

505

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. ROSENTHAL, MILLMAN, CLARK, GOTTFRIED, KAVANAGH,
DINOWITZ, KELLNER -- Multi-Sponsored by -- M. of A. BOYLAND, COLTON,
FARRELL, GLICK, ROBINSON, WRIGHT -- 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

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

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

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

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

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

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

36 S 12-B. CONDITIONS PRECEDENT TO ACTION OR PROCEEDING. A. IT SHALL BE
37 UNLAWFUL FOR A LANDLORD TO BRING AN ACTION OR PROCEEDING FOR RENT OR
38 EVICTION AGAINST A TENANT OR TENANTS OF HOUSING ACCOMMODATIONS THAT ARE
39 SUBJECT TO AN OUTSTANDING OFFICIAL CHARGE OF, OR AN UNCURED, VIOLATION
40 OF ANY APPLICABLE BUILDING CODE. THE PLEADINGS OF THE LANDLORD IN ANY
41 SUCH ACTION OR PROCEEDING SHALL BE ACCOMPANIED BY A CERTIFICATE FROM THE
42 DEPARTMENT OF BUILDINGS STATING WHETHER OR NOT THERE ARE ANY SUCH
43 OUTSTANDING VIOLATIONS. IN THE EVENT THAT A LANDLORD DISPUTES A
44 VIOLATION, HE OR SHE SHALL SO STATE IN HIS OR HER PLEADINGS HIS OR HER
45 REASONS FOR SUCH DISPUTE. HE OR SHE MAY THEN PROCEED WITH THE ACTION OR
46 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 OR SHE SHALL RECEIVE ALL SUCH PAYMENTS TOGETHER WITH INTEREST THEREON.
52 IF THE DISPUTED VIOLATION IS RESOLVED AGAINST THE LANDLORD, SUCH
53 PAYMENTS SHALL FIRST BE APPLIED TO FUNDING THE CURING OF SUCH VIOLATIONS
54 AND THE BALANCE THEREOF, IF ANY, SHALL THEN BE PAID TO THE LANDLORD. IN
55 THE 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 immediately; provided that:

6 (a) the amendment to section 26-412 of the city rent and rehabili-
7 tation law made by section one of this act shall remain in full force
8 and effect only so long as the public emergency requiring the regulation
9 and control of residential rents and evictions continues, as provided in
10 subdivision 3 of section 1 of the local emergency housing rent control
11 act;

12 (b) the addition of section 26-519.1 to the rent stabilization law of
13 nineteen hundred sixty-nine made by section two of this act shall expire
14 on the same date as such law expires and shall not affect the expiration
15 of such law as provided under section 26-520 of such law; and

16 (c) the addition of section 12-b to the emergency tenant protection
17 act of nineteen seventy-four made by section three of this act shall
18 expire on the same date as such act expires and shall not affect the
19 expiration of such act as provided in section 17 of chapter 576 of the
20 laws of 1974, as amended.