

STATE OF NEW YORK

1238

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the
Committee on Housing

AN ACT to amend the real property law, in relation to the termination of
leases when a domestic violence victim obtains an order of protection
or signed affidavit

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

1 Section 1. Subdivisions 1, 2 and 3 of section 227-c of the real prop-
2 erty law, subdivision 1 as added by chapter 73 of the laws of 2007 and
3 subdivisions 2 and 3 as amended by chapter 616 of the laws of 2007, are
4 amended to read as follows:

5 1. In any lease or rental agreement covering premises occupied for
6 dwelling purposes, a lessee or tenant for whose benefit any order of
7 protection has been issued by a court of competent jurisdiction, or such
8 lessee or tenant who has obtained a signed affidavit from any lawyer,
9 mental health professional, affiliated care manager on staff of an
10 organization serving victims of domestic violence, elected official,
11 police officer or duly sworn officer of the peace shall be permitted to
12 terminate such lease or rental agreement and quit and surrender
13 possession of the leasehold premises, and of the land so leased or occu-
14 pied pursuant to the provisions of this section and to be released from
15 any liability to pay to the lessor or owner, rent or other payments in
16 lieu of rent for the time subsequent to the date of termination of such
17 lease in accordance with subdivision two of this section.

18 2. (a) A lessee or tenant for whose benefit any order of protection
19 has been issued by a court of competent jurisdiction, or such lessee or
20 tenant who has obtained a signed affidavit from any lawyer, mental
21 health professional, affiliated care manager on staff of an organization
22 serving victims of domestic violence, elected official, police officer
23 or duly sworn officer of the peace may, on ten days' notice to the
24 lessor or owner of the premises occupied by such person, and to any

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

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1 co-tenants of such lessee or tenant, seek an order of the court that
2 issued such order of protection, or any other court of competent juris-
3 isdiction, authorizing such lessee or tenant to terminate such party's
4 lease or rental agreement. Provided, however, that if the lessee or
5 tenant for whose benefit any order of protection or signed affidavit has
6 been issued is co-tenants with the person covered by such order of
7 protection or signed affidavit, such notice need not be provided to such
8 co-tenant. Such court shall hear any such application at any time that
9 the order of protection remains in effect, or at any other time as
10 determined by the court, whether or not the action in which it was
11 issued remains open.

12 (b) The court shall issue such order only if the applicant lessee or
13 tenant establishes to the satisfaction of the court that:

14 (i) notwithstanding the existence of an order of protection, or a
15 signed affidavit from any lawyer, mental health professional, affiliated
16 care manager on staff of an organization serving victims of domestic
17 violence, elected official, police officer or duly sworn officer of the
18 peace, there continues to exist a substantial risk of physical or
19 emotional harm to such person or such person's child from the party
20 covered by the order of protection if the parties remain in the premises
21 and that relocation will substantially reduce such risk;

22 (ii) the lessee or tenant attempted to secure the voluntary consent of
23 the lessor or owner to terminate the lease or rental agreement and the
24 lessor or owner refused to permit termination; and

25 (iii) the lessee or tenant is acting in good faith.

26 (c) The court shall condition the granting of the order on the follow-
27 ing terms:

28 (i) All sums due under the lease or rental agreement through the
29 termination date of such lease or rental agreement are timely paid;

30 (ii) That upon termination:

31 (a) the premises are delivered to the lessor or owner free of all
32 tenants and occupants and in accordance with the terms of the lease
33 relating to delivery of the premises at the termination of the lease,
34 provided that the applicant shall not be responsible for ensuring that
35 the person covered by the order of protection, or the person covered by
36 a signed affidavit from any lawyer, mental health professional, affil-
37 iated care manager on staff of an organization serving victims of domes-
38 tic violence, elected official, police officer or duly sworn officer of
39 the peace, is not present; or

40 (b) if there are also tenants on the lease other than the applicant
41 tenant and the person covered by the order of protection, or the person
42 covered by a signed affidavit from any lawyer, mental health profes-
43 sional, affiliated care manager on staff of an organization serving
44 victims of domestic violence, elected official, police officer or duly
45 sworn officer of the peace, the court shall not, except upon consent of
46 such additional tenants, terminate the entire co-tenancy, but the court
47 may sever the co-tenancy, in which case the applicant tenant shall
48 vacate by the termination date; and

49 (iii) That adjustments be made through to termination date for any
50 rent or other payments made in advance or which have accrued by the
51 terms of such lease or rental agreement.

52 (d) The order shall specify the termination date which shall be no
53 earlier than thirty days and no later than one hundred fifty days after
54 the due date of the next rental payment subsequent to the date such
55 order is served on the lessor or owner.

1 (e) The order shall be served on the lessor or owner and any co-ten-
2 ants by the court or in the manner directed by the court.

3 3. The lessor or owner and any co-tenants shall be afforded an oppor-
4 tunity to be heard by the court and express opposition to the issuance
5 or terms of a termination order. If the court is not satisfied that
6 there has been adequate notice of the application to the lessor, owner,
7 or any co-tenants, it may briefly adjourn the matter or take other steps
8 to provide for such notice, but shall not direct that the applicant
9 lessee or tenant make personal service of the application, or of a
10 termination order, upon a co-tenant covered by the order of protection
11 or a co-tenant covered by a signed affidavit from any lawyer, mental
12 health professional, affiliated care manager on staff of an organization
13 serving victims of domestic violence, elected official, police officer
14 or duly sworn officer of the peace.

15 § 2. This act shall take effect immediately.