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

2605

2011-2012 Regular Sessions

I N A S S E M B L Y

January 19, 2011

Introduced by M. of A. ROBINSON -- Multi-Sponsored by -- M. of A. MAYER-SOHN, TOWNS -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, the multiple dwelling law, the multiple residence law, the real property actions and proceedings law and the general obligations law, in relation to requiring all residential leases to disclose tenants' rights

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

Section 1. The real property law is amended by adding a new section 235-h to read as follows:

S 235-H. STANDARD LEASE CLAUSE. 1. EVERY WRITTEN RESIDENTIAL LEASE SHALL CONTAIN THE FOLLOWING CLAUSES:

A. "WARRANTY OF HABITABILITY". THE LANDLORD PROMISES THAT THE APARTMENT AND BUILDING ARE FIT TO LIVE IN AND NOT DANGEROUS TO THE LIFE, HEALTH OR SAFETY OF THE OCCUPANTS. UNLESS THE APARTMENT OR BUILDING BECOMES UNFIT TO LIVE IN DUE TO THE MISCONDUCT OF THE TENANT OR THE TENANT'S FAMILY OR GUESTS, THE LANDLORD WILL BE HELD RESPONSIBLE IF THIS PROMISE IS BROKEN, EVEN IF IT IS NOT HIS FAULT.

CONDITIONS WHICH WOULD VIOLATE THIS PROMISE INCLUDE, BUT ARE NOT LIMITED TO: INSECT OR RODENT INFESTATION, INSUFFICIENT HEAT AND PLUMBING FACILITIES, SIGNIFICANTLY DANGEROUS ELECTRICAL OUTLETS OR WIRING, AND INADEQUATE SANITATION FACILITIES.

IF THE PROMISE IS VIOLATED, THE TENANT MAY WITHHOLD FROM RENT THE LOSS IN THE VALUE OF THE APARTMENT DUE TO THE VIOLATION.

B. "WILLFUL VIOLATION OF LEASE". IF THE LANDLORD OR HIS EMPLOYEE OR AGENT INTENTIONALLY VIOLATES A PROVISION OF THIS LEASE OR INTENTIONALLY INTERFERES WITH THE TENANT'S QUIET ENJOYMENT OF THE APARTMENT, THE LANDLORD IS GUILTY OF A CRIMINAL OFFENSE.

C. "TENANT'S ASSOCIATIONS". THE TENANT HAS THE RIGHT TO ORGANIZE AND PARTICIPATE IN THE ACTIVITIES OF ANY GROUP OR ASSOCIATION OF TENANTS. TENANT GROUPS HAVE THE LEGAL RIGHT TO MEET IN COMMON AREAS OF THE BUILD-

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

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ING AT REASONABLE HOURS AS LONG AS THESE MEETINGS DO NOT INTERFERE WITH THE RIGHT OF OTHERS TO ENTER, LEAVE OR MOVE ABOUT THE BUILDING.

THE LANDLORD WILL NOT PUNISH, HARASS, OR EVICT ANY TENANT FOR EXERCISING THIS RIGHT.

D. "NO EVICTION FOR GOOD FAITH COMPLAINT". THE LANDLORD MAY NOT EVICT A TENANT OR REFUSE TO RENEW THE LEASE FOR ONE YEAR IN RETALIATION FOR THE TENANT BRINGING A GOOD FAITH COMPLAINT TO A GOVERNMENTAL AUTHORITY FOR AN ALLEGED VIOLATION OF THIS LEASE OR ANY LAW OR REGULATION GOVERNING THE APARTMENT.

E. "TRIAL BY JURY". THE LANDLORD AND TENANT HAVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION FOR PERSONAL INJURY OR PROPERTY DAMAGE.

F. "UTILITY PAYMENT OFFSET". IF THE LANDLORD IS RESPONSIBLE FOR PAYMENT TO A UTILITY COMPANY, AND IN ORDER TO AVOID A SHUT-OFF OR TO RESTORE SERVICE THE TENANT PAYS A PORTION OF THE UTILITY BILL DIRECTLY TO THE UTILITY, THE AMOUNT PAID MAY BE DEDUCTED FROM THE RENT.

2. EVERY WRITTEN RESIDENTIAL LEASE FOR A RESIDENCE IN A DWELLING HAVING FOUR OR MORE RESIDENTIAL UNITS SHALL CONTAIN THE FOLLOWING CLAUSE:

"SUBLET". THE TENANT HAS THE RIGHT TO TURN OVER THE APARTMENT TO ANOTHER QUALIFIED PERSON FOR THE TIME REMAINING UNDER THIS LEASE. BUT THE TENANT WILL STILL BE RESPONSIBLE TO THE LANDLORD IF THE OTHER PERSON DOES NOT PAY THE RENT OR VIOLATES THE LEASE IN ANY OTHER WAY.

