

4545

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 4, 2009

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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.

LBD00307-01-9

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.