

5940--A

2013-2014 Regular Sessions

I N   S E N A T E

September 27, 2013

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Introduced by Sens. MARCELLINO, FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property actions and proceedings law, in relation to clarifying the definition of "tenant" to exclude squatters

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

1     Section 1. Section 711 of the real property actions and proceedings  
2 law, as added by chapter 312 of the laws of 1962, the section heading  
3 and opening paragraph as amended by chapter 739 of the laws of 1982,  
4 subdivision 1 as amended by chapter 305 of the laws of 1963 and subdivi-  
5 sion 6 as added by chapter 699 of the laws of 1985, is amended to read  
6 as follows:

7     S 711. Grounds where landlord-tenant relationship exists. 1. (A) A  
8 tenant shall include an occupant of one or more rooms in a rooming house  
9 or a resident, not including a transient occupant, of one or more rooms  
10 in a hotel who has been in possession for thirty consecutive days or  
11 longer; he shall not be removed from possession except in a special  
12 proceeding.

13     (B) FOR THE PURPOSES OF THIS ARTICLE, A TENANT SHALL NOT INCLUDE A  
14 PERSON WHO ENTERS ONTO PROPERTY WITH THE INTENT OF SQUATTING ON THE  
15 PROPERTY OR OTHERWISE SETTLES ON LAND OR OCCUPIES PROPERTY WITHOUT  
16 TITLE, RIGHT, PERMISSION OF THE RIGHTFUL OWNER, OR PAYMENT OF RENT.

17     2. A special proceeding may be maintained under this article upon the  
18 following grounds:

19     [1.] (A) The tenant continues in possession of any portion of the  
20 premises after the expiration of his term, without the permission of the  
21 landlord or, in a case where a new lessee is entitled to possession,  
22 without the permission of the new lessee. Acceptance of rent after  
23 commencement of the special proceeding upon this ground shall not termi-  
24 nate such proceeding nor effect any award of possession to the landlord  
25 or to the new lessee, as the case may be. A proceeding seeking to  
26 recover possession of real property by reason of the termination of the

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

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1 term fixed in the lease pursuant to a provision contained therein giving  
2 the landlord the right to terminate the time fixed for occupancy under  
3 such agreement if he deem the tenant objectionable, shall not be main-  
4 tainable unless the landlord shall by competent evidence establish to  
5 the satisfaction of the court that the tenant is objectionable.

6 [2.] (B) The tenant has defaulted in the payment of rent, pursuant to  
7 the agreement under which the premises are held, and a demand of the  
8 rent has been made, or at least three days' notice in writing requiring,  
9 in the alternative, the payment of the rent, or the possession of the  
10 premises, has been served upon him as prescribed in section [735] SEVEN  
11 HUNDRED THIRTY-FIVE OF THIS ARTICLE. The landlord may waive his right to  
12 proceed upon this ground only by an express consent in writing to permit  
13 the tenant to continue in possession, which consent shall be revocable  
14 at will, in which event the landlord shall be deemed to have waived his  
15 right to summary dispossess for nonpayment of rent accruing during the  
16 time said consent remains unrevoked. Any person succeeding to the land-  
17 lord's interest in the premises may proceed under this subdivision for  
18 rent due his predecessor in interest if he has a right thereto. Where a  
19 tenant dies during the term of the lease and rent due has not been paid  
20 and no representative or person has taken possession of the premises and  
21 no administrator or executor has been appointed, the proceeding may be  
22 commenced after three months from the date of death of the tenant by  
23 joining the surviving spouse or if there is none, then one of the  
24 surviving issue or if there is none, then any one of the distributees.

25 [3.] (C) The tenant, in a city defaults in the payment, for sixty days  
26 after the same shall be payable, of any taxes or assessments levied on  
27 the premises which he has agreed in writing to pay pursuant to the  
28 agreement under which the premises are held, and a demand for payment  
29 has been made, or at least three days' notice in writing, requiring in  
30 the alternative the payment thereof and of any interest and penalty  
31 thereon, or the possession of the premises, has been served upon him, as  
32 prescribed in section [735] SEVEN HUNDRED THIRTY-FIVE OF THIS ARTICLE.  
33 An acceptance of any rent shall not be construed as a waiver of the  
34 agreement to pay taxes or assessments.

35 [4.] (D) The tenant, under a lease for a term of three years or less,  
36 has during the term taken the benefit of an insolvency statute or has  
37 been adjudicated a bankrupt.

38 [5.] (E) The premises, or any part thereof, are used or occupied as a  
39 bawdy-house, or house or place of assignation for lewd persons, or for  
40 purposes of prostitution, or for any illegal trade or manufacture, or  
41 other illegal business.

42 [6.] (F) The tenant, in a city having a population of one million or  
43 more, removes the batteries or otherwise disconnects or makes inoperable  
44 an installed smoke or fire detector which the tenant has not requested  
45 be moved from its location so as not to interfere with the reasonable  
46 use of kitchen facilities provided that the court, upon complaint there-  
47 of, has previously issued an order of violation of the provisions here-  
48 tofore stated and, subsequent to the thirtieth day after service of such  
49 order upon the tenant, an official inspection report by the appropriate  
50 department of housing preservation and development is presented, in  
51 writing, indicating non-compliance herewith; provided further, that the  
52 tenant shall have the additional ten day period to cure such violation  
53 in accordance with the provisions of subdivision four of section seven  
54 hundred fifty-three of this [chapter] ARTICLE.

55 S 2. This act shall take effect immediately.