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NEW YORK STATE LEGISLATION DRASTICALLY ALTERS
LANDLORD-TENANT RELATIONS.

On June 14, 2019, Governor Andrew Cuomo signed into law the “Housing Stability And Tenant Protection Act of 2019” (S. 6458, A.8281), <https://legislation.nysenate.gov/pdf/bills/2019/S6458>.

The law drastically alters the relationship between landlords and residential tenants in New York State. The law took effect immediately.

Residential landlords must be fully familiar with the law’s provisions before showing an apartment, entering into a lease agreement, or considering evicting a tenant. I recommend that you consult with your attorney.

The summary below is not a complete recitation of all the changes. Read the law carefully.

Key New Provisions:

1. “Rent” Means Rent. . . Not Fees or Penalties.

RPAPL Section 702 as amended provides:

Rent in a residential dwelling. In a proceeding relating to a residential dwelling or housing accommodation, the term "rent" shall mean the monthly or weekly amount charged in consideration for the use and occupation of a dwelling pursuant to a written or oral rental agreement. No fees, charges or penalties other than rent may be sought in a summary proceeding pursuant to this article, notwithstanding any language to the contrary in any lease or

rental agreement.

What this means: Before the amendment, a lease could define “rent” or “additional rent” to include such things as late fees, attorneys’ fees, court filing fees, or other items unrelated to the rental consideration. Section 702 aims to do away with this practice by defining rent to include only the “monthly or weekly” consideration.

2. No Oral Demands For Rent As Prerequisite to Eviction Proceeding.

RPAPL Section 711[2] is amended to provide a “written” demand as a prerequisite for a nonpayment proceeding. Very few landlords previously brought proceedings on oral demands, but the statute and the case law did allow for this practice.

3. Certified Mailing of Nonpayment Notice (5) Days After Due Date.

Real Property Law 235-e[4] requires if the tenant has not paid rent within 5 days of the date due, the landlord shall send by certified mail of the failure to receive the rent.

4. Fourteen (14) Days’ Notice Now Required For Nonpayment Proceeding.

RPAPL Section 711 now requires a Notice to Quit to be served upon fourteen (14) days’ notice rather than three.

5. Payment of Full Rent Due Vitiates Nonpayment Proceeding.

RPAPL 731[4] as amended provides:

In an action premised on a tenant defaulting in the payment of rent, payment to the landlord of the full amount of rent due, when such payment is made at

any time prior to the hearing on the petition, shall be accepted by the landlord and renders moot the grounds on which the 30 special proceeding was commenced.

What this means: The tenant may cure a nonpayment default by paying the full amount due prior to the hearing date.

6. The New Service Rule For Eviction Proceedings is 17/10, Not 12/5.

Section 733[1] is amended to provide that a notice and petition must be served no more than 17 and no fewer than 10 days before the return date.

7. Trial By Jury Extended To At Least Fourteen (14) Days From Demand.

A party may demand a trial by jury, with an adjournment of at least fourteen (14) days from request. Subsequent continuances are in the court's discretion.

8. The 14-Day Warrant Replaces The 72-Hour Warrant.

RPAPL Section 749[1] is amended to provide that a warrant shall give at least 14 day's notice to vacate the premises. The warrant must be executed on a business day, during daylight hours.

9. The Court Must Stay or Vacate the 14-Day Warrant Upon Deposit of Rent Absent Bad Faith.

Section 749[3] provides in part that the court must "restore the tenant to possession subsequent to execution of the warrant. In a judgment for non-payment of rent, the court shall vacate a warrant upon tender or deposit with the court of the full rent due at any time prior to its execution, unless the petitioner establishes that the tenant withheld the rent due in bad faith.

10. The Court May Stay A Warrant In Cases of “Extreme Hardship.”

RPAPL 753 now authorizes a court to stay a warrant for one year in cases of “extreme hardship.” The section, which formerly only applied to New York City, now applies statewide. It adds the following provision:

In determining whether refusal to grant a stay would occasion extreme hardship, the court shall

consider serious ill health, significant exacerbation of an ongoing condition, a child's enrollment in a local school, and any other extenuating life circumstances affecting the ability of the applicant or the applicant's family to relocate and maintain quality of life. The court shall consider any substantial hardship the stay may impose on the landlord in determining whether to grant the stay or in setting the length or other terms of the stay. In an application brought outside a city of one million or more, the term "neighborhood" shall be construed to mean the same town, village or city where the applicant now resides, or (ii) if the applicant has school aged children residing with him or her, "neighborhood" shall mean the school district where such children attend or are eligible to attend.

11. “Unlawful Eviction” Defined; Civil and Criminal Penalties Imposed.

RPAPL 768 provides extensive (and expensive) penalties against persons who unlawfully evict or threaten to evict tenants.

12. Security Deposit And Inspection Provisions Strengthened.

The General Obligations Law 7-108 is amended to require that security deposits be no more than one months' rent; that the tenant have an opportunity to inspect the premises between 1-2 weeks before commencement of the lease. Security deposits with itemized amounts withheld must be returned within fourteen (14) days. Punitive damages of up to twice the rent withheld apply.