

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. JEFFRIES, WRIGHT, GLICK -- Multi-Sponsored by --
M. of A. HYER-SPENCER -- read once and referred to the Committee on
Housing

AN ACT to amend the administrative code of the city of New York and the
emergency tenant protection act of nineteen seventy-four, 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 26-412 of the administrative code of the city of
2 New York is amended by adding a new subdivision g to read as follows:
3 G. (1) IT SHALL BE UNLAWFUL FOR A LANDLORD TO BRING AN ACTION OR
4 PROCEEDING FOR RENT OR EVICTION AGAINST A TENANT OR TENANTS OF HOUSING
5 ACCOMMODATIONS THAT ARE SUBJECT TO AN OUTSTANDING OFFICIAL CHARGE OF, OR
6 AN UNCURED, VIOLATION OF ANY APPLICABLE BUILDING CODE. THE PLEADINGS OF
7 THE LANDLORD IN ANY SUCH ACTION OR PROCEEDING SHALL BE ACCOMPANIED BY A
8 CERTIFICATE FROM THE DEPARTMENT OF BUILDINGS STATING WHETHER OR NOT
9 THERE ARE ANY SUCH OUTSTANDING VIOLATIONS. IN THE EVENT THAT A LANDLORD
10 DISPUTES A VIOLATION, HE OR SHE SHALL SO STATE IN HIS OR HER PLEADINGS
11 HIS OR HER REASONS FOR SUCH DISPUTE. HE OR SHE MAY THEN PROCEED WITH THE
12 ACTION OR PROCEEDING.
13 (2) DURING THE PENDENCY OF THE DISPUTE OVER THE VIOLATION, THE TENANT
14 OR TENANTS SHALL PAY RENT, OR ANY JUDGMENT OR ORDER THEREFOR AWARDED TO
15 THE LANDLORD, INTO AN INTEREST BEARING ACCOUNT TO BE MAINTAINED BY THE
16 COURT. IF THE DISPUTED VIOLATION IS RESOLVED IN THE LANDLORD'S FAVOR, HE
17 OR SHE SHALL RECEIVE ALL SUCH PAYMENTS TOGETHER WITH INTEREST THEREON.
18 IF THE DISPUTED VIOLATION IS RESOLVED AGAINST THE LANDLORD, SUCH
19 PAYMENTS SHALL FIRST BE APPLIED TO FUNDING THE CURING OF SUCH VIOLATIONS
20 AND THE BALANCE THEREOF, IF ANY, SHALL THEN BE PAID TO THE LANDLORD. IN
21 THE EVENT THAT A LANDLORD OR TENANT OR TENANTS ARE ABLE TO DEMONSTRATE

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

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1 FINANCIAL NECESSITY THEREFOR, THE COURT MAY, IN ITS DISCRETION, APPLY
2 FUNDS IN ITS CUSTODY TO THE PAYMENT OF UTILITY BILLS, IF SUCH UTILITIES
3 ARE CURRENTLY PROVIDED BY THE LANDLORD, AND THE MAKING OF NECESSARY
4 REPAIRS IN THE PRESENCE OF CONDITIONS THAT THREATEN THE HEALTH AND
5 WELFARE OF THE TENANT.

6 S 2. The administrative code of the city of New York is amended by
7 adding a new section 26-519.1 to read as follows:

8 S 26-519.1 CONDITIONS PRECEDENT TO ACTION OR PROCEEDING. A. IT SHALL
9 BE UNLAWFUL FOR A LANDLORD TO BRING AN ACTION OR PROCEEDING FOR RENT OR
10 EVICTION AGAINST A TENANT OR TENANTS OF HOUSING ACCOMMODATIONS THAT ARE
11 SUBJECT TO AN OUTSTANDING OFFICIAL CHARGE OF, OR AN UNCURED, VIOLATION
12 OF THE BUILDING CODE. THE PLEADINGS OF THE LANDLORD IN ANY SUCH ACTION
13 OR PROCEEDING SHALL BE ACCOMPANIED BY A CERTIFICATE FROM THE DEPARTMENT
14 OF BUILDINGS STATING WHETHER OR NOT THERE ARE ANY SUCH OUTSTANDING
15 VIOLATIONS. IN THE EVENT THAT A LANDLORD DISPUTES A VIOLATION, HE OR SHE
16 SHALL SO STATE IN HIS OR HER PLEADINGS HIS OR HER REASONS FOR SUCH
17 DISPUTE. HE OR SHE MAY THEN PROCEED WITH THE ACTION OR PROCEEDING.

