

STATE OF NEW YORK

5030--B

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IN ASSEMBLY

February 6, 2019

Introduced by M. of A. HUNTER, L. ROSENTHAL, REYES, BARNWELL, FERNANDEZ, NIOU, BARRETT, PRETLOW, EPSTEIN, M. G. MILLER, SIMOTAS, RICHARDSON, ARROYO, DAVILA, CRUZ, TAYLOR, CRESPO, MOSLEY, PICHARDO, GOTTFRIED, GLICK, McMAHON, FRONTUS, CARROLL, JAFFEE, BICHOTTE, DINOWITZ, ORTIZ, BARRON, PERRY, HEVESI, BRONSON, SEAWRIGHT, RYAN, KIM, RIVERA, JOYNER, DE LA ROSA, FALL, D'URSO, WEPRIN, ROZIC, BLAKE, DARLING, WALKER, RAMOS, QUART, RODRIGUEZ, DenDEKKER, JACOBSON, STECK, D. ROSENTHAL, COLTON, O'DONNELL, LENTOL, COOK, AUBRY -- Multi-Sponsored by -- M. of A. NOLAN, SIMON -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to prohibiting eviction without good cause

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The real property law is amended by adding a new article
2 6-A to read as follows:

3 ARTICLE 6-A

4 PROHIBITION OF EVICTION WITHOUT GOOD CAUSE

5 Section 210. Short title.

6 211. Definitions.

7 212. Applicability.

8 213. Necessity for good cause.

9 214. Grounds for removal of tenants.

10 215. Preservation of existing requirements of law.

11 216. Waiver of rights void.

12 § 210. Short title. This article shall be cited as the "Prohibition of
13 eviction without good cause law".

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

LBD07492-07-0

1 § 211. Definitions. 1. The term "housing accommodation", as used in
2 this article shall mean any residential premises, including a mobile
3 home or land in a mobile home park.

4 2. The term "landlord" as used in this article shall mean any owner,
5 lessor, sublessor, assignor, or other person receiving or entitled to
6 receive rent for the occupancy of any housing accommodation or an agent
7 of any of the foregoing.

8 3. The term "tenant" as used in this article shall mean a tenant,
9 sub-tenant, lessee, sublessee, assignee, manufactured home tenant as
10 defined in paragraph one of subdivision a of section two hundred thirty-
11 three of this chapter, an occupant of a rooming house or hotel as
12 defined in section seven hundred eleven of the real property actions and
13 proceedings law or any other person entitled to the possession, use or
14 occupancy of any housing accommodation.

15 4. The term "rent" as used in this article shall mean any consider-
16 ation, including any bonus, benefit or gratuity demanded or received for
17 or in connection with the possession, use or occupancy of housing accom-
18 modations or the execution or transfer of a lease for such housing
19 accommodations.

20 5. The term "disabled person" as used in this article shall mean a
21 person who has an impairment which results from anatomical, physiolog-
22 ical or psychological conditions, other than addiction to alcohol,
23 gambling, or any controlled substance, which are demonstrable by
24 medically acceptable clinical and laboratory diagnostic techniques, and
25 which are expected to be permanent and which substantially limit one or
26 more of such person's major life activities.

27 § 212. Applicability. This article shall apply to all housing accommo-
28 dations except:

29 1. owner-occupied premises with less than four units;

30 2. premises sublet pursuant to section two hundred twenty-six-b of
31 this chapter, or otherwise, where the sublessor seeks in good faith to
32 recover possession of such housing accommodation for his or her own
33 personal use and occupancy;

34 3. premises the possession, use or occupancy of which is solely inci-
35 dent to employment and such employment is being lawfully terminated; and

36 4. premises otherwise subject to regulation of rents or evictions
37 pursuant to state or federal law to the extent that such state or feder-
38 al law requires "good cause" for termination or non-renewal of such
39 tenancies.

40 § 213. Necessity for good cause. No landlord shall, by action to evict
41 or to recover possession, by exclusion from possession, by failure to
42 renew any lease, or otherwise, remove any tenant from housing accommo-
43 dations covered by section two hundred twelve of this article except for
44 good cause as defined in section two hundred fourteen of this article.

45 § 214. Grounds for removal of tenants. 1. No landlord shall remove a
46 tenant from any housing accommodation, or attempt such removal or exclu-
47 sion from possession, notwithstanding that the tenant has no written
48 lease or that the lease or other rental agreement has expired or other-
49 wise terminated, except upon order of a court of competent jurisdiction
50 entered in an appropriate judicial action or proceeding in which the
51 petitioner or plaintiff has established one of the following grounds as
52 good cause for removal or eviction:

53 (a) The tenant has failed to pay rent due and owing, provided however
54 that the rent due and owing, or any part thereof, did not result from a
55 rent increase which is unreasonable or imposed for the purpose of
56 circumventing the intent of this article. In determining whether all or

1 part of the rent due and owing is the result of an unreasonable rent
2 increase, it shall be a rebuttable presumption that the rent for a
3 dwelling not protected by rent regulation is unreasonable if said rent
4 has been increased in any calendar year by a percentage exceeding either
5 three percent or one and one-half times the annual percentage change in
6 the Consumer Price Index for the region in which the housing accommo-
7 dation is located, as established the August preceding the calendar year
8 in question, whichever is greater;