THE FOLLOWING STEPS MUST BE TAKEN IF THE TENANT WANTS TO TURN OVER THE APARTMENT TO ANOTHER PERSON:

A. THE TENANT MUST SEND THE LANDLORD A LETTER BY REGISTERED OR CERTIFIED MAIL ASKING PERMISSION TO TURN OVER THE APARTMENT. THE LETTER SHOULD HAVE THE NAME, BUSINESS AND HOME ADDRESSES OF THE PERSON WHO WILL TAKE THE APARTMENT.

B. WITHIN TEN DAYS AFTER THE REQUEST IS MAILED THE LANDLORD MAY ASK FOR ADDITIONAL INFORMATION ABOUT THE PERSON WHO WANTS TO TAKE THE APARTMENT.

C. THE LANDLORD HAS THIRTY DAYS FROM EITHER THE MAILING OF THE REQUEST OR THE SENDING OF THE ADDITIONAL INFORMATION, WHICHEVER IS LATER, TO ANSWER THE TENANT'S REQUEST. IF THE LANDLORD DOES NOT RESPOND WITHIN THAT TIME, THE TENANT MAY TURN OVER THE APARTMENT.

D. IF THE LANDLORD DENIES PERMISSION WITHOUT GOOD REASON, THE TENANT HAS THE RIGHT TO CANCEL THE LEASE.

3. IF A RESIDENTIAL LEASE PROVIDES THAT THE LANDLORD MAY RECOVER ATTORNEYS' FEES OR EXPENSES FROM THE TENANT FOR ANY ACTION OR PROCEEDING ARISING OUT OF THE LEASE, THE LEASE SHALL CONTAIN THE FOLLOWING CLAUSE:

"IF THE TENANT IS SUCCESSFUL IN THE DEFENSE OR PROSECUTION OF AN ACTION OR PROCEEDING ARISING OUT OF THIS LEASE, THE TENANT MAY RECOVER ATTORNEYS' FEES AND EXPENSES FROM THE LANDLORD."

4. A. EVERY MONTHLY TENANT AND TENANT FROM MONTH-TO-MONTH SHALL RECEIVE FROM THE LANDLORD AT THE START OF THE TENANCY, WRITTEN NOTICE OF THEIR RIGHTS AS A TENANT. FOR THE PURPOSES OF THIS SECTION, ADEQUATE NOTICE SHALL BE DEEMED TO HAVE BEEN SATISFIED IF THE WRITING CONSISTS OF LANGUAGE USED UNDER THE REQUIREMENTS FOR A WRITTEN LEASE PURSUANT TO THIS SECTION, SECTION 5-907 OF THE GENERAL OBLIGATIONS LAW, SECTION EIGHTY-FIVE OF THE MULTIPLE DWELLING LAW, SECTION THREE HUNDRED FIVE-B OF THE MULTIPLE RESIDENCE LAW AND SECTION SEVEN HUNDRED EIGHTY-FOUR OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW FOR EACH SECTION APPLICABLE TO THE TENANT.

B. EVERY LANDLORD SHALL GIVE THE NOTICE REQUIRED UNDER SUBDIVISION ONE OF THIS SECTION TO EACH OF HIS TENANTS RESIDING AS OF JANUARY FIRST, TWO THOUSAND TWELVE.

C. A LANDLORD IS NOT REQUIRED TO GIVE THIS NOTICE TO A TENANT WHOSE MONTH-TO-MONTH TENANCY IS CREATED BY SECTION TWO HUNDRED THIRTY-TWO-C OF THIS ARTICLE.

5. A VIOLATION OF ANY PROVISION OF THIS SECTION OR ANY OTHER PROVISION REQUIRING THAT RESIDENTIAL LEASES CONTAIN SPECIFIC LANGUAGE SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

S 2. The multiple dwelling law is amended by adding a new section 85 to read as follows:

S 85. STANDARD LEASE CLAUSES. 1. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH SECTION FIFTY-ONE-C OF THIS ARTICLE APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE: "THE TENANT HAS THE RIGHT TO INSTALL AN EXTRA LOCK ON ANY ENTRANCE DOOR TO THE APARTMENT. THE LANDLORD MAY NOT REFUSE THE TENANT PERMISSION TO INSTALL THE LOCK AND MAY NOT CHARGE A FEE FOR THE RIGHT TO INSTALL THE LOCK. THE TENANT MUST PROVIDE THE LANDLORD WITH A DUPLICATE KEY TO ALL EXTRA LOCKS INSTALLED BY THE TENANT UPON REQUEST."

2. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH SECTION SEVENTY-EIGHT OF THIS TITLE APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"LANDLORD SHALL KEEP EVERY PART OF THE BUILDING IN GOOD REPAIR. HOWEVER, THE TENANT SHALL BE RESPONSIBLE FOR DAMAGE CAUSED BY THE MISCONDUCT OR NEGLIGENCE OF THE TENANT, TENANT'S FAMILY OR GUESTS."

3. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH SECTION EIGHTY OF THIS TITLE APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"LANDLORD SHALL KEEP EVERY COMMON AREA IN THE BUILDING, AND THE LOT IN WHICH IT IS SITUATED, CLEAN AND FREE FROM VERMIN, GARBAGE, DIRT OR OTHER MATTER DANGEROUS TO LIFE OR HEALTH."

4. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH SECTION SEVENTY-NINE OF THIS TITLE APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"LANDLORD MUST PROVIDE HEAT SUFFICIENT TO MAINTAIN THE MINIMUM TEMPERATURES OF _____ DEGREES FAHRENHEIT DURING THE HOURS OF _____ TO _____ AND _____ DEGREES FAHRENHEIT DURING THE HOURS OF _____ TO _____ BETWEEN THE DATES OF _____ TO _____," WITH THE LANDLORD FILLING IN THE LEASE WITH THE APPROPRIATE TEMPERATURE, HOURS, AND DATES REQUIRED BY LOCAL LAW, ORDINANCE, RULE, OR REGULATION OR BY THE LOCAL PUBLIC HEALTH OFFICER.

5. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH SECTION THREE HUNDRED TWO-C OF THIS CHAPTER APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"IF THE LANDLORD IS RESPONSIBLE FOR PAYING FOR DELIVERY OF HEATING OIL, AND THERE IS A LACK OF HEAT BECAUSE THE LANDLORD FAILS TO HAVE THE OIL SUPPLIED, THE TENANT, ALONE OR TOGETHER WITH OTHER TENANTS, MAY PAY FOR THE OIL DELIVERY AND DEDUCT THE PAYMENT FROM THE RENT. THE FOLLOWING PROCEDURES MUST BE FOLLOWED:

A. REASONABLE EFFORTS MUST FIRST BE MADE TO INFORM THE OWNER OR HIS AGENT OF THE LACK OF OIL AND TO HAVE THE NORMAL FUEL SUPPLIER TO THE APARTMENT DELIVER THE OIL (NOTE: THE TENANT NEED ONLY COMPLY WITH THIS STEP IF THE LANDLORD HAS CONSPICUOUSLY POSTED A NOTICE WITH AN ADDRESS AND PHONE NUMBER WHERE HE OR HIS AGENT CAN BE CONTACTED AND WITH THE NAME, ADDRESS, AND PHONE NUMBER OF THE NORMAL FUEL SUPPLIER).

B. DELIVERY OF FUEL OIL TO THE PREMISES MUST BE SECURED FROM A FUEL SUPPLIER REGULARLY ENGAGED IN THE BUSINESS AT A PRICE WITHIN THE RANGE OF PRICES LISTED BY THE DEPARTMENT CHARGED WITH ENFORCING LANDLORD-TENANT LAWS AND REGULATIONS.

C. THE FUEL SUPPLIER FROM WHOM OIL IS SECURED MUST PROVIDE A WRITTEN STATEMENT CONTAINING THE FOLLOWING:

(1) THE NAME OF THE PERSON OR PERSONS WHO REQUESTED THE DELIVERY; AND

(2) THE DATE, TIME AND PREMISES TO WHICH DELIVERY WAS MADE; AND

(3) THE AMOUNT, GRADE AND PRICE OF THE OIL DELIVERED; AND
(4) A CERTIFICATION THAT THE USABLE FUEL SUPPLY WAS EXHAUSTED BEFORE THE DELIVERY; AND
(5) THE CHARGE, IF ANY, FOR REFIRING THE BURNER; AND
(6) THE AMOUNTS AND FROM WHOM ANY PAYMENTS WERE RECEIVED."

