

STATE OF NEW YORK

4267

2019-2020 Regular Sessions

IN ASSEMBLY

February 1, 2019

Introduced by M. of A. HEVESI, ENGLEBRIGHT, L. ROSENTHAL, GUNTHER, ARROYO, ROZIC, LAVINE, GIGLIO, D'URSO, GALEF, JOYNER, SIMON, RIVERA, TAYLOR, HUNTER, SEAWRIGHT, BICHOTTE, MOSLEY, NIOU, ORTIZ, BARRON, WILLIAMS, RICHARDSON, GOTTFRIED, EPSTEIN, WRIGHT -- read once and referred to the Committee on Housing

AN ACT to amend the real property law, in relation to the termination of a residential lease by a victim of domestic violence; and to repeal certain provisions of such law relating thereto

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

Section 1. Section 227-c of the real property law is REPEALED and a new section 227-c is added to read as follows:

§ 227-c. Termination of residential lease by victims of domestic violence. 1. Lease or rental agreement. In any lease or rental agreement covering premises occupied for dwelling purposes, where a tenant or a member of the tenant's household is a victim of domestic violence as defined by section four hundred fifty-nine-a of the social services law and reasonably fears remaining in the leasehold premises because of potential further domestic violence, such tenant shall be permitted to terminate such lease or rental agreement and quit and surrender possession of the leasehold premises and 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. Lease termination procedure. (a) A tenant who meets the requirements in subdivision one of this section may terminate his or her lease by notice in writing delivered to the lessor or owner of the premises occupied by such person, or to the lessor's or owner's agent, and to any co-tenants of such lessee or tenant other than the perpetrator of domestic violence. The notice shall specify the termination date which shall

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

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1 be no earlier than thirty days after such notice is delivered. If the
2 notice is mailed via first class mail, it shall be deemed delivered five
3 days after mailing. If the tenant asserts that the lessor or owner is
4 the perpetrator of domestic violence, a person authorized by the tenant
5 may deliver such notice on the tenant's behalf.

6 (b) Such notice shall state that the tenant or a member of the
7 tenant's household has experienced domestic violence and reasonably
8 believes he or she, or the member of the tenant's household, is unable
9 to safely remain in the leased premises as a result of the domestic
10 violence.

11 (c) Within twenty-five days of such notice, the tenant shall provide
12 documentation demonstrating that the tenant or a member of the tenant's
13 household has been a victim of domestic violence as described in subdi-
14 vision one of this section. This documentation may include any one or
15 more of the following:

16 (i) A temporary or final order of protection issued by a court of
17 competent jurisdiction;

18 (ii) A record, complaint, or report from a federal, state, or local
19 law enforcement agency of an act of domestic violence as described in
20 section four hundred fifty-nine-a of the social services law or a family
21 offense as described in section eight hundred twelve of the family court
22 act, or certifying that the tenant or a member of the tenant's household
23 has been subjected to domestic violence;

24 (iii) A record from a health care provider for treatment related to
25 domestic violence as described in section four hundred fifty-nine-a of
26 the social services law or a family offense as described in section
27 eight hundred twelve of the family court act;

28 (iv) A written verification from any other qualified third party to
29 whom the tenant, or a member of the tenant's household reported the
30 domestic violence.

31 (A) "Qualified third party" shall include: any law enforcement offi-
32 cer; employee of a court of the state; attorney, physician, psychia-
33 trist, psychologist, social worker, registered nurse, therapist, or
34 clinical professional counselor licensed to practice in any state;
35 person employed by a government or non-profit agency or service that
36 advises or provides services to persons regarding domestic violence; or
37 any member of the clergy of a church or religious society or denomi-
38 nation.

39 (B) Written verification as described herein shall be satisfied by any
40 sworn or notarized statement including the required information.

