

STATE OF NEW YORK

3805

2019-2020 Regular Sessions

IN SENATE

February 14, 2019

Introduced by Sen. RAMOS -- 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 public housing law and the general obligations law, in relation to establishing the tenancy deposit protection program

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

1 Section 1. Subdivision 1 of section 14 of the public housing law is
2 amended by adding a new paragraph (x) to read as follows:

3 (x) administer the tenancy deposit protection program pursuant to
4 section 7-103 of the general obligations law.

5 § 2. Section 7-103 of the general obligations law, as amended by chap-
6 ter 1009 of the laws of 1970, subdivisions 2 and 2-a as amended by chap-
7 ter 402 of the laws of 1979, is amended to read as follows:

8 § 7-103. Money deposited or advanced for use or rental of real proper-
9 ty; [~~waiver void; administration expenses~~] tenancy deposit protection

10 program. 1. [~~Whenever money shall be deposited or advanced on a contract~~
11 ~~or license agreement for the use or rental of real property as security~~
12 ~~for performance of the contract or agreement or to be applied to~~
13 ~~payments upon such contract or agreement when due, such money, with~~
14 ~~interest accruing thereon, if any, until repaid or so applied, shall~~
15 ~~continue to be the money of the person making such deposit or advance~~
16 ~~and shall be held in trust by the person with whom such deposit or~~
17 ~~advance shall be made and shall not be mingled with the personal moneys~~
18 ~~or become an asset of the person receiving the same, but may be disposed~~
19 ~~of as provided in section 7-105 of this chapter.] There shall be estab-
20 lished within the division of housing and community renewal a tenancy
21 deposit protection program.~~

22 2. [~~Whenever the person receiving money so deposited or advanced shall~~
23 ~~deposit such money in a banking organization, such person shall thereup-~~
24 ~~on notify in writing each of the persons making such security deposit or~~
25 ~~advance, giving the name and address of the banking organization in~~
26 ~~which the deposit of security money is made, and the amount of such~~
27 ~~deposit. Deposits in a banking organization pursuant to the provisions~~

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

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~~1 of this subdivision shall be made in a banking organization having a
2 place of business within the state. If the person depositing such secu-
3 rity money in a banking organization shall deposit same in an interest
4 bearing account, he shall be entitled to receive, as administration
5 expenses, a sum equivalent to one per cent per annum upon the security
6 money so deposited, which shall be in lieu of all other administrative
7 and custodial expenses. The balance of the interest paid by the banking
8 organization shall be the money of the person making the deposit or
9 advance and shall either be held in trust by the person with whom such
10 deposit or advance shall be made, until repaid or applied for the use or
11 rental of the leased premises, or annually paid to the person making the
12 deposit of security money.~~

~~13 2-a. Whenever the money so deposited or advanced is for the rental of
14 property containing six or more family dwelling units, the person
15 receiving such money shall, subject to the provisions of this section,
16 deposit it in an interest bearing account in a banking organization
17 within the state which account shall earn interest at a rate which shall
18 be the prevailing rate earned by other such deposits made with banking
19 organizations in such area.~~

~~20 2-b. In the event that a lease terminates other than at the time that
21 a banking organization in such area regularly pays interest, the person
22 depositing such security money shall pay over to his tenant such inter-
23 est as he is able to collect at the date of such lease termination.]~~

24 Such program shall:

25 (a) include a system where tenant security deposits or advances on a
26 contract or agreement for the use or rental of real property are held by
27 a third-party custodian and arbiter, with interest accruing thereon;

28 (b) require landlords to place a tenant's security deposit or advance
29 in such system if a security deposit or advance is received;

30 (c) include a process for returning the security deposit or advance to
31 the tenant;

32 (d) require that if a landlord wishes to withhold such security depos-
33 it or advance, the landlord shall make an agreement with the tenant
34 specifying the amount of money to be withheld and the reasons for such
35 withholding;

36 (e) establish a dispute resolution service for disagreements arising
37 over the withholding of a security deposit or advance to be provided at
38 no cost to the landlord and tenant;

39 (f) require that both parties agree prior to using the dispute resol-
40 ution service that the decision of such service is binding; and

41 (g) include any other regulations as determined necessary by the
42 commissioner of housing and community renewal.

43 2-a. Any person who violates the requirement specified in paragraph
44 (b) of subdivision two of this section shall be punished by a civil fine
45 of up to fifteen percent of the annual rent under such contract.

46 3. Any provision of such a contract or agreement whereby a person who
47 so deposits or advances money waives any provision of this section is
48 absolutely void.

49 4. The term "real property" as used in this section is co-extensive in
50 meaning with lands, tenements and hereditaments.

51 § 3. This act shall take effect on the one hundred twentieth day after
52 it shall have become a law. Effective immediately, the addition, amend-
53 ment and/or repeal of any rule or regulation necessary for the implemen-
54 tation of this act on its effective date are authorized to be made and
55 completed on or before such effective date.