S 3. The multiple residence law is amended by adding a new section 305-b to read as follows:

S 305-B. STANDARD LEASE CLAUSES. 1. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH SECTION ONE HUNDRED SEVENTY-THREE OF THIS CHAPTER APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"LANDLORD MUST PROVIDE HEAT SUFFICIENT TO MAINTAIN THE MINIMUM TEMPERATURES OF _____ DEGREES FAHRENHEIT, FOR THE HOURS OF _____ TO _____ AND _____ DEGREES FAHRENHEIT DURING THE HOURS OF _____ TO _____ BETWEEN THE DATE OF _____ TO _____" WITH THE LANDLORD FILLING IN THE LEASE WITH THE APPROPRIATE TEMPERATURE, HOURS, AND DATES REQUIRED BY LOCAL LAW, ORDINANCE, RULE, OR REGULATION OR BY THE LOCAL PUBLIC HEALTH OFFICER.

2. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH SECTION ONE HUNDRED SEVENTY-FOUR OF THIS CHAPTER APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"LANDLORD SHALL KEEP EVERY PART OF THE BUILDING AND THE LOT ON WHICH IT IS SITUATED IN GOOD REPAIR, CLEAN AND FREE FROM VERMIN, RODENTS, DIRT, FILTH, GARBAGE OR OTHER MATTER DANGEROUS TO LIFE OR HEALTH. HOWEVER, THE TENANT SHALL ALSO BE RESPONSIBLE FOR ANY DAMAGE CAUSED BY THE MISCONDUCT OR NEGLIGENCE OF THE TENANT, TENANT'S FAMILY OR GUESTS."

3. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH SECTION THREE HUNDRED FIVE-A OF THIS ARTICLE APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"A RENT-IMPAIRING VIOLATION IS DEFINED IN NEW YORK CODES, RULES AND REGULATIONS, TITLE 9, PART 1300. IT INCLUDES, BUT IS NOT LIMITED TO:

(A) FAILURE TO KEEP PREMISES IN GOOD REPAIR, CLEAN AND FREE FROM VERMIN AND RODENTS, (B) FAILURE TO PROVIDE AN ADEQUATE SUPPLY OF HEAT, AND (C) LACK OF ARTIFICIAL LIGHTS IN EVERY PUBLIC HALL AND STAIR."

"IF SUCH A VIOLATION EXISTS, THE TENANT SHOULD REPORT IT TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL. IF WITHIN SIX MONTHS AFTER THE DIVISION CITES THE BUILDING FOR THE VIOLATION THE LANDLORD DOES NOT CORRECT THE VIOLATION OR FILE A PLAN TO CORRECT IT, THE LANDLORD MAY NOT RECOVER RENT FROM ANY TENANT WHOSE APARTMENT CONTAINS THE VIOLATION. IF THE VIOLATION IS IN AN AREA COMMON TO ALL TENANTS, NO RENT MAY BE COLLECTED FROM ANY TENANT."

"IF THE LANDLORD SUES TO RECOVER THE RENT WITHHELD OR TO EVICT FOR NON-PAYMENT OF RENT, THE TENANT MUST DEPOSIT THE RENT SOUGHT WITH THE CLERK OF THE COURT WHERE THE LANDLORD'S SUIT WAS BROUGHT. AFTER DEPOSITING THE RENT, THE TENANT MAY NOT BE EVICTED FOR NON-PAYMENT OF RENT."

4. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH SECTION THREE HUNDRED FIVE-C OF THIS ARTICLE APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"IF THE LANDLORD IS RESPONSIBLE FOR PAYING FOR DELIVERY OF HEATING OIL, AND THERE IS A LACK OF HEAT BECAUSE THE LANDLORD FAILS TO HAVE THE OIL SUPPLIED, THE TENANT, ALONE OR TOGETHER WITH OTHER TENANTS, MAY PAY FOR THE OIL DELIVERY AND DEDUCT THE PAYMENT FROM THE RENT. THE FOLLOWING PROCEDURES MUST BE FOLLOWED:

A. REASONABLE EFFORTS MUST FIRST BE MADE TO INFORM THE OWNER OR HIS AGENT OF THE LACK OF OIL AND TO HAVE THE NORMAL FUEL SUPPLIER TO THE APARTMENT DELIVER THE OIL (NOTE: THE TENANT NEED ONLY COMPLY WITH THIS STEP IF THE LANDLORD HAS CONSPICUOUSLY POSTED A NOTICE WITH AN ADDRESS AND PHONE NUMBER WHERE HE OR HIS AGENT CAN BE CONTACTED AND WITH THE NAME, ADDRESS, AND PHONE NUMBER OF THE NORMAL FUEL SUPPLIER).

