STATE OF NEW YORK

4098--A

2025-2026 Regular Sessions

IN SENATE

January 31, 2025

Introduced by Sens. PARKER, BRISPORT, FERNANDEZ, GONZALEZ, HARCKHAM, JACKSON, RAMOS, RIVERA, SALAZAR, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- recommitted to the Committee on Housing, Construction and Community Development in accordance with Senate Rule 6, sec. 8 -- 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. Subdivisions 1 and 2 of section 711 of the real property actions and proceedings law, subdivision 1 as amended by chapter 305 of the laws of 1963 and subdivision 2 as amended by section 4 of part HH of chapter 56 of the laws of 2024, are amended to read as follows:

1. **(a)** The tenant continues in possession of any portion of the premises after the expiration of [~~his~~] **such tenant's** term, without the permission of the landlord or, in a case where a new lessee is entitled to possession, without the permission of the new lessee**, providing that, in all proceedings that are not subject to paragraph (f) of this subdivision herein, at the time of commencement of the proceeding, there are no violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards pertaining to the subject premises or in the common areas of the subject building, nor any conditions that otherwise contravene section two hundred thirty-five-b of the real property law in the subject premises or in the common areas of the subject building, nor any tenant declaration of housing conditions declaring conditions that contravene section two hundred thirty-five-b of the real property law or that violate any**

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

LBD04167-03-6

applicable state, city or local codes relating to housing maintenance, safety or housing standards, in the subject premises or in the common areas of the subject building or that are hazardous conditions in any building in the landlord's portfolio subject to paragraph (b) of this subdivision herein, nor any conditions that are hazardous violations of any applicable state, city or local codes relating to housing maintenance, safety or housing standards or hazardous violations in any building in the landlord's portfolio. Acceptance of rent after commencement of the special proceeding upon this ground shall not terminate such proceeding nor effect any award of possession to the landlord or to the new lessee, as the case may be. A proceeding seeking to recover possession of real property by reason of the termination of the term fixed in the lease pursuant to a provision contained therein giving the landlord the right to terminate the time fixed for occupancy under such agreement if [~~he~~] the landlord deem the tenant objectionable, shall not be maintainable unless the landlord shall by competent evidence establish to the satisfaction of the court that the tenant is objectionable.

(b) Where a tenant declaration of housing conditions has been filed with the landlord and the court that is the lawful venue for a special proceeding under this subdivision, or where there exist any violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards in the subject apartment or in the common areas of the subject building or any hazardous violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards in or pertaining to any building in the landlord's portfolio, 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 affirmation including facts establishing that the landlord has corrected any purported conditions contained in the tenant declaration of housing conditions, or that the conditions specified in the tenant declaration of housing conditions never existed or that any violations were placed erroneously by a state, city, or local agency, or that a state, city or local agency, authority or department erroneously failed to remove such violations after they were corrected.

(c) Failure by the landlord to disclose an existing violation of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards or any condition that otherwise contravenes section two hundred thirty-five-b of the real property law in the subject premises or in the common areas of the subject building, or hazardous conditions or hazardous violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards in any building in the landlord's portfolio subject to paragraph (b) of this subdivision herein, or an existing tenant declaration of housing conditions is grounds for dismissal. If the court finds that the allegations in such a landlord affirmation are untrue regarding the correction or nonexistence of conditions in a tenant declaration of housing conditions or regarding a corrected or erroneously recorded violation of any applicable state, city, or local codes related to housing maintenance, safety, or housing standards and conditions, this is grounds for dismissal.

(d) For the purposes of this section, the following terms shall have the following meanings:

(i) "Hazardous conditions" shall mean those housing conditions that have a serious effect on the life, health, or safety of the occupants thereof. These conditions may include, but are not strictly limited to,

cockroach, bedbug, rat, mouse, or other vermin infestations, mold, lead-based paint, essential utility shut-off (i.e., natural gas, heat, running water, electricity, or adequate sewage disposal facilities), defective emergency exits, leaking or defective water supply plumbing, defective plumbing facility, leaking or collapsed roof, inoperable carbon monoxide detector, or inoperable smoke detector.

