

# STATE OF NEW YORK

2892--A

2019-2020 Regular Sessions

## IN SENATE

January 30, 2019

Introduced by Sens. SALAZAR, STAVISKY, BIAGGI, BRESLIN, HOYLMAN, JACKSON, KAVANAGH, LIU, MAY, MONTGOMERY, RAMOS, RIVERA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- 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:

### ARTICLE 6-A

#### PROHIBITION OF EVICTION WITHOUT GOOD CAUSE

3 Section 210. Short title.

4 211. Definitions.

5 212. Applicability.

6 213. Necessity for good cause.

7 214. Grounds for removal of tenants.

8 215. Preservation of existing requirements of law.

9 216. Waiver of rights void.

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

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

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

19 3. The term "tenant" as used in this article shall mean a tenant,  
20 sub-tenant, lessee, sublessee, assignee, manufactured home tenant as  
21 sub-tenant, lessee, sublessee, assignee, manufactured home tenant as  
22

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

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1 defined in paragraph one of subdivision a of section two hundred thir-  
2 ty-three of this chapter, an occupant of a rooming house or hotel as  
3 defined in section seven hundred eleven of the real property actions and  
4 proceedings law or any other person entitled to the possession, use or  
5 occupancy of any housing accommodation.

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

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

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

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

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

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

27 4. premises otherwise subject to regulation of rents or evictions  
28 pursuant to state or federal law to the extent that such state or feder-  
29 al law requires "good cause" for termination or non-renewal of such  
30 tenancies.

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

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

44 (a) The tenant has failed to pay rent due and owing, provided however  
45 that the rent due and owing, or any part thereof, did not result from a  
46 rent increase which is unconscionable or imposed for the purpose of  
47 circumventing the intent of this article. In determining whether all or  
48 part of the rent due and owing is the result of an unconscionable rent  
49 increase, it shall be a rebuttable presumption that the rent for a  
50 dwelling not protected by rent regulation is unconscionable if said rent  
51 has been increased in any calendar year by a percentage exceeding one  
52 and one-half times the annual percentage change in the Consumer Price  
53 Index for the region in which the housing accommodation is located, as  
54 established the August preceding the calendar year in question;

55 (b) The tenant is violating a substantial obligation of his or her  
56 tenancy, other than the obligation to surrender possession, and has

1 failed to cure such violation after written notice that the violation  
2 cease within ten days of receipt of such written notice, provided howev-  
3 er, that the obligation of tenancy for which violation is claimed was  
4 not imposed for the purpose of circumventing the intent of this article;

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

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

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

35 (f) The tenant has unreasonably refused the landlord access to the  
36 housing accommodation for the purpose of making necessary repairs or  
37 improvements required by law or for the purpose of showing the housing  
38 accommodation to a prospective purchaser, mortgagee or other person  
39 having a legitimate interest therein;

40 (g) The landlord seeks in good faith to recover possession of a hous-  
41 ing accommodation located in a building containing fewer than twelve  
42 units because of immediate and compelling necessity for his or her own  
43 personal use and occupancy as his or her principal residence, or the  
44 personal use and occupancy as principal residence of his or her spouse,  
45 parent, child, stepchild, father-in-law or mother-in-law, when no other  
46 suitable housing accommodation in such building is available. This para-  
47 graph shall permit recovery of only one housing accommodation and shall  
48 not apply to a housing accommodation occupied by a tenant who is sixty-  
49 two years of age or older or who is a disabled person;

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

54 2. A tenant required to surrender a housing accommodation by virtue of  
55 the operation of paragraph (g) or (h) of subdivision one of this section  
56 shall have a cause of action in any court of competent jurisdiction for

1 damages, declaratory, and injunctive relief against a landlord or  
2 purchaser of the premises who makes a fraudulent statement regarding a  
3 proposed use of the housing accommodation. In any action or proceeding  
4 brought pursuant to this provision a prevailing tenant shall be entitled  
5 to recovery of actual damages, and reasonable attorneys' fees.

6 3. Nothing in this section shall abrogate or limit the tenant's right  
7 pursuant to section seven hundred fifty-one of the real property actions  
8 and proceedings law to permanently stay the issuance or execution of a  
9 warrant or eviction in a summary proceeding, whether characterized as a  
10 nonpayment, objectionable tenancy, or holdover proceeding, the underly-  
11 ing basis of which is the nonpayment of rent, so long as the tenant  
12 complies with the procedural requirements of section seven hundred  
13 fifty-one of the real property actions and proceedings law.

14 § 215. Preservation of existing requirements of law. No action shall  
15 be maintainable and no judgment of possession shall be entered for hous-  
16 ing accommodations pursuant to section two hundred fourteen of this  
17 article, unless the landlord has complied with any and all applicable  
18 laws governing such action or proceeding and has complied with any and  
19 all applicable laws governing notice to tenants, including without limi-  
20 tation the manner and the time of service of such notice and the  
21 contents of such notice.

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

26 § 2. Severability. If any provision of this act, or any application of  
27 any provision of this act, is held to be invalid, that shall not affect  
28 the validity or effectiveness of any other provision of this act, or of  
29 any other application of any provision of this act, which can be given  
30 effect without that provision or application; and to that end, the  
31 provisions and applications of this act are severable.

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