

# STATE OF NEW YORK

7105--A

2021-2022 Regular Sessions

## IN ASSEMBLY

April 22, 2021

Introduced by M. of A. GONZALEZ-ROJAS, FERNANDEZ -- read once and referred to the Committee on Housing -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the requirements for filing a complaint with the Division of Human Rights

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

1 Section 1. The real property law is amended by adding a new section  
2 238-b to read as follows:

3 § 238-b. Security deposit. 1. A landlord who requires a security  
4 deposit to be paid by a tenant which is covered by the provisions of  
5 sections 7-107 and 7-108 of the general obligations law shall also be  
6 required to offer to accept at least one of the following options in  
7 lieu of such security deposit:

8 a. Payment of any security deposit over a series of no less than six  
9 equal monthly installment payments, which installments shall be due on  
10 the same day as the monthly rent payment and which may be paid together  
11 with the monthly rent payment in a single transaction, absent a separate  
12 agreement between such landlord and tenant;

13 b. Payment of a reduced security deposit which shall be no more than  
14 fifty percent of the amount of one month's rent under such contract; or

15 c. If such tenant qualifies, payment of any deposit through the secu-  
16 rity deposit guarantee program established by section fourteen-a of the  
17 public housing law.

18 2. In addition to the options in subdivision one of this section in  
19 lieu of a security deposit, a landlord may accept rental security insur-  
20 ance, defined as a surety bond or insurance policy issued by a  
21 licensed carrier in the state of New York that guarantees or indemnifies  
22 a tenant after default of a financial obligation under the rental

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

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1 agreement. If the landlord wishes to offer or suggest rental security  
2 insurance that is provided by itself or a separate company, the rental  
3 security insurance offered must satisfy the following criteria:

4 a. the insurance provider is an approved carrier licensed by the  
5 department of financial services pursuant to article eleven of the  
6 insurance law;

7 b. the coverage is effective upon the payment of the first premium or  
8 fee and remains effective for the entire lease term;

9 c. any dispute under the coverage cannot require arbitration and waive  
10 the tenant's right to go to court;

11 d. the amount paid by the tenant cannot exceed the amount of the  
12 coverage;

13 e. the tenant cannot be liable to the insurance provider for any  
14 claims paid out to the landlord; and

15 f. the coverage provided per claim is no less than the amount such  
16 landlord requires for security deposits.

17 3. A tenant who elects to provide rental security insurance, pursuant  
18 to paragraph a of subdivision one of this section, in lieu of a required  
19 security deposit shall not be required to provide additional security or  
20 insurance coverage per claim in an amount greater than the amount  
21 required for the security deposit.

22 4. Such landlord shall not impose any additional fees or interest on a  
23 tenant that pays their security deposit in an alternate manner pursuant  
24 to subdivision one of this section.

25 5. Any agreement to pay a security deposit in installments shall be  
26 included within such contract, lease or agreement and shall specify the  
27 total deposit amount due and the amount due for each installment.

28 6. Prior to entering into a contract, lease or rental agreement a  
29 landlord shall provide the tenant written notice of the available secu-  
30 rity deposit alternatives and include the following language: "If a  
31 security deposit is required, tenant has the right to request and land-  
32 lord is required to accept one of the following three alternatives: a. a  
33 deposit paid over no less than six equal monthly installments; b. a  
34 one-time reduced security deposit payment of no more than fifty percent  
35 of the monthly rental rate charged for the rental unit; or c. if such  
36 tenant qualifies, a deposit paid through the security deposit guarantee  
37 program. Tenant shall not be required to provide rental security insur-  
38 ance coverage per claim in an amount greater than the amount required  
39 for the security deposit".

40 7. The requirements of this section shall be considered source of  
41 income as defined by subdivision thirty-six of section two hundred nine-  
42 ty-two of the executive law and any violation of this section may be a  
43 violation of section two hundred ninety-six of the executive law.

44 § 2. The public housing law is amended by adding a new section 14-a to  
45 read as follows:

46 § 14-a. The security deposit guarantee program. 1. (a) The commission-  
47 er shall establish within available appropriations, and administer a  
48 security deposit guarantee program for any person who:

49 (i) (A) is a recipient of: the supplemental nutrition assistance  
50 program pursuant to section ninety-five of the social services law,  
51 safety net assistance pursuant to title three of article five of the  
52 social services law, or any other qualifying federal or state public  
53 assistance program as determined by the commissioner;

54 (B) has a documented showing of financial need; and

55 (ii) (A) is residing in an emergency shelter or homeless housing estab-  
56 lished under article two-A of the social services law; or

1 (B) have a certification, voucher or allowance from the public assist-  
2 ance shelter allowance established by section one hundred thirty-one-a  
3 of the social services law, the federal Section 8 housing voucher  
4 program or the Section 8 housing certificate program (42 U.S.C. 1437 et  
5 seq.).

