S T A T E O F N E W Y O R K

1435--A

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general obligations law, in relation to the return of a security deposit by a landlord

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general obligations law is amended by adding a new section 7-104 to read as follows:

S 7-104. MONEY DEPOSITED OR ADVANCED FOR USE OR RENTAL OF ANY DWELLING; RETENTION. 1. DEFINITIONS. FOR THE PURPOSE OF THIS SECTION:

(A) THE TERM "SECURITY DEPOSIT" SHALL MEAN ANY ADVANCE OR DEPOSIT OF MONEY THAT IS SUBJECT TO THE PROVISIONS OF SECTION 7-103 OF THIS TITLE, AND THE PRIMARY FUNCTION OF WHICH IS TO SECURE THE PERFORMANCE OF A RENTAL AGREEMENT FOR THE USE OR RENTAL OF ANY DWELLING OR ANY PART THEREOF.

(B) THE TERM "LANDLORD" SHALL MEAN ANY PERSON WHO RECEIVES PAYMENT FROM A TENANT FOR THE RENTAL OR USE OF ANY DWELLING OR ANY PORTION THEREOF AND HAS RECEIVED A SECURITY DEPOSIT IN CONNECTION WITH SUCH RENTAL.

(C) THE TERM "TENANT" SHALL MEAN ANY PERSON WHO OCCUPIES ANY DWELLING OR ANY PORTION THEREOF FOR WHICH HE OR SHE PAYS RENT AND WHO, IN CONNECTION WITH SUCH RENTAL, HAS FURNISHED A SECURITY DEPOSIT.

2. A LANDLORD SHALL, WITHIN THIRTY DAYS AFTER THE TENANT VACATES THE DWELLING RETURN TO THE TENANT THE FULL SECURITY DEPOSIT AND ANY ACCRUED INTEREST TO WHICH THE TENANT IS ENTITLED.

3. A LANDLORD MAY RETAIN ALL OR A PART OF A SECURITY DEPOSIT FOR NONPAYMENT OF RENT, USE AND OCCUPANCY, UNJUSTIFIABLE ABANDONMENT OF THE PREMISES PRIOR TO THE EXPIRATION OF THE LEASE TERM, NONPAYMENT OF UTILITY CHARGES, REPAIR WORK OR CLEANING CONTRACTED BY THE TENANT OR DAMAGES CAUSED BY THE TENANT TO THE PREMISES. IN THE EVENT THAT THE LANDLORD

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

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RETAINS ANY PORTION OF THE SECURITY DEPOSIT, HE OR SHE SHALL PROVIDE THE TENANT WITH A WRITTEN STATEMENT LISTING THE REASONS FOR THE RETENTION OF SUCH PORTION OF THE SECURITY DEPOSIT. WHEN THE STATEMENT IS DELIVERED IT SHALL BE ACCOMPANIED BY PAYMENT OF THE DIFFERENCE BETWEEN ANY SUM DEPOSITED AND THE AMOUNT RETAINED. THE LANDLORD SHALL BE DEEMED TO HAVE COMPLIED WITH THIS SECTION BY MAILING THE STATEMENT AND ANY PAYMENT REQUIRED TO THE TENANT'S NEW ADDRESS, IF KNOWN BY THE LANDLORD, OR TO THE LAST KNOWN ADDRESS OF THE TENANT.

4. THE WILLFUL RETENTION OF A SECURITY DEPOSIT IN VIOLATION OF THIS SECTION SHALL RENDER A LANDLORD LIABLE FOR TREBLE THE AMOUNT OF THAT PORTION OF THE SECURITY DEPOSIT WRONGFULLY WITHHELD FROM THE TENANT, TOGETHER WITH REASONABLE ATTORNEY'S FEES AND COURT COSTS. IN ANY ACTION BROUGHT BY A TENANT UNDER THIS SECTION, THE LANDLORD SHALL BEAR THE BURDEN OF PROVING THAT HIS OR HER WITHHOLDING OF THE SECURITY DEPOSIT OR ANY PORTION THEREOF WAS NOT WILLFUL.

5. ANY PROVISION OF A CONTRACT OR AGREEMENT WHEREBY A PERSON WHO SO DEPOSITS OR ADVANCES MONEY WAIVES ANY PROVISION OF THIS SECTION IS ABSOLUTELY VOID.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.