

STATE OF NEW YORK

2892--B

2019-2020 Regular Sessions

IN SENATE

January 30, 2019

Introduced by Sens. SALAZAR, STAVISKY, BAILEY, BIAGGI, BRESLIN, CARLUCI, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAVANAGH, KRUEGER, LIU, MAY, MAYER, MONTGOMERY, MYRIE, PARKER, RAMOS, RIVERA, SANDERS, SEPULVEDA, 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 -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- 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.

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

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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 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 or her 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 unreasonable 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 unreasonable rent increase, it shall be a rebuttable presumption that the rent for a dwelling not protected by rent regulation is unreasonable if said rent

1 has been increased in any calendar year by a percentage exceeding either
2 three percent or one and one-half times the annual percentage change in
3 the Consumer Price Index for the region in which the housing accommo-
4 dation is located, as established the August preceding the calendar year
5 in question, whichever is greater;

6 (b) The tenant is violating a substantial obligation of his or her
7 tenancy, other than the obligation to surrender possession, and has
8 failed to cure such violation after written notice that the violation
9 cease within ten days of receipt of such written notice, provided howev-
10 er, that the obligation of tenancy for which violation is claimed was
11 not imposed for the purpose of circumventing the intent of this article;

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

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

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

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

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

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

5 2. A tenant required to surrender a housing accommodation by virtue of
6 the operation of paragraph (g) or (h) of subdivision one of this section
7 shall have a cause of action in any court of competent jurisdiction for
8 damages, declaratory, and injunctive relief against a landlord or
9 purchaser of the premises who makes a fraudulent statement regarding a
10 proposed use of the housing accommodation. In any action or proceeding
11 brought pursuant to this provision a prevailing tenant shall be entitled
12 to recovery of actual damages, and reasonable attorneys' fees.

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

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

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

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

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