41 (C) The following sample form shall satisfy the verification require-
42 ments but is not required. This sample form shall be posted to the New
43 York state unified court system's website, and shall be made available
44 in the state's family, civil, housing, criminal, and supreme courts:

45 Part I. Tenant/Legal Occupant Statement

46 I, (insert name of tenant), state as follows:

47 (Choose the next part (A, B, or C) that most accurately describes your
48 situation)

49 (A) I have been subject to domestic violence. Date(s) of recent
50 incident(s) happened on or about:

1 (B) A member of my household has been subject to domestic violence.
2 Date(s) of recent incident(s) happened on or about:

3 (C) Both I and at least one member of my household have been subject to
4 domestic violence. Date(s) of recent incident(s) happened on or about:

5 The person I have asserted has perpetrated domestic violence is my
6 co-tenant, and I cannot safely give notice of my termination to my
7 co-tenant. (YES/NO)

8 I reasonably fear that I cannot safely remain in my current apartment. I
9 hereby terminate my lease effective (date at least thirty days after the
10 next rent payment is due).

11 _____
12 (signature of tenant) (date)

13 Acknowledgement

14 State of _____)
15)ss.:

16 County of _____)

17 On the _____ day of _____ in the year _____, before me, the under-
18 signed notary public, personally appeared _____,
19 personally known to me or proved to me on the basis of satisfactory
20 evidence to be the individual(s) whose name(s) is (are) subscribed to
21 the within instrument and acknowledged to me that he/she/they executed
22 the same in his/her/their capacity(ies), and that by his/her/their
23 signature(s) on the instrument, the individual(s), or the person upon
24 behalf of which the individual(s) acted, executed the instrument.

25 _____
26 Notary Public

27 Part II. Qualified Third Party Statement

28 I, (insert name of qualified third party), state as follows:
29 My employer name/address/phone number/e-mail address are as follows:

30 I am:

31 A law enforcement officer employed by the (insert law enforcement
32 agency).

33 An employee of _____ court located in the
34 state of _____.

35 An attorney licensed to practice in (insert name of state(s)).

36 A physician licensed to practice in (insert name of state(s)).

37 A psychiatrist licensed to practice in (insert name of state(s)).

38 A psychologist licensed to practice in (insert name of state(s)).

39 A social worker licensed to practice in (insert name of state(s)).

40 A nurse licensed to practice in (insert name of state(s)).

1 A therapist or clinical professional counselor licensed to practice
2 in (insert name of state(s));

3 Employed by a government or non-profit agency or service that
4 advises persons regarding domestic violence or refers them to
5 persons or agencies for services or advice.

6 A member of the clergy of a church or religious society or denomi-
7 nation.

8 Other (describe):

9 The person who signed the Tenant/Legal Occupant Statement above has
10 stated to me that he or she, or a member of his or her household, has
11 been subject to domestic violence.

12 This person further stated to me the incident(s) occurred on or about
13 the date(s) stated above.

14 I understand that the person who signed the Tenant/Legal Occupant State-
15 ment may use this document as a basis for terminating a lease with the
16 person's lessor.

17 _____
18 (name of qualified third party)

19 _____
20 (signature of qualified third party)

21 _____
22 (date)

23 Acknowledgement

24 State of _____)
25 _____)ss.:
26 County of _____)

27 On the _____ day of _____ in the year _____, before me, the
28 undersigned _____ notary _____ public, _____ personally _____ appeared
29 _____, personally known to me or proved to me on the
30 basis of satisfactory evidence to be the individual(s) whose name(s) is
31 (are) subscribed to the within instrument and acknowledged to me that
32 he/she/they executed the same in his/her/their capacity(ies), and that
33 by his/her/their signature(s) on the instrument, the individual(s), or
34 the person upon behalf of which the individual(s) acted, executed the
35 instrument.

36 _____
37 Notary Public

38 Part III. Statement of Interpretation/Translation

1 I am bilingual in English and _____ and have translated or inter-
2 preted this document to the best of my ability for the signer above.