(ii) "Landlord's portfolio" shall mean the collection of all housing accommodations of which the beneficial owner of the premises at issue in the proceeding is a beneficial owner, directly or indirectly, in whole or in part, jointly or separately, excluding each natural person owner's principal residence. For purposes of this subparagraph, a beneficial owner shall mean a natural person who owns or controls not less than twenty-five percent of the housing accommodation or, if the landlord is an entity, a natural person who exercises substantial control over said entity or owns or controls not less than twenty-five percent of the ownership interests of the entity.

(e) A tenant declaration of housing conditions shall be used by tenants and occupants to provide notification at any time that at least one condition that contravenes section two hundred thirty-five-b of the real property law or any applicable state, city or local codes relating to housing maintenance, safety or housing standards exists in the subject premises or in the common areas of the subject building or that at least one hazardous condition exists in any building in the landlord's portfolio subject to paragraph (b) of this subdivision herein. A tenant or occupant shall file a signed tenant declaration of housing conditions form with the court that is the lawful venue for a proceeding filed pursuant to this article with respect to their dwelling, and shall also provide a copy of the filing to their landlord at the address designated on their multiple dwelling registration.

(f) Nothing in subdivision one of this section shall prevent eviction proceedings from being commenced or shall cause eviction proceedings to be stayed if the tenant is persistently and unreasonably engaging in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or that causes a substantial safety hazard to others, provided if an eviction proceeding is pending at the effective date of this provision, but the petitioner has not previously alleged that the tenant persistently and unreasonably engaged in such behavior in said proceeding, the petitioner shall be required to submit a new petition with such allegations and comply with all notice and service requirements pursuant to this article.

2. (a) 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 the tenant 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 record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards pertaining to the subject premises or in the common areas of the subject building, nor any conditions that otherwise contravene section two hundred thirty-five-b of the real property law in the subject premises or in the common areas of the subject building, nor any tenant declaration of housing conditions declaring conditions that contravene section two hundred thirty-five-b of the real property law or that violate any applicable state, city or local codes relating to housing maintenance, safety or housing standards, in the subject premises or

in the common areas of the subject building or that are hazardous conditions in the landlord's portfolio herein subject to paragraph (b) of subdivision one of this section, nor any conditions that are hazardous violations of any applicable state, city or local codes relating to housing maintenance, safety or housing standards or hazardous conditions in any building in the landlord's portfolio.

(b) The fourteen-day notice shall append or contain the notice required pursuant to section two hundred thirty-one-c of the real property law, which shall state the following: (i) if the premises are or are not subject to article six-A of the real property law, the "good cause eviction law", and if the premises are exempt, such notice shall state why the premises are exempt from such law; (ii) if the landlord is not renewing the lease for a unit subject to article six-A of the real property law, the lawful basis for such non-renewal; and (iii) if the landlord is increasing the rent upon an existing lease of a unit subject to article six-A of the real property law above the applicable local rent standard, as defined in subdivision eight of section two hundred eleven of the real property law, the justification for such increase. Any person succeeding to the landlord's interest in the premises may proceed under this subdivision for rent due such person's predecessor in interest if such person 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.

§ 1-a. 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. (a) 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~~] such tenant 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 record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards pertaining to the subject premises or in the common areas of the subject building, nor any conditions that otherwise contravene section two hundred thirty-five-b of the real property law in the subject premises or in the common areas of the subject building, nor any tenant declaration of housing conditions declaring conditions that contravene section two hundred thirty-five-b of the real property law or that violate any applicable state, city or local codes relating to housing maintenance, safety or housing standards in the subject premises or in the common areas of the subject building that are hazardous conditions in any building in the landlord's portfolio subject to paragraph (b) of subdivision one of this section herein, nor any conditions that are hazardous conditions of any applicable state, city or local codes relating to housing maintenance, safety or housing standards or hazardous violations in any building in the landlord's portfolio.

(b) Any person succeeding to the landlord's interest in the premises may proceed under this subdivision for rent due [~~his~~] the predecessor in interest if [~~he~~] such person 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.

