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

4545

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, ENGLEBRIGHT, GABRYSZAK, GOTTFRIED, GUNTHER, HOOPER, JACOBS, MAISEL, McENENY, 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 26-412 of the administrative code of the city of New York is amended by adding a new subdivision g to read as follows:

G. (1) IT SHALL BE UNLAWFUL FOR A LANDLORD TO BRING AN ACTION OR PROCEEDING FOR RENT OR EVICTION AGAINST A TENANT OR TENANTS OF HOUSING ACCOMMODATIONS THAT ARE SUBJECT TO AN OUTSTANDING OFFICIAL CHARGE OF, OR AN UNCURED, VIOLATION OF ANY APPLICABLE BUILDING CODE. THE PLEADINGS OF THE LANDLORD IN ANY SUCH ACTION OR PROCEEDING SHALL BE ACCOMPANIED BY A CERTIFICATE FROM THE DEPARTMENT OF BUILDINGS STATING WHETHER OR NOT THERE ARE ANY SUCH OUTSTANDING VIOLATIONS. IN THE EVENT THAT A LANDLORD DISPUTES A VIOLATION, HE OR SHE SHALL SO STATE IN HIS OR HER PLEADINGS HIS OR HER REASONS FOR SUCH DISPUTE. HE OR SHE MAY THEN PROCEED WITH THE ACTION OR PROCEEDING.

(2) DURING THE PENDENCY OF THE DISPUTE OVER THE VIOLATION, THE TENANT OR TENANTS SHALL PAY RENT, OR ANY JUDGMENT OR ORDER THEREFOR AWARDED TO THE LANDLORD, INTO AN INTEREST BEARING ACCOUNT TO BE MAINTAINED BY THE COURT. IF THE DISPUTED VIOLATION IS RESOLVED IN THE LANDLORD'S FAVOR, HE OR SHE SHALL RECEIVE ALL SUCH PAYMENTS TOGETHER WITH INTEREST THEREON. IF THE DISPUTED VIOLATION IS RESOLVED AGAINST THE LANDLORD, SUCH 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.

LBD00307-01-9

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

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

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

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

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

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

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

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

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