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:

Section 1. The real property law is amended by adding a new article 6-A to read as follows:

ARTICLE 6-A

PROHIBITION OF EVICTION WITHOUT GOOD CAUSE

Section 210. Short title.
211. Definitions.
212. Applicability.
213. Necessity for good cause.
214. Grounds for removal of tenants.
215. Preservation of existing requirements of law.
216. Waiver of rights void.

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

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

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

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

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

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

4. The term "rent" as used in this article shall mean any consideration, including any bonus, benefit or gratuity demanded or received for or in connection with the possession, use or occupancy of housing accommodations or the execution or transfer of a lease for such housing accommodations.

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

§ 212. Applicability. This article shall apply to all housing accommodations except:

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

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

3. premises the possession, use or occupancy of which is solely incident to employment and such employment is being lawfully terminated; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 215. Preservation of existing requirements of law. No action shall be maintainable and no judgment of possession shall be entered for housing accommodations pursuant to section two hundred fourteen of this article, unless the landlord has complied with any and all applicable laws governing such action or proceeding and has complied with any and all applicable laws governing notice to tenants, including without limitation the manner and the time of service of such notice and the contents of such notice.

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

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

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