STATE OF NEW YORK

490--A

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. L. ROSENTHAL, GOTTFRIED, DINOWITZ -- Multi-Sponsored by -- M. of A. COLTON, GLICK, PERRY -- read once and referred to the Committee on Housing -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property actions and proceedings law, in relation to conditions precedent to the bringing of certain actions or proceedings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of section 711 of the real property actions and proceedings law, as amended by section 12 of part M of chapter 36 of the laws of 2019, is amended to read as follows:

2. The tenant has defaulted in the payment of rent, pursuant to the agreement under which the premises are held, and a written demand of the rent has been made with at least fourteen days' notice requiring, in the alternative, the payment of the rent, or the possession of the premises, has been served upon him as prescribed in section seven hundred thirty-five of this article**, and at the time of commencement of the proceeding there are no violations of any applicable state, city or local codes relating to housing maintenance or housing standards, and no conditions that contravene section two hundred thirty-five-b of the real property law, in the subject apartment or in the common areas of the subject building, and there is no lack of heat, running water, light, electricity or of adequate sewage disposal facilities, or an infestation by rodents, or any other condition dangerous to life, health or safety, which has existed for five days, or any combination of such conditions in any apartments in the subject building. If at the time of filing there exist violations of any applicable state, city or local building**

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

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or housing codes with respect to the subject apartment or the common areas of the subject building or there is no lack of heat, running water, light, electricity or of adequate sewage disposal facilities, or an infestation by rodents, or any other condition dangerous to life, health or safety, which has existed for five days, or any combination of such conditions in any apartments in the subject building, a landlord may commence a proceeding under this subdivision by filing, with the petition and notice of petition prescribed by section seven hundred thirty-one of this article, an affidavit including facts establishing that said violation or violations were recorded erroneously or that a state, city or local agency, authority or department erroneously failed to remove said violation or violations. A proceeding under this subdivision cannot be maintained if the court finds that the allegations in said affidavit are untrue or if the court finds that at the time of commencement of the proceeding there were violations of any applicable state, city or local codes relating to housing maintenance or housing standards or contraventions of section two hundred thirty-five-b of the real property law, in the subject apartment or in the common areas of the subject building, or extremely hazardous violations in any apartments in the subject building. Any person succeeding to the landlord's interest in the premises may proceed under this subdivision for rent due his predecessor in interest if he has a right thereto. Where a tenant dies during the term of the lease and rent due has not been paid and the apartment is occupied by a person with a claim to possession, a proceeding may be commenced naming the occupants of the apartment seeking a possessory judgment only as against the estate. Entry of such a judgment shall be without prejudice to the possessory claims of the occupants, and any warrant issued shall not be effective as against the occupants.

§ 2. Subdivisions 4 and 5 of section 741 of the real property actions and proceedings law, are renumbered subdivisions 5 and 6 and a new subdivision 4 is added to read as follows:

4. State that at the time of commencement of the proceeding there are no violations of any applicable state, city or local codes relating to housing maintenance or housing standards, and no conditions that contravene section two hundred thirty-five-b of the real property law, in the subject apartment or in the common areas of the subject building, and no extremely hazardous violations in any apartments in the subject building, or state that an affidavit has been filed as prescribed by section seven hundred eleven of this article.

§ 3. This act shall take effect immediately.