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 Assembly, do enact as follows:

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

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

2. (a) A lessee or tenant for whose benefit any order of protection has been issued by a court of competent jurisdiction, **or such lessee or tenant who has obtained a signed affidavit from any lawyer, mental health professional, affiliated care manager on staff of an organization serving victims of domestic violence, elected official, police officer or duly sworn officer of the peace** may, on ten days' notice to the 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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co-tenants of such lessee or tenant, seek an order of the court that issued such order of protection**, or any other court of competent jurisdiction,** authorizing such lessee or tenant to terminate such party's lease or rental agreement. **Provided, however, that if the lessee or tenant for whose benefit any order of protection or signed affidavit has been issued is co-tenants with the person covered by such order of protection or signed affidavit, such notice need not be provided to such co-tenant.** Such court shall hear any such application at any time that the order of protection remains in effect, **or at any other time as determined by the court,** whether or not the action in which it was issued remains open.

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

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

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

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

(c) The court shall condition the granting of the order on the following terms:

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

(ii) That upon termination:

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

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

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

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

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

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

§ 2. This act shall take effect immediately.