

# STATE OF NEW YORK

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6769

2023-2024 Regular Sessions

## IN SENATE

May 9, 2023

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Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

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  
20 or housing codes with respect to the subject apartment or the common  
21 areas of the subject building or there is no lack of heat, running  
22 water, light, electricity or of adequate sewage disposal facilities, or  
23 an infestation by rodents, or any other condition dangerous to life,

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

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1 health or safety, which has existed for five days, or any combination of  
2 such conditions in any apartments in the subject building, a landlord  
3 may commence a proceeding under this subdivision by filing, with the  
4 petition and notice of petition prescribed by section seven hundred  
5 thirty-one of this article, an affidavit including facts establishing  
6 that said violation or violations were recorded erroneously or that a  
7 state, city or local agency, authority or department erroneously failed  
8 to remove said violation or violations. A proceeding under this subdivi-  
9 sion cannot be maintained if the court finds that the allegations in  
10 said affidavit are untrue or if the court finds that at the time of  
11 commencement of the proceeding there were violations of any applicable  
12 state, city or local codes relating to housing maintenance or housing  
13 standards or contraventions of section two hundred thirty-five-b of the  
14 real property law, in the subject apartment or in the common areas of  
15 the subject building, or extremely hazardous violations in any apart-  
16 ments in the subject building. Any person succeeding to the landlord's  
17 interest in the premises may proceed under this subdivision for rent due  
18 his predecessor in interest if he has a right thereto. Where a tenant  
19 dies during the term of the lease and rent due has not been paid and the  
20 apartment is occupied by a person with a claim to possession, a proceed-  
21 ing may be commenced naming the occupants of the apartment seeking a  
22 possessory judgment only as against the estate. Entry of such a judgment  
23 shall be without prejudice to the possessory claims of the occupants,  
24 and any warrant issued shall not be effective as against the occupants.

25 § 2. Section 741 of the real property actions and proceedings law is  
26 amended by adding a new subdivision 3-a to read as follows:

27 3-a. State that at the time of commencement of the proceeding there  
28 are no violations of any applicable state, city or local codes relating  
29 to housing maintenance or housing standards, and no conditions that  
30 contravene section two hundred thirty-five-b of the real property law,  
31 in the subject apartment or in the common areas of the subject building,  
32 and no extremely hazardous violations in any apartments in the subject  
33 building, or state that an affidavit has been filed as prescribed by  
34 section seven hundred eleven of this article.

35 § 3. This act shall take effect immediately.