6 (b) The commissioner shall provide security deposit guarantees for use  
7 by such persons in lieu of a security deposit on residential rental  
8 property or rental dwelling unit.

9 (c) Eligible persons shall receive a security deposit guarantee in an  
10 amount not to exceed the equivalent of one month's rent on such residen-  
11 tial rental property or rental dwelling unit.

12 (d) No person shall apply for and receive a security deposit guarantee  
13 more than once in any eighteen-month period without the express authori-  
14 zation of the commissioner, except as provided in subdivision two of  
15 this section.

16 2. (a) In the case of a person who qualifies for a guarantee, the  
17 commissioner or any local or regional nonprofit corporation or social  
18 service organization under contract with the division of housing and  
19 community renewal to assist in the administration of the security depos-  
20 it program established pursuant to subdivision one of this section,  
21 shall execute a written agreement to pay the landlord for any damages  
22 suffered by the landlord due to the tenant's failure to comply with such  
23 tenant's obligations pursuant to the contract for use or rental of the  
24 residential rental property or rental dwelling unit, provided the amount  
25 of any such payment shall not exceed the amount of the requested securi-  
26 ty deposit and that the landlord complies with sections 7-107 and 7-108  
27 of the general obligations law.

28 (b) Notwithstanding the provisions of subdivision one of this section,  
29 if a person who has previously received a grant for a security deposit  
30 or a security deposit guarantee becomes eligible for a subsequent secu-  
31 rity deposit guarantee within eighteen months after a claim has been  
32 paid on a prior security deposit guarantee, such person may receive a  
33 security deposit guarantee. The amount of the subsequent security depos-  
34 it guarantee for which such person would otherwise have been eligible  
35 shall be reduced by any amount of a previous grant which has not been  
36 returned to the department pursuant to this section, or the amount of  
37 any payment made to the landlord for damages pursuant to this section.

38 3. A security deposit guarantee or grant shall be considered a source  
39 of income as defined by subdivision thirty-six of section two hundred  
40 ninety-two of the executive law and refusal by a landlord to accept a  
41 security deposit guarantee or grant shall be a violation of section two  
42 hundred ninety-six of the executive law.

43 4. Any payment made pursuant to this section to a person receiving  
44 assistance pursuant to any federal, state or local program shall not be  
45 deducted from the amount of assistance to which the recipient would  
46 otherwise be entitled under such program.

47 5. The commissioner may, within available appropriations, on a case-  
48 by-case basis, provide a security deposit grant to a person eligible for  
49 the security deposit guarantee program established pursuant to subdivi-  
50 sion one of this section, in an amount not to exceed the equivalent of  
51 one month's rent on such residential rental property or rental dwelling  
52 unit, provided the commissioner determines that emergency circumstances  
53 exist which threaten the health, safety or welfare of a child who  
54 resides with such person. Such person shall not be eligible for more  
55 than one such grant without the authorization of said commissioner.  
56 Nothing in this section shall preclude the approval of such one-month

1 security deposit grant in conjunction with a one-month security deposit  
2 guarantee.

3 6. Nothing in this section shall preclude the commissioner from enter-  
4 ing into a contract with one or more local or regional not-for-profit  
5 corporations or social service organizations for the purpose of issuing  
6 security deposit guarantees pursuant to this section.

7 7. A landlord shall submit a claim for damages not later than forty-  
8 five days after the date of termination of the tenancy. Payment shall be  
9 made only for a claim that includes receipts for repairs made and proof  
10 that the landlord complied with sections 7-107 and 7-108 of the general  
11 obligations law. No claim shall be paid for a dwelling unit from which a  
12 tenant vacated because substandard conditions made such dwelling unit  
13 uninhabitable, as determined by a local, state or federal regulatory  
14 agency.

15 8. Any person who is found eligible to receive a security deposit  
16 guarantee under this section and for whom the commissioner has paid a  
17 claim by a landlord, shall contribute five percent of one month's rent  
18 under such contract to the payment of the security deposit. The commis-  
19 sioner may waive such payment for good cause.

20 9. The commissioner shall promulgate rules and regulations, to admin-  
21 ister the program established pursuant to this section and to set eligi-  
22 bility criteria for such program.

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