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 New York State  
 REAL PROPERTY LAW (RPL)  
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ARTICLE 7

LANDLORD AND TENANT

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Sec. 220. Action for use and occupation.

The landlord may recover a reasonable compensation for the use and occupation of real property, by any person, under an agreement, not made by deed; and a parol lease or other agreement may be used as evidence of the amount to which he is entitled.

Sec. 221. Rent due on life leases recoverable.

Rent due on a lease for life or lives is recoverable by action, as well after as before the death of the person on whose life the rent depends, and in the same manner as rent due on a lease for years.

Sec. 222. When rent is apportionable.

Where a tenant for life, who shall have demised the real property, dies before the first rent day, or between two rent days, his executor or administrator may recover the proportion of rent which accrued to him before his death.

Sec. 223. Rights where property or lease is transferred.

The grantee of leased real property, or of a reversion thereof, or of any rent, the devisee or assignee of the lessor of such a lease, or the heir or personal representative of either of them, has the same remedies, by entry, action or otherwise, for the nonperformance of any agreement contained in the assigned lease for the recovery of rent, for the doing of any waste, or for other cause of forfeiture as his grantor or lessor had, or would have had, if the reversion had remained in him. A lessee of real property, his assignee or personal representative, has the same remedy against the lessor, his grantee or assignee, or the representative of either, for the breach of an agreement contained in the lease, that the lessee might have had against his immediate lessor, except a covenant against incumbrances or relating to the title or possession of the premises leased. This Section applies as well to a grant or lease in fee, reserving rent, as to a lease for life or for years; but not to a deed of conveyance in fee, made before the ninth day of April, eighteen hundred and five, or after the fourteenth day of April, eighteen hundred and sixty.

Sec. 223-a. Remedies of lessee when possession is not delivered.

In the absence of an express provision to the contrary, there shall be implied in every lease of real property a condition that the lessor will deliver possession at the beginning of the term. In the event of breach of such implied condition the lessee shall have the right to rescind the lease and to recover the consideration paid. Such right shall not be deemed inconsistent with any right of action he may have to recover damages.

Sec. 223-b. Retaliation by landlord against tenant.

1. No landlord of premises or units to which this section is applicable shall serve a notice to quit upon any tenant or commence any action to recover real property or summary proceeding to recover possession of real property in retaliation for:
  - a. A good faith complaint, by or in behalf of the tenant, to a governmental authority of the landlord's alleged violation of any health or safety law, regulation, code, or ordinance, or any law or regulation which has as its objective the regulation of premises used for dwelling purposes or which pertains to the offense of rent gouging in the third, second or first degree; or
  - b. Actions taken in good faith, by or in behalf of the tenant, to secure or enforce any rights under the lease or rental agreement, under Section two hundred thirty-five-b of this chapter, or under any other law of the state of New York, or of its governmental subdivisions, or of the United States which has as its objective the regulation of premises used for dwelling purposes or which pertains to the offense of rent gouging in the third, second or first degree; or
  - c. The tenant's participation in the activities of a tenant's organization.
2. No landlord or premises or units to which this section is applicable shall substantially alter the terms of the tenancy in retaliation for any actions set forth in paragraphs a, b, and c of subdivision one of this section. Substantial alteration shall include, but is not limited to, the refusal to continue a tenancy of the tenant or, upon expiration of the tenant's lease, to renew the lease or offer a new lease; provided, however, that a landlord shall not be required under this section to offer a new lease or a lease renewal for a term greater than one year and after such extension of a tenancy for one year shall not be required to further extend or continue such tenancy.
3. A landlord shall be subject to a civil action for damages and other appropriate relief, including injunctive and other equitable remedies, as may be determined by a court of competent jurisdiction in any case in which the landlord has violated the provisions of this section.
4. In any action to recover real property or summary proceeding to recover possession of real property, judgment shall be

entered for the tenant if the court finds that the landlord is acting in retaliation for any action set forth in paragraphs a, b, and c of subdivision one of this section and further finds that the landlord would not otherwise have commenced such action or proceeding. Retaliation shall be asserted as an affirmative defense in such action or proceeding. The tenant shall not be relieved of the obligation to pay any rent for which he is otherwise liable.

5. In an action or proceeding instituted against a tenant of premises or a unit to which this section is applicable, a rebuttable presumption that the landlord is acting in retaliation shall be created if the tenant establishes that the landlord served a notice to quit, or instituted an action or proceeding to recover possession, or attempted to substantially alter the terms of the tenancy, within six months after:
  - a. A good faith complaint was made, by or in behalf of the tenant, to a governmental authority of the landlord's violation of any health or safety law, regulation, code, or ordinance, or any law or regulation which has as its objective the regulation of premises used for dwelling purposes or which pertains to the offense of rent gouging in the third, second or first degree; or
  - b. The tenant in good faith commenced an action or proceeding in a court or administrative body of competent jurisdiction to secure or enforce against the landlord or his agents any rights under the lease or rental agreement, under section two hundred thirty-five-b of this chapter, or under any other law of the state of New York, or of its governmental subdivisions, or of the United States which has as its objective the regulation of premises used for dwelling purposes or which pertains to the offense of rent gouging in the third, second or first degree.
  - c. Judgment under subdivision three or four of this section was entered for the tenant in a previous action between the parties; or an inspection was made, an order was entered, or other action was taken as a result of a complaint or act described in paragraph a or b of this subdivision.

But the presumption shall not apply in an action or proceeding based on the violation by the tenant of the terms and conditions of the lease or rental agreement, including nonpayment of the agreed-upon rent.

The effect of the presumption shall be to require the landlord to provide a credible explanation of a non-retaliatory motive for his acts. Such an explanation shall overcome and remove the presumption unless the tenant disproves it by a preponderance of the evidence.

6. This section shall apply to all rental residential premises except owner-occupied dwellings with less than four units. However, its provisions shall not be given effect in any case in which it is established that the condition from which the complaint or action arose was caused by the tenant, a member of the tenant's household, or a guest of the tenant. Nor shall it apply in a case where a tenancy was

terminated pursuant to the terms of a lease as a result of a bona fide transfer of ownership.

Sec. 224. Attornment by tenant.

The attornment of a tenant to a stranger is absolutely void and does not in any way affect the possession of the landlord unless made either:

1. With the consent of the landlord; or,
2. Pursuant to or in consequence of a judgment, order, or decree of a court of competent jurisdiction; or
3. To a purchaser at foreclosure sale.

Sec. 225. Notice of action adverse to possession of tenant.

Where a process or summons in an action to recover the real property occupied by him, or the possession thereof, is served upon a tenant, he must forthwith give notice thereof to his landlord; otherwise he forfeits the value of three years' rent of such property, to the landlord or other person of whom he holds.

Sec. 226. Effect of renewal on sub-lease.

The surrender of an under-lease is not requisite to the validity of the surrender of the original lease, where a new lease is given by the chief landlord. Such a surrender and renewal do not impair any right or interest of the chief landlord, his lessee or the holder of an under-lease, under the original lease; including the chief landlord's remedy by entry, for the rent or duties secured by the new lease, not exceeding the rent and duties reserved in the original lease surrendered.

Sec. 226-a. Effect of new lease on tenant's right to remove fixtures or improvements.

Unless otherwise expressly agreed, where a tenant has a right to remove fixtures or improvements, such right shall not be lost or impaired by reason of his acceptance of a new lease of the same premises without any surrender of possession between terms.

Sec. 226-b. Right to sublease or assign.