9 (b) The tenant is violating a substantial obligation of his or her
10 tenancy, other than the obligation to surrender possession, and has
11 failed to cure such violation after written notice that the violation
12 cease within ten days of receipt of such written notice, provided howev-
13 er, that the obligation of tenancy for which violation is claimed was
14 not imposed for the purpose of circumventing the intent of this article;

15 (c) The tenant is committing or permitting a nuisance in such housing
16 accommodation, or is maliciously or by reason of negligence damaging the
17 housing accommodation; or the tenant's conduct is such as to interfere
18 with the comfort of the landlord or other tenants or occupants of the
19 same or adjacent buildings or structures;

20 (d) Occupancy of the housing accommodation by the tenant is in
21 violation of or causes a violation of law and the landlord is subject to
22 civil or criminal penalties therefore; provided however that an agency
23 of the state or municipality having jurisdiction has issued an order
24 requiring the tenant to vacate the housing accommodation. No tenant
25 shall be removed from possession of a housing accommodation on such
26 ground unless the court finds that the cure of the violation of law
27 requires the removal of the tenant and that the landlord did not through
28 neglect or deliberate action or failure to act create the condition
29 necessitating the vacate order. In instances where the landlord does not
30 undertake to cure conditions of the housing accommodation causing such
31 violation of the law, the tenant shall have the right to pay or secure
32 payment in a manner satisfactory to the court, to cure such violation
33 provided that any tenant expenditures shall be applied against rent to
34 which the landlord is entitled. In instances where removal of a tenant
35 is absolutely essential to his or her health and safety, the removal of
36 the tenant shall be without prejudice to any leasehold interest or other
37 right of occupancy the tenant may have and the tenant shall be entitled
38 to resume possession at such time as the dangerous conditions have been
39 removed. Nothing herein shall abrogate or otherwise limit the right of a
40 tenant to bring an action for monetary damages against the landlord to
41 compel compliance by the landlord with all applicable state or municipal
42 laws or housing codes;

43 (e) The tenant is using or permitting the housing accommodation to be
44 used for an illegal purpose;

45 (f) The tenant has unreasonably refused the landlord access to the
46 housing accommodation for the purpose of making necessary repairs or
47 improvements required by law or for the purpose of showing the housing
48 accommodation to a prospective purchaser, mortgagee or other person
49 having a legitimate interest therein;

50 (g) The landlord seeks in good faith to recover possession of a hous-
51 ing accommodation located in a building containing fewer than twelve
52 units because of immediate and compelling necessity for his or her own
53 personal use and occupancy as his or her principal residence, or the
54 personal use and occupancy as principal residence of his or her spouse,
55 parent, child, stepchild, father-in-law or mother-in-law, when no other
56 suitable housing accommodation in such building is available. This para-

1 graph shall permit recovery of only one housing accommodation and shall
2 not apply to a housing accommodation occupied by a tenant who is sixty-
3 two years of age or older or who is a disabled person;

4 (h) The landlord seeks in good faith to recover possession of any or
5 all housing accommodations located in a building with less than five
6 units to personally occupy such housing accommodations as his or her
7 principal residence.

8 2. A tenant required to surrender a housing accommodation by virtue of
9 the operation of paragraph (g) or (h) of subdivision one of this section
10 shall have a cause of action in any court of competent jurisdiction for
11 damages, declaratory, and injunctive relief against a landlord or
12 purchaser of the premises who makes a fraudulent statement regarding a
13 proposed use of the housing accommodation. In any action or proceeding
14 brought pursuant to this provision a prevailing tenant shall be entitled
15 to recovery of actual damages, and reasonable attorneys' fees.

16 3. Nothing in this section shall abrogate or limit the tenant's right
17 pursuant to section seven hundred fifty-one of the real property actions
18 and proceedings law to permanently stay the issuance or execution of a
19 warrant or eviction in a summary proceeding, whether characterized as a
20 nonpayment, objectionable tenancy, or holdover proceeding, the underlying
21 basis of which is the nonpayment of rent, so long as the tenant
22 complies with the procedural requirements of section seven hundred
23 fifty-one of the real property actions and proceedings law.

24 § 215. Preservation of existing requirements of law. No action shall
25 be maintainable and no judgment of possession shall be entered for hous-
26 ing accommodations pursuant to section two hundred fourteen of this
27 article, unless the landlord has complied with any and all applicable
28 laws governing such action or proceeding and has complied with any and
29 all applicable laws governing notice to tenants, including without limi-
30 tation the manner and the time of service of such notice and the
31 contents of such notice.

32 § 216. Waiver of rights void. Any agreement by a tenant heretofore or
33 hereinafter entered into in a written lease or other rental agreement
34 waiving or modifying his or her rights as set forth in this article
35 shall be void as contrary to public policy.

36 § 2. Severability. If any provision of this act, or any application of
37 any provision of this act, is held to be invalid, that shall not affect
38 the validity or effectiveness of any other provision of this act, or of
39 any other application of any provision of this act, which can be given
40 effect without that provision or application; and to that end, the
41 provisions and applications of this act are severable.

42 § 3. This act shall take effect immediately and shall apply to actions
43 and proceedings commenced on or after such effective date.