STATE OF NEW YORK

7288--A

IN SENATE

January 16, 2020

Introduced by Sens. KAVANAGH, SKOUFIS, BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, the multiple residence law and the multiple dwelling law, in relation to a statewide residential rental registry

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The executive law is amended by adding a new section 381-a to read as follows:

§ 381-a. Statewide rental registry. 1. The secretary shall administer a statewide residential rental registry pursuant to the requirements of this section and shall develop a public online rental registry database designed to receive information from landlords and local governments and code enforcement agencies and to disseminate such information to the public.

2. The following words or terms when used in this section are defined as follows:

(a) "Code enforcement" means the administration and enforcement of the uniform fire prevention code and building code promulgated in accordance with sections three hundred seventy-seven and three hundred seventy-eight of this article, the state energy conservation construction code adopted in accordance with article eleven of the energy law, and any local building and fire regulations and any local residential housing codes enacted or adopted by any local government that are in effect pursuant to section three hundred seventy-nine of this article.

(b) "Covered dwelling" means a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of two or more families living independently of each other.

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

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(c) "Dwelling" means any building or structure or portion thereof which is occupied in whole or in part as the home, residence, or sleeping place of one or more human beings.

(d) "Family" means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder", "roomer" or "lodger" residing with a family shall mean a person living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein.

(e) "Managing agent" means a natural person who is over the age of twenty-one years and a resident of the county in which the property is located, resides within thirty miles of the property, or customarily and regularly attends a business office maintained in the county or within thirty miles of the property, and is designated by the owner to receive service of notices and summons issued by the local code enforcement agency. Nothing in this paragraph shall be construed as abrogating or impairing the power of any local government to promulgate more restrictive definitions or rules related to managing agents.

(f) "Owner" means the owner or owners of the freehold of the premises or lessor estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, agent, or any other person, firm or corporation, directly or indirectly in control of a dwelling.

(g) "Private dwelling" means any building or structure designed and occupied exclusively for residential purposes by not more than one family.

(h) "Secretary" means the secretary of state.

3. The owner of a covered dwelling shall register such dwelling with the department of state annually in accordance with the rules and regulations prescribed by the secretary, except that registration with the department of state shall not be required where the owner is required to register with a local government under which the property is situated in a manner that complies with the rules and regulations prescribed by the secretary pursuant to this section.

4. An owner who is required to register under this section and who fails to register: (a) shall be subject to a civil penalty of the greater of two hundred fifty dollars or twenty-five dollars per residential unit contained in the covered dwelling, and in no event shall a covered dwelling be considered properly registered under this section until any penalty that is due has been paid; and (b) shall be denied the right to recover possession of the premises for nonpayment of rent during the period of noncompliance, and shall, at the discretion of the court, suffer a stay of proceeding to recover rents, during such period. In any action to recover possession under section seven hundred eleven of the real property actions and proceedings law, the owner shall allege that they are properly registered under this section.

5. Any local government with a rental registration or rental registry certificate program, ordinance, regulation or other law may continue to maintain such registry or program but shall submit to the department of state all information required under this section in a method prescribed by the secretary. If such program, ordinance, or law does not comply with the rules and regulations prescribed by the secretary pursuant to this section, the owner shall register all covered dwellings with the department of state.

6. The secretary shall develop and maintain an online portal for local governments to submit registration and code enforcement violations to the department of state as required under this section.

7. The secretary shall promulgate rules and regulations prescribing standards for administration and enforcement of the statewide rental registry. Such rules and regulations shall address (a) information to be collected during registration including, but not limited to:

(i) a valid identifying address of the property and the appropriate designations of all rental units on the property;

(ii) the total number of rooms, the number of bathrooms, and the number of bedrooms in each rental unit;

(iii) the accessibility features, if any, of the building and each rental unit;

(iv) whether a unit is subject to any rent regulation or regulatory agreement;

(v) the legal name of the owner or owners, including, but not limited to, the partners, general partners, LLC members, and shareholders;

(vi) a physical address, mailing address, and telephone number for each owner. The physical address and telephone number contained in the registration shall not constitute a public record and shall be accessible only to duly authorized employees of local government agencies or the department of state and used exclusively by such personnel in connection with an emergency arising on the premises for which the owner is responsible or for such purposes as the secretary shall authorize;

(vii) the name, physical address, mailing address, and telephone number for the managing agent of the rental unit, if any; and

(viii) where the local government requires regular inspection of rental units, the date of the last inspection in each unit, the number and type of violations issued during the inspection, and whether each violation has been corrected.