1. Unless a greater right to assign is conferred by the lease, a tenant renting a residence may not assign his lease without the written consent of the owner, which consent may be unconditionally withheld without cause provided that the owner shall release the tenant from the lease upon request of the tenant upon thirty days notice if the owner unreasonably withholds consent which release shall be the sole remedy of the tenant. If the owner reasonably withholds consent, there shall be no assignment and the tenant shall not be released from the lease.
2. (a) A tenant renting a residence pursuant to an existing lease in a dwelling having four or more

residential units shall have the right to sublease his premises subject to the written consent of the landlord in advance of the subletting. Such consent shall not be unreasonably withheld.

(b) The tenant shall inform the landlord of his intent to sublease by mailing a notice of such intent by certified mail, return receipt requested. Such request shall be accompanied by the following information: (i) the term of the sublease, (ii) the name of the proposed sublessee, (iii) the business and permanent home address of the proposed sublessee, (iv) the tenant's reason for subletting, (v) the tenant's address for the term of the sublease, (vi) the written consent of any co-tenant or guarantor of the lease, and (vii) a copy of the proposed sublease, to which a copy of the tenant's lease shall be attached if available, acknowledged by the tenant and proposed subtenant as being a true copy of such sublease.

(c) Within ten days after the mailing of such request, the landlord may ask the tenant for additional information as will enable the landlord to determine if rejection of such request shall be unreasonable. Any such request for additional information shall not be unduly burdensome. Within thirty days after the mailing of the request for consent, or of the additional information reasonably asked for by the landlord, whichever is later, the landlord shall send a notice to the tenant of his consent or, if he does not consent, his reasons therefor. Landlord's failure to send such a notice shall be deemed to be a consent to the proposed subletting. If the landlord consents, the premises may be sublet in accordance with the request, but the tenant thereunder, shall nevertheless remain liable for the performance of tenant's obligations under said lease. If the landlord reasonably withholds consent, there shall be no subletting and the tenant shall not be released from the lease. If the landlord unreasonably withholds consent, the tenant may sublet in accordance with the request and may recover the costs of the proceeding and attorneys fees if it is found that the owner acted in bad faith by withholding consent.

3. The provisions of this section shall apply to leases entered into or renewed before or after the effective date of this section, however they shall not apply to public housing and other units for which there are constitutional or statutory criteria covering admission thereto nor to a proprietary lease, viz.: a lease to, or held by, a tenant entitled thereto by reason of ownership of stock in a corporate owner of premises which operates the same on a cooperative basis.

4. With respect to units covered by the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine the exercise of the rights granted by this section shall be subject to the applicable provisions of such laws. Nothing contained in this section two hundred twenty-six-b shall be deemed to affect the rights, if any, of any tenant subject to title Y of chapter 51 of the administrative code of the city of New York or the emergency housing rent control law.

5. Any sublet or assignment which does not comply with the provisions of this section shall constitute a substantial breach of lease or tenancy.
6. Any provision of a lease or rental agreement purporting to waive a provision of this section is null and void.
7. The provisions of this section except for items in paragraph (b) of subdivision two of this section not previously required, shall apply to all actions and proceedings pending on the effective date of this section.
8. Nothing contained in this section shall be deemed to prevent or limit the right of a tenant to sell improvements to a unit pursuant to article seven-C of the multiple dwelling law.

Sec. 227. When tenant may surrender premises.

Where any building, which is leased or occupied, is destroyed or so injured by the elements, or any other cause as to be untenable, and unfit for occupancy, and no express agreement to the contrary has been made in writing, the lessee or occupant may, if the destruction or injury occurred without his or her fault or neglect, quit and surrender possession of the leasehold premises, and of the land so leased or occupied; and he or she is not liable to pay to the lessor or owner, rent for the time subsequent to the surrender. Any rent paid in advance or which may have accrued by the terms of a lease or any other hiring shall be adjusted to the date of such surrender.

Sec. 227-a. Termination of residential lease by senior citizens entering certain health care facilities, adult care facilities or housing projects.

1. In any lease or rental agreement covering premises occupied for dwelling purposes in which a lessee or tenant has attained the age of sixty-two years or older, or will attain such age during the term of such lease or rental agreement or a husband or wife of such a person residing with him or her, there shall be implied a covenant by the lessor or owner to permit such lessee or tenant who is notified of his or her opportunity to commence occupancy in an adult care facility (as defined in subdivision twenty-one of section two of the social services law) except for a shelter for adults (as defined in subdivision twenty-three of section two of such law), a residential health care facility (as defined in section two thousand eight hundred one of the public health law), or a housing unit which receives substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality, or any not-for-profit philanthropic organization one of whose primary purposes is providing low or moderate income housing, or in less expensive premises in a housing project or complex erected for the specific purpose of housing senior citizens, to terminate such lease or rental agreement and quit and surrender possession of the leasehold premises, and of the land so leased or occupied; and to release the lessee or tenant from any liability to pay to the lessor or owner, rent or other payments in lieu of rent for the time

subsequent to the date of termination of such lease in accordance with subdivision two of this section; and to adjust to the date of surrender any rent or other payments made in advance or which have accrued by the terms of such lease or rental agreement.

2. Any lease or rental agreement covered by subdivision one of this Section may be terminated by notice in writing delivered to the lessor or owner or to the lessor's or owner's agent by a lessee or tenant. Such termination shall be effective no earlier than thirty days after the date on which the next rental payment subsequent to the date when such notice is delivered is due and payable. Such notice shall be accompanied by a documentation of admission or pending admission to a facility set forth in subdivision one of this section. Such notice shall be deemed delivered five days after mailing.
3. Any person who shall knowingly seize, hold, or detain the personal effects, clothing, furniture or other property of any person who has lawfully terminated a lease or rental agreement covered by this section or the spouse or dependent of any such person, or in any manner interferes with the removal of such property from the premises covered by such lease or rental agreement, for the purpose of subjecting or attempting to subject any of such property to a purported claim for rent accruing subsequent to the date of termination of such lease or rental agreement, or attempts to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year or by fine not to exceed one thousand dollars, or by both such fine and imprisonment.
- 3-a. Each owner or lessor of a facility or unit into which a lessee or tenant is entitled to move after quitting and surrendering as provided for herein shall in writing, upon an application, notify prospective tenants of the provision of this section. Such notice shall include, in plain and simple English, in conspicuous print of at least eighteen point type, an explanation of a tenants right to terminate the existing lease and all other applicable requirements and duties relating thereto. Such notice shall read as follows:

NOTICE TO SENIOR CITIZENS:

RESIDENTIAL LEASE TERMINATION

SECTION 227-a OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK ALLOWS FOR THE TERMINATION OF A RESIDENTIAL LEASE BY SENIOR CITIZENS ENTERING CERTAIN HEALTH CARE FACILITIES, ADULT CARE FACILITIES OR HOUSING PROJECTS.

Who is eligible?

Any lessee or tenant who is age sixty-two years or older, or who will attain such age during the term of the lease or rental agreement, or a spouse of such person residing with him or her.

What kind of facilities does this law apply to?

This law will apply if the senior citizen is relocating to:

- A. An adult care facility;
- B. A residential health care facility;
- C. Subsidized low income housing; or
- D. Senior citizen housing.

What are the responsibilities of the rental property owner?

When the tenant gives notice of his or her opportunity to move into one of the above facilities the landlord must allow:

- A. for the termination of the lease or rental agreement, and
- B. the release of the tenant from any liability to pay rent or other payments in lieu of rent from the termination of the lease in accordance with section 227-a of the real property law, to the time of the original termination date, and
- C. to adjust any payments made in advance or payments which have accrued by the terms of such lease or rental agreement.

How do you terminate the lease?