3 _____
4 (name of interpreter/translator)

5 _____
6 (signature of interpreter/translator)

7 _____
8 (date)

9 Acknowledgement

10 State of _____)
11 _____)ss.:
12 County of _____)

13 On the _____ day of _____ in the year _____, before me, the
14 undersigned notary public, personally appeared _____,
15 personally known to me or proved to me on the basis of satisfactory
16 evidence to be the individual(s) whose name(s) is (are) subscribed to
17 the within instrument and acknowledged to me that he/she/they executed
18 the same in his/her/their capacity(ies), and that by his/her/their
19 signature(s) on the instrument, the individual(s), or the person upon
20 behalf of which the individual(s) acted, executed the instrument.

21 _____
22 Notary Public

23 3. Treatment of rent. (a) The tenant terminating the lease shall pay
24 rent, pro-rata, up to the lease termination date pursuant to this
25 section.

26 (b) The tenant terminating the lease shall be entitled to a refund for
27 any prepaid rent or other payments covering the period after the effec-
28 tive date of the lease termination, as long as the tenant has vacated
29 the premises. Such refund shall be provided within ten days of delivery
30 of the written notice as outlined in subdivision two of this section.

31 (c) A tenant who meets the requirements in subdivision one of this
32 section and submits proper notice pursuant to subdivision two of this
33 section shall have a defense in any action brought by a landlord against
34 such tenant to recover rent and/or damages for breach of lease and shall
35 not be liable for any rent after the effective termination date.

36 (d) The lessor or owner may withhold a security deposit in part or in
37 full to the extent allowed by the lease or statute, except for the early
38 termination granted by this section, and shall not withhold any part of
39 the security deposit due to the tenant's exercise of rights under this
40 section.

41 (e) Nothing in this section shall be construed to be a defense against
42 an action for rent for a period of time before the tenant vacated the
43 premises and gave notice as required in subdivision two of this section.

44 4. Co-tenants and other occupants. Upon termination:

1 (a) If the terminating tenant is the sole leaseholder, the premises
2 shall be delivered to the lessor or owner:

3 (i) free of all tenants and occupants, provided that the terminating
4 tenant shall not be responsible for ensuring that the abusive household
5 member is not present; and

6 (ii) in accordance with the terms of the lease relating to delivery of
7 the premises at the termination of the lease.

8 (b) If there are tenants on the lease other than the terminating
9 tenant:

10 (i) the landlord shall not, except upon consent of such additional
11 tenants, terminate or sever the co-tenancy. The landlord must provide
12 the remaining tenant at least thirty days from the termination date to
13 decide whether to consent to a termination or severance.

14 (ii) The remaining co-tenant or co-tenants hold the right to add an
15 additional occupant as defined by paragraph (b) of subdivision one of
16 section two hundred thirty-five-f of this article.

17 5. Confidentiality provisions. (a) Unless the terminating tenant
18 provides written authorization for the release of information or unless
19 required by law, court order, or statute, the information shall not be
20 released. Information that shall be kept confidential shall include
21 information obtained during the process of the tenant terminating his or
22 her lease in accordance with this section, such as: (i) the nature of
23 the termination, (ii) the status of the tenant or member of the tenant's
24 household as a victim of domestic violence, and (iii) any information
25 contained in documentation provided to demonstrate status as a victim of
26 domestic violence.

27 (b) Pursuant to this section, the landlord shall not divulge,
28 describe, or characterize the termination of the rental agreement as an
29 early termination by a current lessor to a prospective lessor or any
30 third party.

31 6. Violations. (a) Landlords who knowingly, or intentionally violate
32 any part of this section may be liable for liquidated damages, not to
33 exceed one thousand dollars, actual damages, costs and attorneys' fees.

34 (b) Any agreement by a lessee or tenant of premises occupied for
35 dwelling purposes waiving or modifying his or her rights as set forth in
36 this section shall be void as contrary to public policy.

37 § 2. This act shall take effect immediately.