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LOCAL LAW NO. “C” FOR 2024

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK CRIMINALIZING RENTAL FRAUD

Introduced: 2/12/24

By Fein, Efekoro:

A Local Law creating Chapter 189 of the Code of the County of Albany, entitled **Housing**, and Article 1 of such Chapter, entitled **Rental Property Fraud Protection**, to criminalize the rental of real property by persons with no legal interest in the property.

BE IT ENACTED by the Albany County Legislature as follows:

Section 1. Chapter Creation.

Chapter 189, **Housing**, is hereby created.

Chapter 189, Article I, **Rental Property Fraud Protection**, is hereby created.

Section 2. § 189-1, Title.

This Local Law shall be known as the “Albany County Rental Fraud Protection Law.”

Section 3. § 189-2, Legislative Intent.

The Albany County Legislature finds that deceptive schemes related to fraudulent property rental listings are on the rise.

The New York State Department of State, the Federal Bureau of Investigation, and the Federal Trade Commission have alerted the public to rental fraud schemes in which scammers deceptively pose as property owners seeking to rent out properties to residents and those who rent short-term apartments and spaces in the County.

These schemes often involve victims sending money or sensitive personal information to scammers posing as landlords through listings for rental properties that either do not exist or are not owned by the scammers in any capacity. The victims of rental fraud are often vulnerable people in need of housing.

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Criminalizing the rental of residential and commercial properties by individuals who have no ownership interest in a parcel or authority from the owner to rent or lease the property is necessary to protect renters in Albany County.

Section 4. § 189-3, Definitions.

“Person” is defined as any natural individual, firm, partnership, corporation, association, company, or organization of any kind.

Section 5. § 189-4, Prohibitions.

- A. No person shall rent, lease, or solicit for the rental or lease of a residential or commercial real property where the person does not have a verifiable ownership interest or written authorization from the owner to rent, lease, or sublet the real property.
- B. No person shall rent, lease, or solicit for the rental or lease of a residential or commercial real property where the person has solicited applications and interest for the real property or any portion thereof using photos that are false, out of date, or otherwise do not accurately represent the current state of the permanent fixtures and features of the property.

Section 6. § 189-5, Proof of Valid Interest.

A person may prove a valid ownership interest or authorization to rent, lease, or sublet a real property by providing:

- a. A fully executed and filed deed to the parcel of real property, or
- b. A fully executed agreement for the lease, rental, or legal sublet of real property, or
- c. Written documentation demonstrating that the person is a legal agent of the deeded property owner or apartment lessor who is authorized to rent or lease the property and the deeded property owner or apartment lessor can provide proof pursuant to subdivision (a) or (b).

Section 7. § 189-6, Enforcement and Penalties.

- A. Criminal Enforcement.
 - a. All law enforcement agencies and code enforcement officers located within the County are authorized and empowered to issue citations and otherwise enforce the provisions of this Local Law in each applicable jurisdiction.
 - b. Violation of this Local Law shall constitute an unclassified misdemeanor subject to a fine of up to \$1,000 or up to one year imprisonment, or both.

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Each day or part of a day in which a violation continues shall constitute a separate violation.

- c. Violations of this Local Law may be brought by the prosecuting agency of any applicable municipal entity with jurisdiction.

B. Civil Enforcement.

- a. Violations of this Local Law shall constitute just cause to bring a civil proceeding to the extent allowable by state and local law. In such proceeding, the prevailing party, if also the injured party, may recover such costs and attorneys' fees as are reasonable under the circumstances.

Section 8. Severability.

If any clause, sentence, paragraph, section, subdivision, or other part of this Local Law or its application shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder of the Local Law which shall remain in full force and effect except as limited by such order or judgment.

Section 9. SEQRA Compliance.

This County Legislature determines that this Local Law constitutes a "Type II action" pursuant to the provisions of the State Environmental Quality Review Act (SEQRA), and that no further action under SEQRA is required.

Section 10. Effective Date.

This Local Law shall take effect immediately following its filing with the Office of the Secretary of State.

Referred to Law and Public Safety Committees – 2/12/24