If the tenant can move into one of the specified facilities, he or she must terminate the lease or agreement in writing no earlier than thirty days after the date on which the next rental payment (after the notice is delivered) is due and payable. The notice is deemed delivered five days after being mailed. The written notice must include documentation of admission or pending admission to one of the above mentioned facilities.

For example: Mail the notice: May 5th

Notice received: May 10th

Next rental payment due: June 1st

Termination effective: July 1st

Will the landlord face penalties if he or she does not comply?

Yes, according to section 227-a of the real property law, if anyone interferes with the removal of your property from the premises they will be guilty of a misdemeanor and will be either imprisoned for up to one year or fined up to \$1000.00 or both.

- 4. Any agreement by a lessee or tenant of premises occupied for dwelling purposes waiving or modifying his or her rights as set forth in this section shall be void as contrary to public policy.

Sec. 228. Termination of tenancies at will or by sufferance, by notice.

A tenancy at will or by sufferance, however created, may be terminated by a written notice of not less than thirty days given in behalf of the landlord, to the tenant, requiring him to remove from the premises; which notice must be served, either by delivering to the tenant or to a person of suitable age and discretion, residing upon the premises, or if neither the tenant nor such a person can be found, by affixing it upon a conspicuous part of the premises, where it may be conveniently read. At the expiration of thirty days after the service of such notice, the landlord may re-enter, maintain an action to recover possession, or proceed, in the manner prescribed by law, to remove the tenant, without further or other notice to quit.

Sec. 229. Liability of tenant holding over after giving notice of intention to quit.

If a tenant gives notice of his intention to quit the premises held by him, and does not accordingly deliver up the possession thereof, at the time specified in such notice, he or his personal representatives must, so long as he continue in possession, pay to the landlord, his heirs or assigns, double the rent which he should otherwise have paid, to be recovered at the same time, and in the same manner, as the single rent.

Sec. 230. Right of tenants to form, join or participate in tenants' groups.

1. No landlord shall interfere with the right of a tenant to form, join or participate in the lawful activities of any group, committee or other organization formed to protect the rights of tenants; nor shall any landlord harass, punish, penalize, diminish, or withhold any right, benefit or privilege of a tenant under his tenancy for exercising such right.
2. Tenants' groups, committees or other tenants' organizations shall have the right to meet in any location on the premises which is devoted to the common use of all tenants in a peaceful manner, at reasonable hours and without obstructing access to the premises or facilities. No landlord shall deny such right.

Sec. 231. Lease, when void; liability of landlord where premises are occupied for unlawful purpose.

1. Whenever the lessee or occupant other than the owner of any building or premises, shall use or occupy the same, or any part thereof, for any illegal trade, manufacture or other business, the lease or agreement for the letting or occupancy of such building or premises, or any part thereof shall thereupon become void, and the landlord of such lessee or occupant may enter upon the premises so let or occupied.
2. The owner of real property, knowingly leasing or giving possession of the same to be used or occupied, wholly or partly, for any unlawful trade, manufacture or business, or knowingly permitting the same to be so used, is liable severally, and also jointly with one or more of the tenants or occupants thereof, for any damage resulting from such unlawful use, occupancy, trade, manufacture or business.

3. For the purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section 230.00, 230.05, 230.20, 230.25, 230.30, or 230.40 of the penal law arising out of conduct engaged in at the same premises consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of unlawful use of such premises and of the owners knowledge of the same.
4. Any lease or agreement hereafter executed for the letting or occupancy of real property or any portion thereof, to be used by the lessee as a residence, which contains therein a provision pledging personal property exempt by law from levy and sale by virtue of an execution, as security for the payment of rent due or to become due thereunder, is void as to such provision.
5. For the purposes of this section, two or more convictions of any person or persons had, within a period of one year, for any of the offenses described in section 225.00, 225.05, 225.10, 225.15, 225.20, 225.30, 225.32, 225.35 or 225.40 of the penal law, arising out of conduct engaged in at the same premises consisting of a dwelling as that term is defined in subdivision four of section four of the multiple dwelling law shall be presumptive evidence of unlawful use of such premises and of the owner's knowledge of the same.
5. The attorney general may commence an action or proceeding in the supreme court to enjoin the continued unlawful trade, manufacture or business in such premises.
6. Any owner or tenant, including a tenant of one or more rooms of an apartment house, tenement house or multiple dwelling of any premises within two hundred feet of the demised real property, may commence an action or proceeding in supreme court to enjoin the continued unlawful trade, manufacture or other business in such premises.

Sec. 232. Duration of certain agreements in New York.

An agreement for the occupation of real estate in the city of New York, which shall not particularly specify the duration of the occupation, shall be deemed to continue until the first day of October next after the possession commences under the agreement.

Sec. 232-a. Notice to terminate monthly tenancy or tenancy from month to month in the city of New York.

No monthly tenant, or tenant from month to month, shall hereafter be removed from any lands or buildings in the city of New York on the grounds of holding over his term unless at least thirty days before the expiration of the term the landlord or his agent serve upon the tenant, in the same manner in which a notice of petition in summary proceedings is now allowed to be served by law, a notice in writing to the effect that the landlord elects to terminate the tenancy and that unless the tenant removes from such premises on the day on which his term expires the landlord will commence summary proceedings under the statute to remove such tenant therefrom.

Sec. 232-b. Notification to terminate monthly tenancy or tenancy from month to month outside the city of New York.

A monthly tenancy or tenancy from month to month of any lands or buildings located outside of the city of New York may be terminated by the landlord or the tenant upon his notifying the other at least one month before the expiration of the term of his election to terminate; provided, however, that no notification shall be necessary to terminate a tenancy for a definite term.

Sec. 232-c. Holding over by a tenant after expiration of a term longer than one month; effect of acceptance of rent.

Where a tenant whose term is longer than one month holds over after the expiration of such term, such holding over shall not give to the landlord the option to hold the tenant for a new term solely by virtue of the tenant's holding over. In the case of such a holding over by the tenant, the landlord may proceed, in any manner permitted by law, to remove the tenant, or, if the landlord shall accept rent for any period subsequent to the expiration of such term, then, unless an agreement either express or implied is made providing otherwise, the tenancy created by the acceptance of such rent shall be a tenancy from month to month commencing on the first day after the expiration of such term.

Sec. 233. Mobile home parks; duties, responsibilities.

a. Wherever used in this section:

1. The term "mobile home tenant" means one who rents space in a mobile home park from a mobile home park owner or operator for the purpose of parking his mobile home or one who rents a mobile home in a mobile home park from a mobile home park owner or operator.
2. The term "mobile home owner" means one who holds title to a mobile home.
3. The term "mobile home park" means a contiguous parcel of privately owned land which is used for the accommodation of three or more mobile homes occupied for year-round living.

b. A mobile home park owner or operator may not evict a mobile home tenant other than for the following reasons:

1. The mobile home tenant continues in possession of any portion of the premises after the expiration of his term without the permission of the mobile home park owner or operator.
2. The mobile home tenant has defaulted in the payment of rent, pursuant to the agreement under which the premises are held, and a demand of the rent with at least thirty days' notice in writing has been served upon him as prescribed in section seven hundred thirty-

five of the real property actions and proceedings law. Upon the acceptance of such delinquent rent together with allowable costs, an action instituted for nonpayment of rent shall be terminated. Any person succeeding to the mobile home park owner or operator's interest in the premises may proceed under this subdivision for rent due his predecessor in interest if he has a right thereto.