18 B. DURING THE PENDENCY OF THE DISPUTE OVER THE VIOLATION, THE TENANT
19 OR TENANTS SHALL PAY RENT, OR ANY JUDGMENT OR ORDER THEREFOR AWARDED TO
20 THE LANDLORD, INTO AN INTEREST BEARING ACCOUNT TO BE MAINTAINED BY THE
21 COURT. IF THE DISPUTED VIOLATION IS RESOLVED IN THE LANDLORD'S FAVOR, HE
22 OR SHE SHALL RECEIVE ALL SUCH PAYMENTS TOGETHER WITH INTEREST THEREON.
23 IF THE DISPUTED VIOLATION IS RESOLVED AGAINST THE LANDLORD, SUCH
24 PAYMENTS SHALL FIRST BE APPLIED TO FUNDING THE CURING OF SUCH VIOLATIONS
25 AND THE BALANCE THEREOF, IF ANY, SHALL THEN BE PAID TO THE LANDLORD. IN
26 THE EVENT THAT A LANDLORD OR TENANT OR TENANTS ARE ABLE TO DEMONSTRATE
27 FINANCIAL NECESSITY THEREFOR, THE COURT MAY, IN ITS DISCRETION, APPLY
28 FUNDS IN ITS CUSTODY TO THE PAYMENT OF UTILITY BILLS, IF SUCH UTILITIES
29 ARE CURRENTLY PROVIDED BY THE LANDLORD, AND THE MAKING OF NECESSARY
30 REPAIRS IN THE PRESENCE OF CONDITIONS THAT THREATEN THE HEALTH AND
31 WELFARE OF THE TENANT.

32 S 3. Section 4 of chapter 576 of the laws of 1974, constituting the
33 emergency tenant protection act of nineteen seventy-four, is amended by
34 adding a new section 12-b to read as follows:

35 S 12-B. CONDITIONS PRECEDENT TO ACTION OR PROCEEDING. A. IT SHALL BE
36 UNLAWFUL FOR A LANDLORD TO BRING AN ACTION OR PROCEEDING FOR RENT OR
37 EVICTION AGAINST A TENANT OR TENANTS OF HOUSING ACCOMMODATIONS THAT ARE
38 SUBJECT TO AN OUTSTANDING OFFICIAL CHARGE OF, OR AN UNCURED, VIOLATION
39 OF ANY APPLICABLE BUILDING CODE. THE PLEADINGS OF THE LANDLORD IN ANY
40 SUCH ACTION OR PROCEEDING SHALL BE ACCOMPANIED BY A CERTIFICATE FROM THE
41 DEPARTMENT OF BUILDINGS STATING WHETHER OR NOT THERE ARE ANY SUCH
42 OUTSTANDING VIOLATIONS. IN THE EVENT THAT A LANDLORD DISPUTES A
43 VIOLATION, HE SHALL SO STATE IN HIS PLEADINGS HIS REASONS FOR SUCH
44 DISPUTE. HE MAY THEN PROCEED WITH THE ACTION OR PROCEEDING.

45 B. DURING THE PENDENCY OF THE DISPUTE OVER THE VIOLATION, THE TENANT
46 OR TENANTS SHALL PAY RENT, OR ANY JUDGMENT OR ORDER THEREFOR AWARDED TO
47 THE LANDLORD, INTO AN INTEREST BEARING ACCOUNT TO BE MAINTAINED BY THE
48 COURT. IF THE DISPUTED VIOLATION IS RESOLVED IN THE LANDLORD'S FAVOR, HE
49 SHALL RECEIVE ALL SUCH PAYMENTS TOGETHER WITH INTEREST THEREON. IF THE
50 DISPUTED VIOLATION IS RESOLVED AGAINST THE LANDLORD, SUCH PAYMENTS SHALL
51 FIRST BE APPLIED TO FUNDING THE CURING OF SUCH VIOLATIONS AND THE
52 BALANCE THEREOF, IF ANY, SHALL THEN BE PAID TO THE LANDLORD. IN THE
53 EVENT THAT A LANDLORD OR TENANT OR TENANTS ARE ABLE TO DEMONSTRATE
54 FINANCIAL NECESSITY THEREFOR, THE COURT MAY, IN ITS DISCRETION, APPLY
55 FUNDS IN ITS CUSTODY TO THE PAYMENT OF UTILITY BILLS, IF SUCH UTILITIES
56 ARE CURRENTLY PROVIDED BY THE LANDLORD, AND THE MAKING OF NECESSARY

1 REPAIRS IN THE PRESENCE OF CONDITIONS THAT THREATEN THE HEALTH AND
2 WELFARE OF THE TENANT.

3 S 4. This act shall take effect on the first of November next succeed-
4 ing the date on which it shall have become a law; provided that the
5 amendment to section 26-412 of the city rent and rehabilitation law made
6 by section one of this act shall remain in full force and effect only so
7 long as the public emergency requiring the regulation and control of
8 residential rents and evictions continues, as provided in subdivision 3
9 of section 1 of the local emergency housing rent control act; provided
10 further that the addition of section 26-519.1 to the rent stabilization
11 law of nineteen hundred sixty-nine made by section two of this act shall
12 expire on the same date as such law expires and shall not affect the
13 expiration of such law as provided under section 26-520 of such law; and
14 provided further that the addition of section 12-b to the emergency
15 tenant protection act of nineteen seventy-four made by section three of
16 this act shall expire on the same date as such act expires and shall not
17 affect the expiration of such act as provided in section 17 of chapter
18 576 of the laws of 1974, as amended.