

# STATE OF NEW YORK

629

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

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:

1 Section 1. The real property law is amended by adding a new section  
2 235-bbb to read as follows:

3 § 235-bbb. Remediation of pest infestations. 1. (a) The existence of  
4 an infestation of pests in a premises occupied for dwelling purposes is  
5 hereby declared to constitute a condition dangerous to health and a  
6 breach of the warranty of habitability for the purposes of section two  
7 hundred thirty-five-b of this article. A landlord shall keep premises  
8 occupied for dwelling purposes free from an infestation of pests, and  
9 shall prevent the reasonably foreseeable occurrence of such a condition  
10 and shall expeditiously remediate such condition and any underlying  
11 defect, when such underlying defect exists, consistent with the  
12 provisions of this section.

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

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

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

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

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1 tenant makes a complaint concerning a condition that is likely to cause  
2 an infestation of pests or requests an inspection. A landlord shall  
3 maintain a record of each such investigation, the form and content of  
4 such records to be promulgated by the commissioner of health. Such  
5 records shall be retained for a period of at least five years after such  
6 investigation and shall be made available to the department of health  
7 upon request.

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

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

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

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

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

29 4. The use of pesticides shall not substitute for pest management  
30 measures described in subdivision three of this section. Any pesticide  
31 applied shall be applied by a pest professional licensed by the depart-  
32 ment of environmental conservation.

33 5. As used in this section the following terms shall have the follow-  
34 ing meanings:

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

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

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