3. The premises, or any part thereof, are used or occupied as a bawdy-house, or house or place of assignation for lewd purposes or for purposes of prostitution, or for any illegal trade or business.
4. The mobile home tenant is in violation of some federal, state or local law or ordinance which may be deemed detrimental to the safety and welfare of the other persons residing in the mobile home park.
5. The mobile home tenant or anyone occupying the mobile home is in violation of any lease term or rule or regulation established by the mobile home park owner or operator pursuant to this section, and has continued in violation for more than ten days after the mobile home park owner or operator has given written notice of such violation to the mobile home tenant setting forth the lease term or rule or regulation violated and directing that the mobile home tenant correct or cease violation of such lease term or rule or regulation within ten days from the receipt of said notice. Upon the expiration of such period should the violation continue or should the mobile home tenant or anyone occupying the mobile home be deemed a persistent violator of the lease term or rules and regulations, the park owner or operator may serve written notice upon the mobile home tenant directing that he vacate the premises within thirty days of the receipt of said notice.
6. The mobile home park owner or operator proposes a change in the use of the land comprising the mobile home park, or a portion thereof, on which the mobile home is located, from mobile home lot rentals to some other use, provided the mobile home owner is given written notice of the proposed change of use and the mobile home owner's need to secure other accommodations. Whenever a mobile home park owner or operator gives a notice of proposed change of use to any mobile home owner, the mobile home park owner or operator shall, at the same time, give notice of the proposed change of use to all other mobile home owners in the mobile home park who will be required to secure other accommodations as a result of such proposed change of use. Eviction proceedings based on a change in use shall not be commenced prior to six months from the service of notice of proposed change in use or the end of the lease term, whichever is later. Such notice shall be served in the manner prescribed in section seven hundred thirty-five of the real property actions and proceedings law or by certified mail, return receipt requested.

- c. If the mobile home park owner or operator does not have one of the above grounds available, the mobile home tenant may

raise the same by affirmative defense to an action for eviction.

d. The proceedings to evict shall be governed by the procedures set forth in article seven of the real property actions and proceedings law, except for the provisions of subdivision two of section seven hundred forty-nine of the real property actions and proceedings law which shall be superseded by the provisions of this subdivision.

1. The officer to whom the warrant is directed and delivered shall give at least ninety days notice, in writing and in the manner prescribed in article seven of the real property actions and proceedings law for the service of notice of petition, to the person or persons to be evicted or dispossessed and shall execute the warrant between the hours of sunrise and sunset.
2. The court may order that such warrant be directed and delivered with only thirty days written notice to the person or persons to be evicted or dispossessed if the conditions upon which the eviction is founded pose an imminent threat to the health, safety, or welfare of the other mobile home tenants in the mobile home park.
3. The court shall order that such warrant be directed and delivered with thirty days written notice to the person or persons to be evicted or dispossessed if the condition upon which the eviction is founded is that such person is in default in the payment of rent.
4. Notwithstanding the provisions of paragraphs one and two of this subdivision, nor of any other general, special or local law, rule or regulation to the contrary, the officer to whom the warrant is directed and delivered shall give seventy-two hours written notice to the person or persons to be evicted or dispossessed, if such person or persons rents a mobile home in a mobile home park from a mobile home park owner or operator and such officer shall execute such warrant between the hours of sunrise and sunset.

e. Leases.

1. The mobile home park owner or operator shall offer every mobile home tenant prior to occupancy, the opportunity to sign a lease for a minimum of one year, which offer shall be made in writing.
2. (i) On or before, as appropriate, (a) the first day of October of each calendar year with respect to a mobile home owner then in good standing who is not currently a party to a written lease with a mobile home park owner or operator or (b) the ninetieth day next preceding the expiration date of any existing written lease between a mobile home owner then in good standing and a mobile home park owner or operator, the mobile home park owner or operator shall submit to each such mobile home owner a written offer to lease for a term of at least twelve months from the commencement date thereof unless the mobile home park owner or operator

has previously furnished the mobile home owner with written notification of a proposed change of use pursuant to paragraph six of subdivision b of this section. Any such offer shall include a copy of the proposed lease containing such terms and conditions, including provisions for rent and other charges, as the mobile home park owner shall deem appropriate; provided such terms and conditions are consistent with all rules and regulations promulgated by the mobile home park operator prior to the date of the offer and are not otherwise prohibited or limited by applicable law. Such offer shall also contain a statement advising the mobile home owner that if he or she fails to execute and return the lease to the mobile home park owner or operator within thirty days after submission of such lease, the mobile home owner shall be deemed to have declined the offer of a lease and shall not have any right to a lease from the mobile home park owner or operator for the next succeeding twelve months.

- (ii) For purposes of this paragraph, a mobile home owner shall be deemed in good standing if he or she is not in default in the payment of more than one month's rent to the mobile home park owner, and is not in violation of paragraph three, four or five of subdivision b of this Section. No mobile home park owner or operator shall refuse to provide a written offer to lease based on a default of rent payments or a violation of paragraph three, four or five of subdivision b of this Section unless, at least thirty days prior to the last date on which the owner or operator would otherwise be required to provide such written offer to lease, the owner or operator notifies the mobile home owner, in writing, of the default in rent or the specific grounds constituting the violation and such grounds continues up and until the fifth calendar day immediately preceding the last date on which the written offer would otherwise be required to be made.
- (iii) For purposes of this paragraph, the commencement date of any lease offered by the mobile home park owner to the mobile home owner shall be the ninetieth day after the date upon which the mobile home park owner shall have provided the offer required pursuant to this paragraph; provided, however, that no such lease shall be effective if, on such commencement date, the mobile home owner is in default of more than one month's rent. In the event the mobile home owner shall have failed to execute and return said lease to the mobile home park owner or operator within thirty days after it is submitted to the mobile home owner as required by subparagraph (i) of this paragraph the mobile home owner shall be deemed to have declined to enter said lease.

3. No lease provision shall be inconsistent with any rule or regulation in effect at the commencement of the lease.

f. Rules and regulations.

1. A mobile home park owner or operator may promulgate rules and regulations governing the rental or occupancy of a mobile home lot provided such rules and regulations shall not be unreasonable, arbitrary or capricious. A copy of all rules and regulations shall be delivered by the mobile home park owner or operator to all mobile home tenants at the commencement of occupancy. A copy of the rules and regulations shall be posted in a conspicuous place upon the mobile home park grounds.
2. If a rule or regulation is not applied uniformly to all mobile home tenants of the mobile home park there shall be a rebuttable presumption that such rule or regulation is unreasonable, arbitrary and capricious, provided, however, that an inconsistency between a rule or regulation and a lease term contained in a lease signed before the date the rule or regulation is effective shall not raise a rebuttable presumption that such rule is unreasonable, arbitrary or capricious.
3. Any rule or regulation which does not conform to the requirements of this section or which has not been supplied or posted as required by paragraph one of this subdivision shall be unenforceable and may be raised by the mobile home tenant as an affirmative defense in any action to evict on the basis of a violation of such rule or regulation.
4. No rules or regulations may be changed by the mobile home park owner or operator without specifying the date of implementation of said changed rules and regulations, which date shall be no fewer than thirty days after written notice to all tenants.

- g.
1. No tenant shall be charged a fee for other than rent, utilities and charges for facilities and services available to the tenant. All fees, charges or assessments must be reasonably related to services actually rendered.
  2. A mobile home park owner or operator shall be required to fully disclose in writing all fees, charges, assessments, including rental fees, rules and regulations prior to a mobile home tenant assuming occupancy in the mobile home park.
  3. No fees, charges, assessments or rental fees may be increased by mobile home park owner or operator without specifying the date of implementation of said fees, charges, assessments or rental fees which date shall be no less than ninety days after written notice to all mobile home tenants. Failure on the part of the mobile home park owner or operator to fully disclose all fees, charges or assessments shall prevent the mobile home park owner or operator from collecting said fees, charges or assessments, and refusal by the mobile home

tenant to pay any undisclosed charges shall not be used by the mobile home park owner or operator as a cause for eviction in any court of law.