(b) a schedule of reasonable registration fees based on the type of dwelling and number of units registered;

(c) the process and timeframe for updating the registration upon a change in title, address, or managing agent; and

(d) to the extent practicable, the submission of reports by local governments to the department of state containing all violations reported in covered dwellings since the prior submission that shall occur at minimum on a monthly basis. Where a local government lacks the technical capacity to submit such reports, the department shall provide assistance to facilitate and improve capacity to collect code violation data in a machine-readable format for submission to the department.

8. The secretary shall create and maintain through the department of state's website a public online searchable database of residential rental units registered under this section. The public shall be able to search by, at a minimum, the address of the dwelling, the name of the owner, and tax map designation. The database shall generate a report of the last valid information registered with the department and information submitted by local governments as required by this section. Such report shall include, but shall not be limited to, the following information:

(a) the names of each registered property owner and the managing agent, if any;

(b) the address of each registered property owned by such registered owner;

(c) the address of the managing agent, if any;

(d) the number of registered rental units on the property;

(e) the current number of outstanding violations issued by any code enforcement agencies, disaggregated by violations that are immediately hazardous, hazardous, and non-hazardous where such designation is available;

(f) the number of findings of harassment currently on record with any code enforcement agencies;

(g) the number and types of active violations and orders issued by any code enforcement agencies, including a description of each violation, the status of each violation or order, and the date each violation or order was issued including any violations that were active within the year prior to the date the report is generated; and

(h) the date the information was last updated and the date the portfolio is generated.

9. In any action to recover possession of a rental unit or to enforce housing maintenance standards in county court, the court of a police justice of the village, a justice court, a court of civil jurisdiction in a city or a district court, (a) the visually displayed or (b) the printed computerized portfolio registration and violation files maintained by the department of state pursuant to this section and all other computerized data as shall be relevant to the enforcement of state and local laws for the establishment and maintenance of housing standards, shall be prima facie evidence of any matter stated therein and the courts shall take judicial notice thereof as if the same were certified as true under the seal and signature of the secretary.

10. Registration of covered dwellings under this section shall commence one year from the effective date of this section. The public online searchable database shall be active no later than two years from the effective date of this section. All information related to code violations and harassment provided through the database shall be prospective from the date it becomes active unless such information is otherwise available in electronic form at the time the database becomes active.

§ 2. Section 307 of the multiple residence law is amended to read as follows:

§ 307. Records and searches. (a) All records of the department shall be public. Upon request the department shall be required to make a search and issue a certificate of any of its records, including violations, and shall have the power to charge and collect reasonable fees for searches or certificates.

(b) In any action to recover possession of a rental unit or to enforce housing maintenance standards in county court, the court of a police justice of the village, a justice court, a court of civil jurisdiction in a city or a district court either (i) the visually displayed or (ii) the printed computerized portfolio registration and violation files maintained by the department of state pursuant to section three hundred eighty-one-a of the executive law and all other computerized data as shall be relevant to the enforcement of state and local laws for the establishment and maintenance of housing standards, shall be prima facie evidence of any matter stated therein and the courts shall take judicial notice thereof as if the same were certified as true under the seal and signature of the secretary of state.

§ 3. Subdivision 3 of section 328 of the multiple dwelling law, as amended by chapter 403 of the laws of 1983, is amended to read as follows:

3. In any action or proceeding before the housing part of the New York city civil court either (a) the visually displayed or (b) the printed

computerized violation files of the department responsible for maintaining such files**, portfolio registration and violation files maintained by the department of state pursuant to section three hundred eighty-one-a of the executive law,** and all other computerized data as shall be relevant to the enforcement of state and local laws for the establishment and maintenance of housing standards, including but not limited to the name, address and telephone number of the present owner of the building and whether or not he is a member in good standing of the rent stabilization association or registered pursuant to the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine where one or more dwelling units therein are subject to the rent stabilization law, shall be prima facie evidence of any matter stated therein and the courts shall take judicial notice thereof as if same were certified as true under the seal and signature of the commissioner of that department.

§ 4. This act shall take effect immediately.