling.

9 2. Data collection. a. Electronic and/or computerized data. If an  
10 electronic and/or computerized entry system is utilized to gain entrance  
11 to a class A multiple dwelling, the only information gathered by any  
12 electronic and/or computerized entry system shall be limited to the  
13 lessee or tenant's name and apartment number, and the preferred method  
14 of contact for such lessee or tenant. For electronic and computerized  
15 entry systems that rely on the collection of biometric data and which  
16 have already been installed at the time this section shall have become  
17 law, a biometric identifier may be collected pursuant to this section in  
18 order to register a lessee or tenant for an electronic and/or computer-  
19 ized entry system. No new electronic and/or computerized entry systems  
20 that rely on the collection of biometric data shall be installed in

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

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1 class A multiple dwellings for three years after the effective date of  
2 this section.

3 (i) The owner of the multiple dwelling may collect only the minimum  
4 data required by the technology used in the electronic and/or computer-  
5 ized entry system to effectuate such entrance and protect the privacy of  
6 such tenants.

7 (ii) A copy of such data may be retained for reference at the point of  
8 authentication by the electronic and/or computerized entry system. Such  
9 reference data may be retained only for tenants or those authorized by  
10 the tenant.

11 (iii) The owner of the multiple dwelling shall destroy the electronic,  
12 physical, and/or computerized data collected, except for reference data,  
13 within a reasonable time, but not later than thirty days after the date  
14 collected.

15 (iv) Reference data for a tenant or those authorized by a tenant shall  
16 be destroyed within thirty days of (1) the tenant permanently vacating  
17 the dwelling, or (2) a request by the tenant to withdraw authorization  
18 for those previously authorized by the tenant.

19 b. Biometric identifier. (i) For the purposes of this section, "biome-  
20 tric identifier" means a retina or iris scan, fingerprint, voiceprint,  
21 or record of hand, face geometry or other similar feature.

22 (ii) An entity may not capture a biometric identifier of an individual  
23 to gain entrance to a class A multiple dwelling unless the person is a  
24 tenant or person authorized by the tenant, and informs the individual  
25 before capturing the biometric identifier; and receives their express  
26 consent to capture the biometric identifier.

27 (iii) Any entity that possesses a biometric identifier of an individ-  
28 ual that is captured to gain entrance to a class A multiple dwelling:

29 (1) May not sell, lease or otherwise disclose the biometric identifier  
30 to another person unless pursuant to a grand jury subpoena or court  
31 ordered warrant, subpoena, or other authorized court ordered process.

32 (2) Shall store, transmit and protect from disclosure the biometric  
33 identifier using reasonable care and in a manner that is the same as or  
34 more protective than the manner in which the person stores, transmits  
35 and protects confidential information the person possesses; and

36 (3) Shall destroy the biometric identifier within a reasonable time,  
37 but not later than forty-eight hours after the date collected, except  
38 for reference data. If any prohibited information is collected, such as  
39 the likeness of a minor or a non-tenant, the information shall be  
40 destroyed immediately.

41 c. Policy. The owner of the multiple dwelling, or the managing agent,  
42 must develop written procedures which describe the process used to add  
43 persons authorized by the tenant to electronic and/or computerized entry  
44 systems on a temporary or permanent basis, such as visitors, children,  
45 their employees, and caregivers to such building.

46 (i) The procedures must clearly establish the owner's retention sched-  
47 ule and guidelines for permanently destroying the data collected.

48 (ii) The procedures cannot limit time or place of entrance by such  
49 people authorized by the tenant.

50 3. Prohibitions. a. No form of location tracking, including but not  
51 limited to satellite location based services, shall be included in any  
52 equipment, key, or software provided to tenants or guests as part of an  
53 electronic and/or computerized entry system.

54 b. It shall be prohibited to collect through an electronic and/or  
55 computerized entry system the likeness of a minor occupant, information  
56 on the relationship status of tenants, lessees and/or guests, the

1 frequency of the use of the electronic and/or computerized entry system  
2 by a lessee, tenant or guest, or the frequency, time and use of guest  
3 access codes.

4 c. Information that is acquired via the use of an electronic and/or  
5 computerized entry system shall not be used for any purposes other than  
6 monitoring building entrances and shall not be used as the basis or  
7 support for an action to evict a lessee or tenant, or an administrative  
8 hearing seeking a change in regulatory coverage for an individual or  
9 unit. However, a tenant may authorize their information to be used by a  
10 third party, but such a request must clearly state who will have access  
11 to such information, for what purpose it will be used, and the privacy  
12 policies which will protect their information. Under no circumstances  
13 may a lease or a renewal be contingent upon authorizing such use. Elec-  
14 tronic and/or computerized systems may use third-party services to the  
15 extent required to maintain and operate system infrastructure, including  
16 cloud-based hosting and storage. The provider or providers of third-par-  
17 ty infrastructure services must meet or exceed the privacy protections  
18 set forth in this section and will be subject to the same liability for  
19 breach of any of the requirements of this section.

20 d. Information and data collected shall not be made available to any  
21 third party, unless authorized as described above, including but not  
22 limited to law enforcement, except upon a grand jury subpoena or a court  
23 ordered warrant, subpoena, or other authorized court ordered process.

24 4. Storage of information. Any information or data collected shall be  
25 stored in a secure manner to prevent unauthorized access by both employ-  
26 ees and contractors and those unaffiliated with the landlord or their  
27 agents, except as otherwise provided in this section. Future or continu-  
28 ing tenancy shall not be conditioned upon consenting to the use of an  
29 electronic and/or computerized entry system.

30 5. Waiver of rights; void. Any agreement by a lessee or tenant of a  
31 dwelling waiving or modifying his or her rights as set forth in this  
32 section shall be void as contrary to public policy.

33 6. Penalties. A person who violates this section is subject to a civil  
34 penalty of not more than five thousand dollars for each violation. The  
35 attorney general may bring an action to recover the civil penalty. An  
36 individual injured by a violation of this section may bring an action to  
37 recover damages. A court may also award attorneys' fees to a prevailing  
38 plaintiff.

39 7. Exemption. Nothing herein shall apply to multiple dwellings owned  
40 or managed by an entity subject to 42 U.S.C. § 1437 et seq., or any of  
41 its subsidiaries.

42 § 2. Severability. If any provision of this act, or any application of  
43 any provision of this act, is held to be invalid, that shall not affect  
44 the validity or effectiveness of any other provision of this act, or of  
45 any other application of any provision of this act, which can be given  
46 effect without that provision or application; and to that end, the  
47 provisions and applications of this act are severable.

48 § 3. This act shall take effect immediately.