

# STATE OF NEW YORK

3646

2017-2018 Regular Sessions

## IN SENATE

January 25, 2017

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

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:

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  
21 the event that a landlord or tenant or tenants are able to demonstrate  
22 financial necessity therefor, the court may, in its discretion, apply

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

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

7 § 26-519.1 Conditions precedent to action or proceeding. a. It shall  
8 be unlawful for a landlord to bring an action or proceeding for rent or  
9 eviction against a tenant or tenants of housing accommodations that are  
10 subject to an outstanding official charge of, or an uncured, violation  
11 of the building code. The pleadings of the landlord in any such action  
12 or proceeding shall be accompanied by a certificate from the department  
13 of buildings stating whether or not there are any such outstanding  
14 violations. In the event that a landlord disputes a violation, he or she  
15 shall so state in his or her pleadings his or her reasons for such  
16 dispute. He or she may then proceed with the action or proceeding.

17 b. During the pendency of the dispute over the violation, the tenant  
18 or tenants shall pay rent, or any judgment or order therefor awarded to  
19 the landlord, into an interest bearing account to be maintained by the  
20 court. If the disputed violation is resolved in the landlord's favor, he  
21 or she shall receive all such payments together with interest thereon.  
22 If the disputed violation is resolved against the landlord, such  
23 payments shall first be applied to funding the curing of such violations  
24 and the balance thereof, if any, shall then be paid to the landlord. In  
25 the event that a landlord or tenant or tenants are able to demonstrate  
26 financial necessity therefor, the court may, in its discretion, apply  
27 funds in its custody to the payment of utility bills, if such utilities  
28 are currently provided by the landlord, and the making of necessary  
29 repairs in the presence of conditions that threaten the health and  
30 welfare of the tenant.

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

34 § 12-b. Conditions precedent to action or proceeding. a. It shall be  
35 unlawful for a landlord to bring an action or proceeding for rent or  
36 eviction against a tenant or tenants of housing accommodations that are  
37 subject to an outstanding official charge of, or an uncured, violation  
38 of any applicable building code. The pleadings of the landlord in any  
39 such action or proceeding shall be accompanied by a certificate from the  
40 department of buildings stating whether or not there are any such  
41 outstanding violations. In the event that a landlord disputes a  
42 violation, he or she shall so state in his or her pleadings his or her  
43 reasons for such dispute. He or she may then proceed with the action or  
44 proceeding.

45 b. During the pendency of the dispute over the violation, the tenant  
46 or tenants shall pay rent, or any judgment or order therefor awarded to  
47 the landlord, into an interest bearing account to be maintained by the  
48 court. If the disputed violation is resolved in the landlord's favor, he  
49 or she shall receive all such payments together with interest thereon.  
50 If the disputed violation is resolved against the landlord, such  
51 payments shall first be applied to funding the curing of such violations  
52 and the balance thereof, if any, shall then be paid to the landlord. In  
53 the event that a landlord or tenant or tenants are able to demonstrate  
54 financial necessity therefor, the court may, in its discretion, apply  
55 funds in its custody to the payment of utility bills, if such utilities  
56 are currently provided by the landlord, and the making of necessary

1 repairs in the presence of conditions that threaten the health and  
2 welfare of the tenant.

3 § 4. This act shall take effect immediately; provided that:

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

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

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