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2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. ROSENTHAL, JEFFRIES, EDDINGTON, FIELDS, GREENE,
N. RIVERA, ESPAILLAT, P. RIVERA, LUPARDO, SPANO, KELLNER, JAFFEE --
Multi-Sponsored by -- M. of A. BENEDETTO, BOYLAND, BRENNAN, ENGLE-
BRIGHT, GABRYSZAK, GOTTFRIED, GUNTHER, HOOPER, JACOBS, MAISEL, McENE-
NY, PHEFFER, REILLY -- 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

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

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1 AND THE BALANCE THEREOF, IF ANY, SHALL THEN BE PAID TO THE LANDLORD. IN
2 THE EVENT THAT A LANDLORD OR TENANT OR TENANTS ARE ABLE TO DEMONSTRATE
3 FINANCIAL NECESSITY THEREFOR, THE COURT MAY, IN ITS DISCRETION, APPLY
4 FUNDS IN ITS CUSTODY TO THE PAYMENT OF UTILITY BILLS, IF SUCH UTILITIES
5 ARE CURRENTLY PROVIDED BY THE LANDLORD, AND THE MAKING OF NECESSARY
6 REPAIRS IN THE PRESENCE OF CONDITIONS THAT THREATEN THE HEALTH AND
7 WELFARE OF THE TENANT.

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

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

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

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

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

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

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

5 S 4. This act shall take effect on the first of November next succeed-
6 ing the date on which it shall have become a law; provided that the
7 amendment to section 26-412 of the city rent and rehabilitation law made
8 by section one of this act shall remain in full force and effect only so
9 long as the public emergency requiring the regulation and control of
10 residential rents and evictions continues, as provided in subdivision 3
11 of section 1 of the local emergency housing rent control act; provided
12 further that the addition of section 26-519.1 to the rent stabilization
13 law of nineteen hundred sixty-nine made by section two of this act shall
14 expire on the same date as such law expires and shall not affect the
15 expiration of such law as provided under section 26-520 of such law; and
16 provided further that the addition of section 12-b to the emergency
17 tenant protection act of nineteen seventy-four made by section three of
18 this act shall expire on the same date as such act expires and shall not
19 affect the expiration of such act as provided in section 17 of chapter
20 576 of the laws of 1974, as amended.