4. (a) Whenever money shall be deposited or advanced on a contract or license agreement for the use or rental of premises and the mobile home, if rented, in a mobile home park as security for performance of the contract or agreement or to be applied to payments upon such contract or agreement when due, such money with interest accruing thereon, if any, until repaid or so applied, shall continue to be the money of the person making such deposit or advance and shall be a trust fund in the possession of the person with whom such deposit or advance shall be made and shall not be mingled with other funds or become an asset of the park owner, operator or his agent.
- (b) Whenever the person receiving money so deposited or advanced shall deposit such money in a banking organization, such person shall thereupon notify in writing each of the persons making such security deposit or advance, giving the name and address of the banking organization in which the deposit of security money is made, and the amount of such deposit. Deposits in a banking organization pursuant to the provisions of this subdivision shall be made in a banking organization having a place of business within the state. If the person depositing such security money in a banking organization shall deposit same in an interest bearing account, he shall be entitled to receive, as administration expenses, a sum equivalent to one percent per annum upon the security money so deposited, which shall be in lieu of all other administrative and custodial expenses. The balances of the interest paid by the banking organization shall be the money of the person making the deposit or advance and shall either be held in trust by the person with whom such deposit or advance shall be made, until repaid or applied for the use or rental of the leased premises, or annually paid to the person making the deposit of security money.
- (c) Whenever the money so deposited or advanced is for the rental of a mobile home park lot on property on which are located six or more mobile home park lots, the person receiving such money shall, subject to the provisions of this section, deposit it in an interest bearing account in a banking organization within the state which account shall earn interest at a rate which shall be the prevailing rate earned by other such deposits made with the banking organizations in such area.
- (d) In the event that a lease terminates other than at the time that a banking organization in such area regularly pays interest, the person

depositing such security money shall pay over to his mobile home tenant such interest as he is able to collect at the date of such lease termination.

- (e) Any provision of such a contract or agreement whereby a person who so deposits or advances money waives any provision of this subdivision is void.

h. No mobile home park owner shall:

1. Require a mobile home tenant therein to purchase from said mobile home park owner or operator skirting or equipment for tying down mobile homes, or any other equipment. However, the mobile home park owner or operator may determine by rule or regulation the style or quality of such equipment to be purchased by the mobile home tenant from the vendor of the mobile home tenant's choosing, providing such equipment is readily available.
2. Charge any mobile home tenant who chooses to install an electric or gas appliance in his mobile home an additional fee solely on the basis of such installation unless such installation is performed by the mobile home park owner or operator at the request of the mobile home tenant, nor shall the mobile home park owner or operator restrict the installation, service or maintenance of any such appliance, restrict the ingress or egress of repairers to enter the mobile home park for the purpose of installation, service or maintenance of any such appliance, or restrict the making of any interior improvement in such mobile home, so long as such an installation or improvement is in compliance with applicable building codes and other provisions of law and further provided that adequate utilities are available for such installation or improvement.
3. Require, by contract, rule, regulation or otherwise, a mobile home dweller to purchase from the mobile home park owner or any person acting directly or indirectly on behalf of the park owner, commodities or services incidental to placement or rental within such park; nor shall the park owner restrict access to the mobile home park to any person employed, retained or requested by the mobile home dweller to provide such commodity or service, unless the mobile home park owner establishes that such requirement or restriction is necessary to protect the property of such park owner from substantial harm or impairment.
4. Require a mobile home owner or a prospective mobile home owner to purchase his or her mobile home from the mobile home park owner or operator, or from any person or persons designated by the mobile home park owner or operator. Nothing herein shall be construed to prevent a mobile home park owner or operator from requiring that any new mobile home to be installed in his or her mobile home park comply with the rules and regulations of said mobile home park or conform to the physical facilities then existing for installation of a mobile home in said mobile home park.

- i.
  1. No mobile home park owner or operator shall deny any mobile home tenant the right to sell his mobile home within the mobile home park provided the mobile home tenant shall give to the mobile home park owner or operator twenty days' written notice of his intention to sell, or require the mobile home owner or subsequent purchaser to remove the mobile home from the mobile home park solely on the basis of the sale thereof. The mobile home park owner or operator may reserve the right to approve the purchaser of said mobile home as a mobile home tenant for the remainder of the seller's term but such permission may not be unreasonably withheld. If the mobile home park owner or operator unreasonably withholds his permission, the mobile home tenant may recover the costs of the proceedings and attorneys' fees if it is found that the mobile home park owner or operator acted in bad faith by withholding permission.
  2. The mobile home park owner or operator shall not exact a commission or fee with respect to the price realized by the seller unless the mobile home park owner or operator has acted as agent for the mobile home owner in the sale pursuant to a written contract.
  3. If the ownership or management rejects a purchaser as a prospective tenant, the selling tenant must be informed in writing of the reasons therefor.
- j. The owner or operator of a mobile home park may enter a mobile home owner's mobile home without the prior consent of the occupant only in case of emergency. The owner or operator of a mobile home park may enter a mobile home tenant's mobile home during reasonable hours on reasonable notice.
- k. The owner or operator shall provide reasonable notice where practicable to all mobile home tenants who would be affected by any planned disruption of necessary services caused by the owner, operator or his agent.
- l. The park owner shall designate an agent on the premises or in close proximity to the mobile home park to insure the availability of emergency response actions in matters affecting the health, safety, well-being and welfare of mobile home tenants in the park. The designated agent's name, address and telephone number shall be posted in a conspicuous location in the park, given in writing to each tenant and registered with appropriate county law enforcement and health officials and local fire officials.
- m. Warranty of habitability, maintenance, disruption of services. In every written or oral lease or rental agreement entered into by a mobile home tenant, the mobile home park owner or operator shall be deemed to covenant and warrant that the premises so leased or rented and the mobile home if rented and all areas used in connection therewith in common with other mobile home tenants or residents including all roads within the mobile home park are fit for human habitation and for the uses reasonably intended by the parties and that the occupants of such premises and such mobile homes if rented shall not be subjected to any

conditions which would be dangerous, hazardous or detrimental to their life, health or safety. When any such condition has been caused by the misconduct of the mobile home tenant or lessee or persons under his direction or control, it shall not constitute a breach of such covenants and warranties. The rights and obligations of the mobile home park owner or operator and the mobile home tenant shall be governed by the provisions of this subdivision and subdivisions two and three of section two hundred thirty-five-b of this article.