(c) Where a tenant declaration of housing conditions has been filed with the landlord and the court that is the lawful venue for a special proceeding under this subdivision, or where there exist any violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards in the subject apartment or in the common areas of the subject building or any hazardous violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards in or pertaining to any building in the landlord's portfolio, 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 affirmation including facts establishing that the landlord has corrected any purported conditions contained in the tenant declaration of housing conditions, or that the conditions specified in the tenant declaration of housing conditions never existed or that any violations were placed erroneously by a state, city, or local agency, or that a state, city or local agency, authority or department erroneously failed to remove such violations after they were corrected.

(d) Failure by the landlord to disclose an existing violation of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards or any condition that otherwise contravenes section two hundred thirty-five-b of the real property law in the subject premises or in the common areas of the subject building, or hazardous conditions or hazardous violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards in any building in the landlord's portfolio subject to paragraph (b) of subdivision one of this section herein, or an existing tenant declaration of housing conditions is grounds for dismissal. If the court finds that the allegations in such a landlord affirmation are untrue regarding the correction or nonexistence of conditions in a tenant declaration of housing conditions or regarding a corrected or erroneously recorded violation of any applicable state, city, or local codes related to housing maintenance, safety, or housing standards and conditions, this is grounds for dismissal.

(e) A tenant declaration of housing conditions shall be used by tenants and occupants to provide notification at any time that at least one condition that contravenes section two hundred thirty-five-b of the real property law or any applicable state, city or local codes relating to housing maintenance, safety or housing standards exists in the subject premises or in the common areas of the subject building or that at least one hazardous condition exists in any building in the landlord's portfolio subject to paragraph (b) of subdivision one of this section herein. A tenant or occupant shall file a signed tenant declaration of housing conditions form with the court that is the lawful venue for a proceeding filed pursuant to this article with respect to their dwelling, and shall also provide a copy of the filing to their landlord at the address designated on their multiple dwelling registration.

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

3-a. State in the landlord affirmation that at the time of commencement of the proceeding that there are no violations of record of any

applicable state, city or local codes relating to housing maintenance, safety or housing standards in the subject premises or common areas of the building nor any tenant declaration of housing conditions declaring conditions that contravene section two hundred thirty-five-b of the real property law in the subject premises or in the common areas of the subject building or hazardous conditions as such term is defined in paragraph (d) of subdivision one of section seven hundred eleven of this article in or pertaining to any building in the landlord's portfolio as such term is defined in paragraph (d) of subdivision one of section seven hundred eleven of this article subject to paragraph (b) of subdivision one of section seven hundred eleven of this article herein, nor any hazardous conditions as such term is defined in paragraph (d) of subdivision one of section seven hundred eleven of this article or hazardous violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards in or pertaining to any building in the landlord's portfolio as such term is defined in paragraph (d) of subdivision one of section seven hundred eleven of this article.

§ 3. The real property action and proceedings law is amended by adding a new section 752 to read as follows:

§ 752. Stay of proceeding or action for nonpayment and holdover cases upon a finding of existing violations. 1. Upon court discovery of any new violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards in the subject apartment or in the common areas of the subject building, or any hazardous conditions as defined by paragraph (d) of subdivision one of section seven hundred eleven of this article or hazardous violations of record of any applicable state, city or local codes relating to housing maintenance, safety or housing standards in any building in the landlord's portfolio as defined by paragraph (d) of subdivision one of section seven hundred eleven of this article arising after the commencement of the proceeding a stay shall be granted and remain in effect only until the condition or violation is corrected consistent with what is required by law.

2. Upon court receipt of any new tenant declaration of housing conditions filed at any time thereafter the commencement of the proceeding, a stay shall be granted and remain in effect only until the condition is corrected consistent with what is required by law.

§ 4. This act shall take effect immediately; provided, however, that the amendments to subdivision 2 of section 711 of the real property actions and proceedings law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 7 of part HH of chapter 56 of the laws of 2024, as amended, when upon such date the provisions of section one-a of this act shall take effect.