STATE OF NEW YORK

2811--A

2021-2022 Regular Sessions

IN SENATE

January 25, 2021

Introduced by Sens. KAVANAGH, BIAGGI, RIVERA, SKOUFIS -- 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 state finance 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. Notwithstanding any other provision of law to the contrary, and in furtherance of chapter fifty-three of the laws of two thousand twenty-one enacting the aid to localities budget and appropriating funds for costs associated with services and expenses of a local code enforcement program, the secretary of state is authorized and directed to use such funds to reimburse localities for reasonable costs incurred to comply with the provisions of this section. The secretary is further authorized and directed to use moneys held in the fund designated for state assistance to local governments for support of activities related to fire prevention and building codes under section fifty-four-g of the state finance law for the purpose of implementing and complying with the provisions of this section and to reimburse localities for reasonable costs incurred to comply with the provisions of this section. Any fees or penalties collected pursuant to this section shall also be deposited into such fund and made available to the department of state and to any city, village or town, as necessary, to cover such reasonable costs.

2. The secretary shall administer a statewide residential rental registry pursuant to the requirements of this section and shall develop

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

LBD04203-02-1

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.

3. 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.

(c) "Department" means the department of state.

(d) "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.

(e) "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.

(f) "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.

(g) "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.

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

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

4. The owner of a covered dwelling shall register such dwelling with the department annually in accordance with the rules and regulations prescribed by the secretary, except that registration with the department 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, provided that a public online searchable database of residential rental units registered with such local government shall be available and shall comply with the requirements applicable to the online database provided for in subdivision eight of this section.

5. An owner who is required to register under this section and who fails to register: (a) shall be subject to a civil penalty of twenty-five dollars per residential unit contained in the covered dwelling for each year in which such covered dwelling is not registered as required under this section, 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.

6. The secretary shall develop and maintain an online portal or other electronic means for local governments to submit or make available to the department registration and code enforcement violations as required under this section. Where a local government lacks the technical capacity to comply with any aspect of this section, the department shall provide financial and technical assistance to facilitate and improve such capacity, including but not limited to the capacity to collect code violation data in a machine-readable format for submission to the department.

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 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 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;

(viii) where the local government requires regular inspection of rental units, the date of the last inspection in each unit; and

(ix) to the extent practicable, any violations issued for a covered dwelling, type of such violations, and whether the property owner or the local government's records indicate that the violations have been corrected.

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

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

8. The secretary shall create and maintain through the department'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 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 on July first of the year next succeeding the year in which this section shall become effective and shall be due by July first of each subsequent year. The public online searchable database shall be active as soon as practicable and 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 the secretary determines that it is feasible to include retrospective information where such information is otherwise available in electronic form.

§ 2. Subdivision 1 of section 54-g of the state finance law is amended by adding a new paragraph c to read as follows:

c. Beginning on the effective date of this paragraph, the state shall provide moneys to the department of state and to any city, village or town for reasonable costs of activities necessary to implement and comply with the provisions of such section, with such amounts and in such manner determined by the secretary of state. Any fees or penalties collected pursuant to such section shall also be made available to the

department of state and to any city, village or town, as necessary, to cover such reasonable costs.

§ 3. 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.

§ 4. 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.

§ 5. This act shall take effect immediately.