STATE OF NEW YORK

3705

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. L. ROSENTHAL, DE LA ROSA, SIMON, J. RIVERA, JEAN-PIERRE, PICHARDO, COLTON, GOTTFRIED, CRUZ, FRONTUS -- Multi-Sponsored by -- M. of A. HEVESI, MANKTELOW, McDONOUGH -- read once and referred to the Committee on Housing

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:

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

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

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

§ 7-103. Money deposited or advanced for use or rental of real property; [~~waiver void; administration expenses~~] **tenancy deposit protection program**. 1. [~~Whenever money shall be deposited or advanced on a contract or license agreement for the use or rental of real property as security for performance of the contract or agreement or to be applied to payments upon such contract or agreement when due, such money, with interest accruing thereon, if any, until repaid or so applied, shall continue to be the money of the person making such deposit or advance and shall be held in trust by the person with whom such deposit or advance shall be made and shall not be mingled with the personal moneys or become an asset of the person receiving the same, but may be disposed of as provided in section 7-105 of this chapter.~~] **There shall be established within the division of housing and community renewal a tenancy deposit protection program.**

2. [~~Whenever the person receiving money so deposited or advanced shall deposit such money in a banking organization, such person shall thereupon notify in writing each of the persons making such security deposit or advance, giving the name and address of the banking organization in which the deposit of security money is made, and the amount of such~~

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

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

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

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

Such program shall:

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

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

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

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

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

(f) require that both parties agree prior to using the dispute resolution service that the decision of such service is binding; and

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

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

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

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

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.