STATE OF NEW YORK

5975

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to the responsibility of a landlord to remediate pest infestations

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 section 235-bbb to read as follows:

§ 235-bbb. Remediation of pest infestations. 1. (a) The existence of an infestation of pests in a premises occupied for dwelling purposes is hereby declared to constitute a condition dangerous to health and a breach of the warranty of habitability for the purposes of section two hundred thirty-five-b of this article. A landlord shall keep premises occupied for dwelling purposes free from an infestation of pests, and shall prevent the reasonably foreseeable occurrence of such a condition and shall expeditiously remediate such condition and any underlying defect, when such underlying defect exists, consistent with the provisions of this section.

(b) A landlord shall not be liable for a breach of the warranty of habitability pursuant to this section where such infestation of pests has been caused by a willful or intentional act of the tenant or lessee or persons under his or her direction or control.

2. (a) The landlord of premises occupied for dwelling purposes shall cause an investigation to be made for pests in all occupied dwelling units and in common areas as set forth in paragraph (b) of this subdivision.

(b) Investigations shall be undertaken by a landlord at least once a year and more often if necessary, such as when, in the exercise of reasonable care, such landlord knows or should have known of a condition that is reasonably foreseeable to cause an infestation of pests, or a tenant makes a complaint concerning a condition that is likely to cause

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

LBD11419-02-9

an infestation of pests or requests an inspection. A landlord shall maintain a record of each such investigation, the form and content of such records to be promulgated by the commissioner of health. Such records shall be retained for a period of at least five years after such investigation and shall be made available to the department of health upon request.

(c) All leases offered to tenants or prospective tenants in such premises occupied or to be occupied for dwelling purposes shall contain a notice, conspicuously set forth therein, which advises tenants of the obligations of the landlord and tenant as set forth in this section.

3. When any premises occupied for dwelling purposes are subject to infestation by pests, the landlord shall use integrated pest management measures and eliminate conditions conducive to pests, and comply with the following work practices:

(a) Inspect for, and physically remove pest nests, waste, and other debris by High-Efficiency Particulate Air (HEPA) vacuuming, washing surfaces, or otherwise collecting and discarding such debris;

(b) Eliminate points of entry and passage for pests by repairing and sealing any holes, gaps or cracks in walls, ceilings, floors, molding, base boards, around pipes and conduits, or around and within cabinets by using sealants, plaster, cement, wood, escutcheon plates, or other durable material. Attach door sweeps to any door leading to a hallway, basement, or outside the building to reduce gaps to no more than one-quarter inch; and

(c) Eliminate sources of water for pests by repairing drains, faucets, and other plumbing materials that accumulate water or leak. Remove and replace saturated materials in interior walls.

4. The use of pesticides shall not substitute for pest management measures described in subdivision three of this section. Any pesticide applied shall be applied by a pest professional licensed by the department of environmental conservation.

5. As used in this section the following terms shall have the following meanings:

(a) "Pest" means any unwanted member of the Class Insecta, including, but not limited to houseflies, lice, bees, cockroaches, moths, silverfish, beetles, bedbugs, ants, termites, hornets, mosquitoes and wasps, and such members of the Phylum Arthropoda as spiders, mites, ticks, centipedes and wood lice, or of the Order Rodentia, including but not limited to mice, Norway rats, and any other unwanted plant, animal or fungal life that is a pest because it is destructive, annoying or a nuisance.

(b) "Integrated pest management" means ongoing prevention, monitoring and pest control activities to eliminate pests from any building, lot, or dwelling. This includes, but is not limited to, the elimination of harborages and conditions conducive to pests, the use of traps, and, when necessary, the use of pesticides.

§ 2. This act shall take effect on the thirtieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.