

S T A T E O F N E W Y O R K

8700

2009-2010 Regular Sessions

I N A S S E M B L Y

June 4, 2009

Introduced by M. of A. ALESSI -- read once and referred to the Committee
on Judiciary

AN ACT to amend the real property law, in relation to the termination of
a residential lease by a tenant due to adverse health effects of
second-hand smoke resulting from smoking of other tenants in the
building

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The real property law is amended by adding a new section
2 227-d to read as follows:
3 S 227-D. TERMINATION OF RESIDENTIAL LEASE BY A TENANT DUE TO ADVERSE
4 EFFECTS OF SECOND-HAND SMOKE FROM OTHER TENANTS IN THE BUILDING. 1. IN
5 ANY LEASE OR RENTAL AGREEMENT COVERING PREMISES OCCUPIED FOR DWELLING
6 PURPOSES IN WHICH A LESSEE OR TENANT IS RESIDING IN A BUILDING WHERE
7 OTHER TENANTS ARE PERMITTED TO SMOKE THERE SHALL BE IMPLIED A COVENANT
8 BY THE LESSOR OR OWNER TO PERMIT SUCH LESSEE OR TENANT WHO IS CERTIFIED
9 BY A PHYSICIAN AS BEING ADVERSELY AFFECTED BY SECOND-HAND SMOKE TO
10 TERMINATE SUCH LEASE OR RENTAL AGREEMENT AND QUIT AND SURRENDER
11 POSSESSION OF THE LEASEHOLD PREMISES, AND OF THE LAND SO LEASED OR OCCU-
12 PIED; AND TO RELEASE THE LESSEE OR TENANT FROM ANY LIABILITY TO PAY TO
13 THE LESSOR OR OWNER, RENT OR OTHER PAYMENTS IN LIEU OF RENT FOR THE TIME
14 SUBSEQUENT TO THE DATE OF TERMINATION OF SUCH LEASE IN ACCORDANCE WITH
15 SUBDIVISION TWO OF THIS SECTION; AND TO ADJUST TO THE DATE OF SURRENDER
16 ANY RENT OR OTHER PAYMENTS MADE IN ADVANCE OR WHICH HAVE ACCRUED BY THE
17 TERMS OF SUCH LEASE OR RENTAL AGREEMENT.
18 2. ANY LEASE OR RENTAL AGREEMENT COVERED BY SUBDIVISION ONE OF THIS
19 SECTION MAY BE TERMINATED BY NOTICE IN WRITING DELIVERED TO THE LESSOR
20 OR OWNER OR TO THE LESSOR'S OR OWNER'S AGENT BY A LESSEE OR TENANT. SUCH
21 TERMINATION SHALL BE EFFECTIVE NO EARLIER THAN THIRTY DAYS AFTER THE
22 DATE ON WHICH THE NEXT RENTAL PAYMENT SUBSEQUENT TO THE DATE WHEN SUCH
23 NOTICE IS DELIVERED IS DUE AND PAYABLE. SUCH NOTICE SHALL BE ACCOMPANIED

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

LBD11884-01-9

1 BY NOTARIZED DOCUMENTATION OF THE PHYSICIAN'S CERTIFICATION. SUCH NOTICE
2 SHALL BE DEEMED DELIVERED FIVE DAYS AFTER MAILING.

3 3. ANY PERSON WHO SHALL KNOWINGLY SEIZE, HOLD, OR DETAIN THE PERSONAL
4 EFFECTS, CLOTHING, FURNITURE OR OTHER PROPERTY OF ANY PERSON WHO HAS
5 LAWFULLY TERMINATED A LEASE OR RENTAL AGREEMENT COVERED BY THIS SECTION
6 OR THE SPOUSE OR DEPENDENT OF ANY SUCH PERSON, OR IN ANY MANNER INTER-
7 FERES WITH THE REMOVAL OF SUCH PROPERTY FROM THE PREMISES COVERED BY
8 SUCH LEASE OR RENTAL AGREEMENT, FOR THE PURPOSE OF SUBJECTING OR
9 ATTEMPTING TO SUBJECT ANY OF SUCH PROPERTY TO A PURPORTED CLAIM FOR RENT
10 ACCRUING SUBSEQUENT TO THE DATE OF TERMINATION OF SUCH LEASE OR RENTAL
11 AGREEMENT, OR ATTEMPTS SO TO DO, SHALL BE GUILTY OF A MISDEMEANOR AND
12 SHALL BE PUNISHED BY IMPRISONMENT NOT TO EXCEED ONE YEAR OR BY FINE NOT
13 TO EXCEED ONE THOUSAND DOLLARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

14 4. EACH OWNER OR LESSOR OF A FACILITY OR UNIT INTO WHICH A LESSEE OR
15 TENANT IS ENTITLED TO MOVE AFTER QUITTING AND SURRENDERING AS PROVIDED
16 FOR IN THIS SECTION SHALL IN WRITING, UPON AN APPLICATION, NOTIFY
17 PROSPECTIVE TENANTS OF THE PROVISION OF THIS SECTION. SUCH NOTICE SHALL
18 INCLUDE, IN PLAIN AND SIMPLE ENGLISH, IN CONSPICUOUS PRINT OF AT LEAST
19 EIGHTEEN POINT TYPE, AN EXPLANATION OF A TENANT'S RIGHT TO TERMINATE THE
20 EXISTING LEASE AND ALL OTHER APPLICABLE REQUIREMENTS AND DUTIES RELATING
21 THERETO.

22 5. ANY AGREEMENT BY A LESSEE OR TENANT OF PREMISES OCCUPIED FOR DWELL-
23 ING PURPOSES WAIVING OR MODIFYING HIS OR HER RIGHTS AS SET FORTH IN THIS
24 SECTION SHALL BE VOID AS CONTRARY TO PUBLIC POLICY.

25 S 2. This act shall take effect on the ninetieth day after it shall
26 have become a law.