

New York State Bar Association

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Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals # 20

May 24, 2018

S. 2714

By: Senator Comrie

A. 3879

By: M. of A. DenDekker

Senate Committee: Judiciary

Assembly Committee: Housing

Effective Date: Immediately

AN ACT to amend the real property law, in relation to prohibiting landlords from requiring animals that occupy the unit be de-clawed as a condition of rental.

LAW & SECTION REFERRED TO: New Section 235-h of the Real Property Law.

THE COMMITTEE ON ANIMALS AND THE LAW SUPPORTS THIS LEGISLATION

This bill would amend the Real Property Law by adding a new Section 235-h, unlawful restrictions on tenancy, which provides that a landlord shall not require any domestic animal occupying the rental unit to be declawed as a condition of rental.

Declawing of animals, which occurs most commonly with domestic cats, is a very controversial procedure among humane animal welfare organizations and veterinary associations. It should not be permitted to be imposed by a landlord on tenants and their pets.

Many people outside the veterinary medical field are unaware of the details of the declawing surgical procedure, which is far more involved than simply clipping the cat's nails or removing the nails from the nailbed in the paw. An onychectomy (declawing) is a surgical procedure that requires amputation of the bone nearest the knuckle in each digit of the cat's paws. Proponents and opponents of the declawing procedure agree that because it is a surgical procedure, it must be understood as surgery on the animal; it presents all of the risks associated with any surgery, such as complications arising from anesthesia, post-surgical infection and post-surgical pain, to name just a few. Declawing is financially costly for the animal's owner. In addition to the cost of the surgical procedure itself and any required medications, including pain medications, there is a pre-surgical examination of the cat which may involve costly blood tests and other pre-surgical testing.

It is vital that cat owners understand the facets of the declawing surgery. Furthermore, an owner must not feel compelled to subject a cat to the procedure to meet a landlord's universal rule, imposed as a condition of rental for a residence the owner may desperately need.

Landlords are typically most concerned with the potential destruction of their property when considering whether to allow any animal to inhabit an owned house or apartment, including animals with intact claws. However, rental units rarely include furniture, and it is important to realize that upholstered furniture is most likely to suffer damage as a result of a resident cat using its claws. Thus, the vast majority of landlords face little risk of destruction of the property they own when a cat with intact claws resides in the unit. Moreover, a landlord concerned about potential property damage can charge an increased security deposit and retain the security deposit, should damage occur. These options protect the landlord's legitimate interests in maintaining their rental property in good condition.

It is also important to consider the plethora of humane, non-surgical, low-cost alternatives to declawing which are available to ameliorate the potential for property damage from a cat's surface scratching. The simplest, most effective and least costly is routine nail trimming, which owners can easily learn to perform on their own. Other options include providing acceptable scratching devices for the cat to use, such as a low-cost sisal rope (a surface favored by cats to scratch their nails on), commercially made scratching posts, fireplace logs or even pieces of corrugated cardboard, any of which is effective in satisfying the cat's instinctual urge to scratch. There also are readily available, inexpensive plastic nail caps which can be slipped over the cat's claws and which allow a cat to scratch surfaces without damaging them. A tenant can provide any of these alternatives to make any damage to a rental unit, or to their own furnishings in the unit, much less likely.

In sum, all of the legitimate interests of landlords can be protected without requiring that cats be declawed in order to inhabit their rental units. Prohibiting landlords from imposing such a requirement avoids the potential of harm to the animal, and costs to the owner, imposed by the surgical declawing procedure.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.