

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:

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

4 2. The tenant has defaulted in the payment of rent, pursuant to the
5 agreement under which the premises are held, and a written demand of the
6 rent has been made with at least fourteen days' notice requiring, in the
7 alternative, the payment of the rent, or the possession of the premises,
8 has been served upon him as prescribed in section seven hundred thirty-
9 five of this article, and at the time of commencement of the proceeding
10 there are no violations of any applicable state, city or local codes
11 relating to housing maintenance or housing standards, and no conditions
12 that contravene section two hundred thirty-five-b of the real property
13 law, in the subject apartment or in the common areas of the subject
14 building, and there is no lack of heat, running water, light, electric-
15 ity or of adequate sewage disposal facilities, or an infestation by
16 rodents, or any other condition dangerous to life, health or safety,
17 which has existed for five days, or any combination of such conditions
18 in any apartments in the subject building. If at the time of filing
19 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.

LBD00538-05-2

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

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

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

40 § 3. This act shall take effect immediately.