- n. 1. No mobile home park owner or operator shall serve a notice to quit upon any mobile home tenant or commence any action to recover real property or summary proceeding to recover possession of real property in retaliation for:
- (a) A good faith complaint, by or in behalf of the tenant, to a governmental authority of the mobile home park owner's or operator's alleged violation of any health or safety law, regulation, code, or ordinance, or any law or regulation which has as its objective the regulation of premises used for dwelling purposes; or
  - (b) Actions taken in good faith, by or in behalf of the mobile home tenant, to secure or enforce any rights under the lease or rental agreement, under subdivision m of this section and subdivisions two and three of section two hundred thirty-five-b of this article, or under any other local law, law of the state of New York, or of its governmental subdivisions, or of the United States which has as its objective the regulation of premises used for dwelling purposes; or
  - (c) The mobile home tenant's participation in the activities of a tenant's organization.
2. No mobile home park owner or operator shall substantially alter the terms of the tenancy in retaliation for any actions set forth in subparagraphs (a), (b), and (c) of paragraph one of this subdivision. Substantial alteration shall include, but is not limited to, the refusal to continue a tenancy of the mobile home tenant or, upon expiration of the mobile home owner's lease, to renew the lease or offer a new lease; provided, however, that a mobile home park owner or operator shall not be required under this subdivision to offer a mobile home owner a new lease or a lease renewal for a term greater than one year.
3. This subdivision shall apply to all mobile home parks with four or more mobile homes. However, its provisions shall not be given effect in any case in which it is established that the condition from which the complaint or action arose was caused by the mobile home tenant, a member of the mobile home tenant's household, or a guest of the mobile home tenant. Nor shall it apply in a case where a tenancy was terminated pursuant to the terms of a lease as a result of a bona fide transfer of

ownership. The rights and obligations of the mobile home park owner or operator and the mobile home tenant shall be governed by the provisions of this subdivision and subdivisions three, four and five of section two hundred twenty-three-b of this article.

- o. Whenever a lease shall provide that in any action or summary proceeding the mobile home park owner or operator may recover attorney's fees and/or expenses incurred as the result of the failure of the tenant to perform any covenant or agreement contained in such lease, or that amounts paid by the mobile home park owner or operator therefor shall be paid by the tenant as additional rent, there shall be implied in such lease a covenant by the mobile home park owner or operator, to pay to the tenant the reasonable attorney's fees and/or expenses incurred by the tenant to the same extent as is provided in section two hundred thirty-four of this article which section shall apply in its entirety.
- p. Any mobile home park owner or operator who has agreed to provide hot or cold water, heat, light, power, or any other service or facility to any occupant of the mobile home park who willfully or intentionally without just cause fails to furnish such water, heat, light, power, or other service or facility, or who interferes with the quiet enjoyment of the leased premises, is guilty of a violation.
- q. Upon receipt of rent, fees, charges or other assessments, in the form of cash or any instrument other than the personal check of the tenant, it shall be the duty of the mobile home park owner or operator to provide the payor with a written receipt containing the following:
  - 1. the date;
  - 2. the amount;
  - 3. the identity of the premises and the period for which paid;
  - 4. the signature and title of the person receiving rent.
- r. Limitation on late charges. A late charge on any rental payment by a mobile home owner which has become due and remains unpaid shall not exceed and shall be enforced to the extent of five percent of such delinquent payment; provided, however, that no charge shall be imposed on any rental payment by a mobile home owner received within ten days after the due date. In the absence of a specific provision in the lease or the mobile home park's rules and regulations, no late charge on any delinquent rental payment shall be assessed or collected.
- s. It shall be a violation for a mobile home park owner, operator or his agent to restrict occupancy of a mobile home or mobile home park lot intended for residential purposes by express lease terms or otherwise, to a mobile home tenant or tenants or to such tenants and immediate family. Any such restriction in a lease or rental agreement entered into or renewed before or after the effective date of this subdivision shall be unenforceable as against public policy. The rights and obligations of a mobile home park owner or

operator and the mobile home tenant shall be governed by the provisions of this subdivision and subdivisions one, three, four, five, six, seven, eight and nine of section two hundred thirty-five-f of this article.

- t. 1. Unless a greater right to assign is conferred by the lease, a mobile home tenant may not assign his lease without the written consent of the mobile home park owner or operator, which consent may be unconditionally withheld without cause provided that the mobile home park owner or operator shall release the mobile home tenant from the lease upon request of the mobile home tenant upon thirty days notice if the mobile home park owner or operator unreasonably withholds consent which release shall be the sole remedy of the tenant. If the owner reasonably withholds consent, there shall be no assignment and the mobile home tenant shall not be released from the lease.
2. (a) A mobile home tenant renting space or a mobile home in a mobile home park with four or more mobile homes pursuant to an existing lease shall have a right to sublease his premises subject to the written consent of the park owner in advance of the subletting. Such consent shall not be unreasonably withheld.
- (b) The mobile home tenant shall inform the mobile home park owner or operator of his intent to sublease by mailing a notice of such intent by certified mail, return receipt requested. Such request shall be accompanied by the following information: (i) the term of the sublease, (ii) the name of the proposed sublessee, (iii) the business and permanent home address of the proposed sublessee, (iv) the tenant's reason for subletting, (v) the tenant's address for the term of the sublease, (vi) the written consent of any co-tenant or guarantor of the lease, and (vii) a copy of the proposed sublease, to which a copy of the mobile home tenant's lease shall be attached if available, acknowledged by the mobile home tenant and proposed subtenant as being a true copy of such sublease.
- (c) Within ten days after the mailing of such request, the mobile home park owner or operator may ask the mobile home tenant for additional information as will enable the mobile home park owner or operator to determine if rejection of such request shall be unreasonable. Any such request for additional information shall not be unduly burdensome. Within thirty days after the mailing of the request for consent, or of the additional information reasonably asked for by the mobile home park owner or operator, whichever is later, the mobile home park owner or operator shall send a notice to the mobile home tenant of his consent or, if he does not consent, his reasons therefor. Mobile home park owner's or operator's failure to send such a notice shall be deemed to be a consent to the proposed subletting. If the mobile home park

owner or operator consents, the premises may be sublet in accordance with the request, but the mobile home tenant thereunder, shall nevertheless remain liable for the performance of mobile home tenant's obligations under said lease. If the mobile home park owner or operator reasonably withholds consent, there shall be no subletting and the mobile home tenant shall not be released from the lease. If the mobile home park owner or operator unreasonably withholds consent, the mobile home tenant may sublet in accordance with the request and may recover the costs of the proceeding and attorneys fees if it is found that the mobile home park owner or operator acted in bad faith by withholding consent. The rights and obligations of the mobile home park owner or operator and the mobile home tenant shall be governed by the provisions of this subdivision and subdivisions three, five, six, seven and eight of section two hundred twenty-six-b of this article.

- u. In the event of a breach by a mobile home park owner or operator of any of the requirements of this section, the mobile home tenant may commence an action for damages actually incurred as a result of such breach, or in an action or summary proceeding commenced by such mobile home park owner or operator, may counterclaim for damages occasioned by such breach.
  
- v. On and after April first, nineteen hundred eighty-nine, the commissioner of housing and community renewal shall have the power and duty to enforce and ensure compliance with the provisions of this Section. However, the commissioner shall not have the power or duty to enforce mobile home park rules and regulations established under subdivision f of this section. On or before January first, nineteen hundred eighty-nine, each mobile home park owner or operator shall file a registration statement with the commissioner and shall thereafter file an annual registration statement on or before January first of each succeeding year. The commissioner, by regulation, shall provide that such registration statement shall include only the names of all persons owning an interest in the park, the names of all tenants of the park, all services provided by the park owner to the tenants and a copy of all current mobile home park rules and regulations. Whenever there shall be a violation of this section, an application may be made by the commissioner of housing and community renewal in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violation; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation and with respect to this subdivision, directing the filing of a registration statement. In any such proceeding, the court may make allowances to the commissioner of housing and community renewal of a sum not exceeding two thousand dollars against each defendant, and direct restitution. Whenever the court shall determine that

a violation of this section has occurred, the court may impose a civil penalty of not more than one thousand five hundred dollars for each violation. Such penalty shall be deposited in the mobile home cooperative fund, created pursuant to Section fifty-nine-h of the private housing finance law. In connection with any such proposed application, the commissioner of housing and community renewal is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules. The provisions of this subdivision shall not impair the rights granted under subdivision u of this section.