B. DELIVERY OF FUEL OIL TO THE PREMISES MUST BE SECURED FROM A FUEL SUPPLIER REGULARLY ENGAGED IN THE BUSINESS AT A PRICE WITHIN THE RANGE OF PRICES LISTED BY THE DEPARTMENT CHARGED WITH ENFORCING LANDLORD-TENANT LAWS AND REGULATIONS.

C. THE FUEL SUPPLIER FROM WHOM OIL IS SECURED MUST PROVIDE A WRITTEN STATEMENT CONTAINING THE FOLLOWING:

(1) THE NAME OF THE PERSON OR PERSONS WHO REQUESTED THE DELIVERY; AND

(2) THE DATE, TIME AND PREMISES TO WHICH DELIVERY WAS MADE; AND

(3) THE AMOUNT, GRADE AND PRICE OF THE OIL DELIVERED; AND

(4) A CERTIFICATION THAT THE USABLE FUEL SUPPLY WAS EXHAUSTED BEFORE THE DELIVERY; AND

(5) THE CHARGE, IF ANY, FOR REFIRING THE BURNER; AND

(6) THE AMOUNTS AND FROM WHOM ANY PAYMENTS WERE RECEIVED."

S 4. The real property actions and proceedings law is amended by adding a new section 784 to read as follows:

S 784. REQUIRED LEASE PROVISIONS. EVERY WRITTEN LEASE FOR AN APARTMENT FOR WHICH THIS ARTICLE APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"RENT DEPOSITED IN COURT". IF THERE EXISTS IN ANY PART OF THE BUILDING A LACK OF RUNNING WATER, LIGHT, ELECTRICITY, ADEQUATE SEWAGE DISPOSAL FACILITIES, OR ANY OTHER CONDITION DANGEROUS TO LIFE, HEALTH OR SAFETY, WHICH HAS EXISTED FOR FIVE DAYS, OR AN INFESTATION BY RODENTS, ONE-THIRD OR MORE OF THE TENANTS LIVING IN THE BUILDING MAY BRING A SPECIAL PROCEEDING IN COURT. THE COURT MAY ORDER THAT THE RENTS DUE AND RENTS DUE IN THE FUTURE BE DEPOSITED WITH THE COURT TO BE USED EXCLUSIVELY TO REMEDY ANY OF THESE CONDITIONS.

"NO RENT MAY BE WITHHELD OR DEPOSITED OR DEPOSITED WITH THE COURT, HOWEVER, IF THE TENANT OR TENANT'S FAMILY OR GUESTS CAUSED THE CONDITION."

S 5. The general obligations law is amended by adding a new section 5-907 to read as follows:

S 5-907. STANDARD LEASE CLAUSES. 1. EVERY WRITTEN RESIDENTIAL LEASE SHALL CONTAIN THE FOLLOWING CLAUSE:

"LANDLORD'S LIABILITY". THE LANDLORD IS LEGALLY RESPONSIBLE FOR INJURIES TO PEOPLE AND PROPERTY RESULTING FROM HIS NEGLIGENCE OR THE NEGLIGENCE OF HIS AGENTS OR EMPLOYEES IN THE OPERATION OR MAINTENANCE OF THE BUILDING OR THE LOT CONTAINING THE BUILDING.

2. EVERY WRITTEN RESIDENTIAL LEASE FOR AN APARTMENT FOR WHICH SUBDIVISION TWO-A OF SECTION 7-103 OF THIS CHAPTER APPLIES SHALL CONTAIN THE FOLLOWING CLAUSE:

"SECURITY DEPOSIT". THE LANDLORD MUST PUT THE SECURITY DEPOSIT INTO A BANK ACCOUNT PAYING THE PREVAILING RATE OF INTEREST. THE LANDLORD MAY KEEP ONE PERCENT A YEAR FOR ADMINISTRATIVE EXPENSES. THE REST OF THE INTEREST WILL BE PAID TO THE TENANT EACH YEAR OR TREATED AS AN ADDITION TO THE TENANT'S SECURITY DEPOSIT.

THE SECURITY DEPOSIT WILL BE LOCATED IN

BANK_____

ADDRESS_____,

WITH THE LANDLORD FILLING IN HOW THE INTEREST WILL BE DISBURSED AND THE NAME AND ADDRESS OF THE BANK HOLDING THE SECURITY DEPOSIT.

S 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.