STATE OF NEW YORK

4267--A

Cal. No. 293

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, BLAKE, McDONALD, WALCZYK, BUTTENSCHON, WALLACE, CRUZ, REYES -- read once and referred to the Committee on Housing -- reported and referred to the Committee on Codes -- advanced to a third reading, passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

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 Section 227-c of the real property law is REPEALED and a new section 227-c is added to read as follows: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

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

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2. Lease termination procedure. (a) A tenant who meets the requirements in subdivision one of this section may terminate the tenant's 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 be no earlier than thirty days after such notice is delivered. If the notice is mailed via first class mail, it shall be deemed delivered five days after mailing. If the tenant asserts that the lessor or owner is the perpetrator of domestic violence, a person authorized by the tenant may deliver such notice on the tenant's behalf.

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

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

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

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

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

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

(A) "Qualified third party" shall include: any law enforcement officer; employee of a court of the state; attorney, physician, psychiatrist, psychologist, social worker, registered nurse, therapist, or clinical professional counselor licensed to practice in any state; person employed by a government or non-profit agency or service that advises or provides services to persons regarding domestic violence; or any member of the clergy of a church or religious society or denomination.

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

(d) The following sample forms shall satisfy the notice and verification requirements but are not required. These sample forms shall be posted to the New York state unified court system's website, and shall be made available in the state's family, civil, housing, criminal, and supreme courts:

Part I. Tenant/Legal Occupant Statement

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

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

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

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

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

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

I reasonably fear that I cannot safely remain in my current apartment. I hereby terminate my lease effective (date at least thirty days after this notice is delivered).

_____ _____
(signature of tenant) (date)

Acknowledgement

State of _____)
)ss.:
County of _____)

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

_____
Notary Public

Part II. Qualified Third Party Statement

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

I am:

____ A law enforcement officer employed by the (insert law enforcement agency).
____ An employee of _____ court located in the state of _____.
____ An attorney licensed to practice in (insert name of state(s)).

A physician licensed to practice in (insert name of state(s)).
A psychiatrist licensed to practice in (insert name of state(s)).
A psychologist licensed to practice in (insert name of state(s)).
A social worker licensed to practice in (insert name of state(s)).
A nurse licensed to practice in (insert name of state(s)).
A therapist or clinical professional counselor licensed to practice in (insert name of state(s));
Employed by a government or non-profit agency or service that advises persons regarding domestic violence or refers them to persons or agencies for services or advice.
A member of the clergy of a church or religious society or denomination.
Other (describe): _____

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

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

I understand that the person who signed the Tenant/Legal Occupant Statement may use this document as a basis for terminating a lease with the person's lessor.

_____
(name of qualified third party)

_____
(signature of qualified third party)

_____
(date)

Acknowledgement

State of _____)
)ss.:
County of _____)

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

_____

Notary Public

Part III. Statement of Interpretation/Translation

I am bilingual in English and _____ and have translated or interpreted this document to the best of my ability for the signer above.

_____
(name of interpreter/translator)

_____
(signature of interpreter/translator)

_____
(date)

Acknowledgement

State of _____)
)ss.:
County of _____)

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

_____
Notary Public

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.