Sec. 234. Tenants' right to recover attorneys' fees in actions or summary proceedings arising out of leases of residential property.

Whenever a lease of residential property shall provide that in any action or summary proceeding the landlord may recover attorneys' fees and/or expenses incurred as the result of the failure of the tenant to perform any covenant or agreement contained in such lease, or that amounts paid by the landlord therefor shall be paid by the tenant as additional rent, there shall be implied in such lease a covenant by the landlord to pay to the tenant the reasonable attorneys' fees and/or expenses incurred by the tenant as the result of the failure of the landlord to perform any covenant or agreement on its part to be performed under the lease or in the successful defense of any action or summary proceeding commenced by the landlord against the tenant arising out of the lease, and an agreement that such fees and expenses may be recovered as provided by law in an action commenced against the landlord or by way of counterclaim in any action or summary proceeding commenced by the landlord against the tenant. Any waiver of this section shall be void as against public policy.

Sec. 235. Wilful violations.

1. Any lessor, agent, manager, superintendent or janitor of any building, or part thereof, the lease or rental agreement whereof by its terms, expressed or implied, requires the furnishing of hot or cold water, heat, light, power, elevator service, telephone service or any other service or facility to any occupant of said building, who wilfully or intentionally fails to furnish such water, heat, light, power, elevator service, telephone service or other service or facility at any time when the same are necessary to the proper or customary use of such building, or part thereof, or any lessor, agent, manager, superintendent or janitor who wilfully and intentionally interferes with the quiet enjoyment of the leased premises by such occupant, is guilty of a violation.
2. Any lessor, agent, manager, superintendent or janitor of any building, or part thereof, who wilfully or intentionally acts to prevent or obstruct the delivery of fuel oil ordered in compliance with either section three hundred two-c of the multiple dwelling law or section three hundred five-c of the multiple residence law or the refiring of an oil burner after such a delivery shall be guilty of a violation.

Sec. 235-a. Tenant right to offset payments and entitlement to damages in certain cases.

1. In any case in which a tenant shall lawfully make a payment to a utility company pursuant to the provisions of sections thirty-three, thirty-four and one hundred sixteen of the public service law, such payment shall be deductible from any future payment of rent.
2. Any owner (as defined in the multiple dwelling law or multiple residence law) of a multiple dwelling responsible for the payment of charges for gas, electric, steam or water service who causes the discontinuance of that service by failure or refusal to pay the charges for past service shall be liable for compensatory and punitive damages to any tenant whose utility service is so discontinued.
- \*3. Nothing contained in this section and no payment made pursuant to this section shall be deemed to discharge the liability of a renter with an interest in real property pursuant to subdivision two of section three hundred four of the real property tax law from taxes levied on such interest.

\*NB (Effective pending ruling by Commissioner of Internal Revenue)

Sec. 235-b. Warranty of habitability.

1. In every written or oral lease or rental agreement for residential premises the landlord or lessor shall be deemed to covenant and warrant that the premises so leased or rented and all areas used in connection therewith in common with other tenants or residents are fit for human habitation and for the uses reasonably intended by the parties and that the occupants of such premises shall not be subjected to any conditions which would be dangerous, hazardous or detrimental to their life, health or safety. When any such condition has been caused by the misconduct of the tenant or lessee or persons under his direction or control, it shall not constitute a breach of such covenants and warranties.
2. Any agreement by a lessee or tenant of a dwelling waiving or modifying his rights as set forth in this section shall be void as contrary to public policy.
3. In determining the amount of damages sustained by a tenant as a result of a breach of the warranty set forth in the section, the court;
  - (a) need not require any expert testimony; and
  - (b) shall, to the extent the warranty is breached or cannot be cured by reason of a strike or other labor dispute which is not caused primarily by the individual landlord or lessor and such damages are attributable to such strike, exclude recovery to such extent, except to the extent of the net savings, if any, to the landlord or lessor by reason of such strike or labor dispute allocable to the tenant's premises, provided, however, that the landlord or lesser has made a good faith

attempt, where practicable, to cure the breach.

Sec. 235-c. Unconscionable lease or clause.

1. If the court as a matter of law finds a lease or any clause of the lease to have been unconscionable at the time it was made the court may refuse to enforce the lease, or it may enforce the remainder of the lease without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.
2. When it is claimed or appears to the court that a lease or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its setting, purpose and effect to aid the court in making the determination.

Sec. 235-d. Harassment.

1. Notwithstanding any other provision of law, within a city having a population of one million or more, it shall be unlawful and shall constitute harassment for any landlord of a building which at any time was occupied for manufacturing or warehouse purposes, or other person acting on his behalf, to engage in any course of conduct, including, but not limited to intentional interruption or discontinuance or willful failure to restore services customarily provided or required by written lease or other rental agreement, which interferes with or disturbs the comfort, repose, peace or quiet of a tenant in the tenant's use or occupancy of rental space if such conduct is intended to cause the tenant (i) to vacate a building or part thereof; or (ii) to surrender or waive any rights of such tenant under the tenant's written lease or other rental agreement.
2. The lawful termination of a tenancy or lawful refusal to renew or extend a written lease or other rental agreement shall not constitute harassment for purposes of this section.
3. As used in this section the term "tenant" means only a person or business occupying or residing at the premises pursuant to a written lease or other rental agreement, if such premises are located in a building which at any time was occupied for manufacturing or warehouse purposes and a certificate of occupancy for residential use of such building is not in effect at the time of the last alleged acts or incidents upon which the harassment claim is based.
4. A tenant may apply to the supreme court for an order enjoining acts or practices which constitute harassment under subdivision one of this section; and upon sufficient showing, the supreme court may issue a temporary or permanent injunction, restraining order or other order, all of which may, as the court determines in the exercise of its sound discretion, be granted without bond. In the event the court issues a preliminary injunction it shall make provision for an expeditious trial of the underlying action.
5. The powers and remedies set forth in this section shall be

in addition to all other powers and remedies in relation to harassment including the award of damages. Nothing contained herein shall be construed to amend, repeal, modify or affect any existing local law or ordinance, or provision of the charter or administrative code of the city of New York, or to limit or restrict the power of the city to amend or modify any existing local law, ordinance or provision of the charter or administrative code, or to restrict or limit any power otherwise conferred by law with respect to harassment.

6. Any agreement by a tenant in a written lease or other rental agreement waiving or modifying his rights as set forth in this section shall be void as contrary to public policy.

Sec. 235-e. Duty of landlord to provide written receipt.

- (a) Upon the receipt of rent for residential premises in the form of cash or any instrument other than the personal check of the tenant, it shall be the duty of the landlord to provide the payor with a written receipt containing the following:
1. The date;
  2. The amount;
  3. The identity of the premises and period for which paid; and
  4. The signature and title of the person receiving the rent.
- (b) Where a tenant, in writing, requests that a landlord provide a receipt for rent paid by personal check, it shall be the duty of the landlord to provide the payor with the receipt described in subdivision (a) of this Section for each such request made in writing.

Sec. 235-f. Unlawful restrictions on occupancy.

1. As used in this Section, the terms:
  - (a) "Tenant" means a person occupying or entitled to occupy a residential rental premises who is either a party to the lease or rental agreement for such premises or is a statutory tenant pursuant to the emergency housing rent control law or the city rent and rehabilitation law or article seven-c of the multiple dwelling law.
  - (b) "Occupant" means a person, other than a tenant or a member of a tenant's immediate family, occupying a premises with the consent of the tenant or tenants.
2. It shall be unlawful for a landlord to restrict occupancy of residential premises, by express lease terms or otherwise, to a tenant or tenants or to such tenants and immediate family. Any such restriction in a lease or rental agreement entered into or renewed before or after the effective date of this section shall be unenforceable as against public policy.

