

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.

LBD00307-01-9

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.