STATE OF NEW YORK

410

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to authorizing public welfare officials to withhold rent from a landlord when real estate taxes for the rental property are unpaid

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 143-b of the social services law, as added by chapter 997 of the laws of 1962, subdivisions 5 and 6 as amended by chapter 701 of the laws of 1965, is amended to read as follows:

§ 143-b. Avoidance of abuses in connection with rent checks. 1. Whenever a recipient of public assistance and care is eligible for or entitled to receive aid or assistance in the form of a payment for or toward the rental of any housing accommodations occupied by such recipient or his **or her** family, such payment may be made directly by the public welfare department to the landlord.

2. Every public welfare official shall have power to and may withhold the payment of any such rent in any case where he **or she** has knowledge that there exists or there is outstanding any violation of law in respect to the building containing the housing accommodations occupied by the person entitled to such assistance which is dangerous, hazardous or detrimental to life or health. A report of each such violation shall be made to the appropriate public welfare department by the appropriate department or agency having jurisdiction over violations.

2-a. Every public welfare official may withhold the payment of any such rent in any case where he or she has knowledge that there exists any legally uncontested outstanding real property taxes levied with respect to the real property containing the housing accommodations occupied by the person entitled to such assistance. Information relating to any such properties' paid or unpaid real property taxes shall be made,

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

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upon request, to the appropriate public welfare department by the appropriate department or agency having jurisdiction over such payments.

3. Every public welfare official shall have the power to initiate or to request the recipient to initiate before the appropriate housing rent commission any proper proceeding for the reduction of maximum rents applicable to any housing accommodation occupied by a person entitled to assistance in the form of a rent payment whenever such official has knowledge that essential services which such person is entitled to receive are not being maintained by the landlord or have been substantially reduced by the landlord.

4. The public welfare department may obtain and maintain current records of violations in buildings where welfare recipients reside which relate to conditions which are dangerous, hazardous or detrimental to life or health, and such information relating to the payment or non-payment of real property taxes levied upon the owner of any real property containing housing accommodations occupied by a person entitled to assistance under this section.

5. (a) It shall be a valid defense in any action or summary proceeding against a welfare recipient for non-payment of rent to show existing violations in the building wherein such welfare recipient resides which relate to conditions which are dangerous, hazardous or detrimental to life or health as the basis for non-payment. It shall also be a valid defense in an action or summary proceeding against a welfare recipient for non-payment of rent under this section to show that the owner of the property occupied by a person entitled to assistance has legally uncontested outstanding real property taxes connected to such property as the basis for non-payment.

(b) In any such action or proceeding the plaintiff or landlord shall not be entitled to an order or judgment awarding him or her possession of the premises or providing for removal of the tenant, or to a money judgment against the tenant, on the basis of non-payment of rent for any period during which there was outstanding any violation of law relating to dangerous or hazardous conditions or conditions detrimental to life or health, or on the basis of non-payment of rent under this section for any period during which there were legally uncontested outstanding real property taxes connected to the occupied property. For the purposes of this paragraph such violation of law shall be deemed to have been removed and no longer outstanding upon the date when the condition constituting a violation was actually corrected, and such legally uncontested outstanding real property taxes shall be deemed paid upon receipt of payment, in whole or in part subject to an agreed to payment plan, by the appropriate department or agency having jurisdiction over such payments, such date to be determined by the court upon satisfactory proof submitted by the plaintiff or landlord.

(c) The defenses provided herein in relation to an action or proceeding against a welfare recipient for non-payment of rent shall apply only with respect to violations, or legally uncontested outstanding real property taxes reported to the appropriate public welfare department by the appropriate department or agency having jurisdiction over violations, or outstanding real property taxes.

6. Nothing in this section shall prevent the public welfare department from making provision for payment of the rent which was withheld pursuant to this section upon proof satisfactory to it that the condition constituting a violation was actually corrected, or the outstanding taxes due have been paid, or are being paid subject to an agreed to payment plan. Where rents were reduced by order of the appropriate rent

commission, the public welfare department may make provision for payment of the reduced rent in conformity with such order.

§ 2. This act shall take effect immediately.