3. Any lease or rental agreement for residential premises entered into by one tenant shall be construed to permit occupancy by the tenant, immediate family of the tenant, one additional occupant, and dependent children of the occupant provided that the tenant or the tenant's spouse occupies the premises as his primary residence.
4. Any lease or rental agreement for residential premises entered into by two or more tenants shall be construed to permit occupancy by tenants, immediate family of tenants, occupants and dependent children of occupants; provided that the total number of tenants and occupants, excluding occupants' dependent children, does not exceed the number of tenants specified in the current lease or rental agreement, and that at least one tenant or a tenants' spouse occupies the premises as his primary residence.
5. The tenant shall inform the landlord of the name of any occupant within thirty days following the commencement of occupancy by such person or within thirty days following a request by the landlord.
6. No occupant nor occupant's dependent child shall, without express written permission of the landlord, acquire any right to continued occupancy in the event that the tenant vacates the premises or acquire any other rights of tenancy; provided that nothing in this section shall be construed to reduce or impair any right or remedy otherwise available to any person residing in any housing accommodation on the effective date of this section which accrued prior to such date.
7. Any provision of a lease or rental agreement purporting to waive a provision of this section is null and void.
8. Nothing in this section shall be construed as invalidating or impairing the operation of, or the right of a landlord to restrict occupancy in order to comply with federal, state or local laws, regulations, ordinances or codes.
9. Any person aggrieved by a violation of this section may maintain an action in any court of competent jurisdiction for:
  - (a) an injunction to enjoin and restrain such unlawful practice;
  - (b) actual damages sustained as a result of such unlawful practice; and
  - (c) court costs.

Sec. 236. Assignment of lease of a deceased tenant.

Notwithstanding any contrary provision contained in any lease hereafter made which affects premises demised for residential use, or partly for residential and partly for professional use, the executor, administrator or legal representative of a deceased tenant under such a lease, may request the landlord thereunder to consent to the assignment of such a lease, or to the subletting of the premises demised thereby. Such request shall be accompanied by the written consent thereto of any co-tenant or

guarantor of such lease and a statement of the name, business and home addresses of the proposed assignee or sublessee. Within ten days after the mailing of such request, the landlord may ask the sender thereof for additional information as will enable the landlord to determine if rejection of such request shall be unreasonable. Within thirty days after the mailing of the request for consent, or of the additional information reasonably asked for by the landlord, whichever is later, the landlord shall send a notice to the sender thereof of his election to terminate said lease or to grant or refuse his consent. Landlord's failure to send such a notice shall be deemed to be a consent to the proposed assignment or subletting. If the landlord consents, said lease may be assigned in accordance with the request provided a written agreement by the assignee assuming the performance of the tenant's obligations under the lease is delivered to the landlord in form reasonably satisfactory to the landlord, or the premises may be sublet in accordance with the request, as the case may be, but the estate of the deceased tenant, and any other tenant thereunder, shall nevertheless remain liable for the performance of tenant's obligations under said lease. If the landlord terminates said lease or unreasonably refuses his consent, said lease shall be deemed terminated, and the estate of the deceased tenant and any other tenant thereunder shall be discharged from further liability thereunder as of the last day of the calendar month during which the landlord was required hereunder to exercise his option. If the landlord reasonably refuses his consent, said lease shall continue in full force and effect, subject to the right to make further requests for consent hereunder. Any request, notice or communication required or authorized to be given hereunder shall be sent by registered or certified mail, return receipt requested. This act shall not apply to a proprietary lease, viz.: a lease to, or held by, a tenant entitled thereto by reason of ownership of stock in a corporate owner of premises which operates the same on a cooperative basis. Any waiver of any part of this section shall be void as against public policy.

Sec. 236\*. Discrimination against children in dwelling houses and mobile home parks.

a. Any person, firm or corporation owning or having in charge any apartment house, tenement house or other building or mobile home park used for dwelling purposes who shall refuse to rent any or part of any such building or mobile home park to any person or family, or who discriminates in the terms, conditions, or privileges of any such rental, solely on the ground that such person or family has or have a child or children shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than fifty nor more than one hundred dollars for each offense; provided, however, the prohibition against discrimination against children in dwelling houses and mobile home parks contained in this section shall not apply to:

- (1) housing units for senior citizens subsidized, insured, or guaranteed by the federal government; or
- (2) one or two family owner occupied dwelling houses or mobile homes; or
- (3) mobile home parks exclusively for persons fifty-five years of age or over.

## b. Civil liability:

- (1) where discriminatory conduct prohibited by this section has occurred, an aggrieved individual shall have a cause of action in any court of appropriate jurisdiction for damages, declaratory and injunctive relief;
- (2) in all actions brought under this section, reasonable attorney's fees as determined by the court may be awarded to a prevailing plaintiff.

Sec. 237. Discrimination in leases with respect to bearing of children.

Any person, firm or corporation owning or having in charge any apartment house, tenement house or other building or mobile home park used for dwelling purposes who shall, in any lease of any or part of any such building or mobile home park, have a clause therein providing that during the term thereof the tenants shall remain childless or shall not bear children, shall be guilty of a violation.

Sec. 238. Agreements or contracts for privileges to deal with occupants of tenements, apartment houses or bungalow colonies.

1. A contract, agreement or arrangement entered into or executed by and between the owner or prospective owner of an apartment house, tenement or what is commonly known as a bungalow colony connected with common or joint means of ingress and egress, whether such apartment house, tenement or bungalow colony is in existence or in process of construction or to be constructed in the future, or any person in possession or claiming possession of such apartment house, tenement or bungalow colony, or any part thereof, including the common or joint means of ingress or egress, or any of the agents, employees or servants of such an owner or possessors thereof and a dealer in or seller of fuel, ice or food, or his agents, employees or representatives for the purpose of giving to such dealer or seller the privilege of selling or delivering fuel, ice or food, to the persons occupying or to occupy such apartment house, tenement or bungalow colony, or any part thereof, is against public policy and void.
2. Any person who shall, directly or indirectly, either as the owner or prospective owner of such apartment house, tenement or bungalow colony, or any part thereof, including the common or joint means of ingress or egress, or as an agent, employee or servant of such an owner, or any person in possession or claiming possession of such apartment house, tenement or bungalow colony, or any part thereof, including the common or joint means of ingress or egress, accept any money, property or thing of value for permitting or giving to any person, or his agents, employees or representatives, the privilege of selling or delivering fuel, ice or food, to the persons occupying or to occupy such apartment house, tenement or bungalow colony, or any part thereof, and any person who shall, directly or indirectly, either as a seller

of, or dealer in, fuel, ice or food, as an agent, employee, or representative of such seller or dealer, pay or give any money, property or thing of value, for such privilege shall be guilty of a misdemeanor. If a corporation is convicted of a violation of this section, it shall be punished by a fine of not less than fifty nor more than one thousand dollars.

3. A person occupying an apartment house, tenement or bungalow colony, or any part thereof, to whom fuel, ice or food, shall be sold or delivered by a seller or dealer who has paid or given any money, property or thing of value for the privilege of selling or delivering fuel, ice or food, to the persons occupying or to occupy such apartment house, tenement or bungalow colony, or any part thereof, may recover of such seller or dealer for his benefit a penalty, in the sum of two hundred and fifty dollars, in a civil action brought in a court of competent jurisdiction.

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