STATE OF NEW YORK

2163

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. NIOU, CARROLL, SIMON -- read once and referred to the Committee on Housing

AN ACT to suspend rent payments for certain tenants in response to the outbreak of coronavirus; and to amend the state finance law, in relation to establishing the COVID-19 rental assistance fund

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

Section 1. For the purposes of this act:

(a) "actual income" means (i) for a residential tenant, all wages, tips, overtime, salary, recurring gifts, returns on investment, welfare assistance, social security payments, child support payments, unemployment benefits, emergency federal, state or local assistance, or any other form of income that may be used to pay rent; and (ii) for a not-for-profit corporation or small business, all revenue, including emergency federal, state or local assistance, or any other form of income that may be used to pay rent, received minus the amount of any wages or salary paid to employees of the not-for-profit corporation or small business.

(b) "landlord" means the person or entity to whom a tenant owes rent;

(c) "rent" means the amount charged in consideration for the use and occupancy of real property pursuant to a written or oral rental agreement or statute;

(d) "state of emergency" means the state of emergency declared by executive order 202 that began on March 7, 2020.

(e) "covered tenant" includes a residential tenant having the same meaning as paragraph (a) or (b) of subdivision 1 of section 235-f of the real property law, or those who otherwise pay for the use and occupancy of a residential dwelling, except for a residential tenant receiving a local, state or federal income based rental subsidy, a tenant that is a not-for-profit corporation, or a tenant that is a small business as defined by section 131 of the economic development law.

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

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§ 2. (a) (i) Notwithstanding any other provision of law, rule or regulation to the contrary, any covered tenant in the state that has lost earned income, has been forced to close their place of business, or whose business activities have been substantially curtailed resulting in a loss of income as a result of government ordered restrictions in response to the outbreak of coronavirus disease 2019 (COVID-19), shall be responsible for rent payments up to thirty percent of their current income or their contractual rent, whichever is less, per month for the duration of ninety days following the effective date of this act.

(ii) Where a tenant is authorized to pay an amount that is less than their contractual or statutory rent pursuant to this act, the tenant shall provide the landlord with a written and signed statement affirming the tenant's aggregate actual income for the thirty days prior to the date such rent was due. Such payment shall absolve the tenant of any further obligation to pay rent and any difference between the rent that would have been contractually or statutorily owed and the amount paid pursuant to this paragraph shall be waived, except where a tenant later receives additional income, such rent obligations shall be recalculated.

(iii) In a summary proceeding for the non-payment of rent under article 7 of the real property actions and proceedings law, a tenant may raise a payment made pursuant to this act as a defense to non-payment. If the amount of the tenant's actual income is in dispute, the court shall review documentation of the tenant's income in camera, unless otherwise deemed necessary by the court. Notwithstanding any other provision of law to the contrary, pay stubs, copies of checks and signed letters from the tenant's employer, and other customary documentation of income shall constitute prima facie evidence of the tenant's actual income and shall be presumptively admissible in such summary proceeding.

(b) Any tenant whose lease expires during the state of emergency shall have the option of extending such lease under the terms existing prior to the expiration of the lease for a period of up to ninety days after the expiration of the state of emergency.

(c) Late fees, interest or other penalties shall not be collectable for rent accrued during the existence of the state of emergency.

§ 3. Notwithstanding any other law to the contrary, a landlord that has lost rental income pursuant to this act and has not been fully compensated by emergency federal, state or local assistance, may apply to the division of housing and community renewal for relief. The commissioner may, upon satisfaction of the veracity of the landlord's application and to the extent possible, authorize the distribution of any emergency aid available through the COVID-19 rental assistance fund pursuant to section 99-ii of the state finance law in response to the outbreak of the novel coronavirus disease 2019 (COVID-19), to any such landlord in the amount of rental income lost. The commissioner of the division of housing and community renewal shall promulgate rules and regulations to effectuate this act.

§ 4. Notwithstanding any other law to the contrary, no court shall accept for filing a petition to commence a new summary proceeding to recover possession of real property under article 7 of the real property actions and proceedings law for non-payment of rent for at least thirty days following the expiration of the state of emergency; provided any statute of limitations applicable to such summary proceedings shall be tolled for thirty days. In no event shall late or reduced rent payments during the state of emergency constitute the basis for a summary holdover proceeding for the chronic nonpayment of rent.

§ 5. The state finance law is amended by adding a new section 99-ii to read as follows:

§ 99-ii. COVID-19 Rental assistance fund. 1. There is hereby established in the joint custody of the commissioner of housing and community renewal and the comptroller, a special fund to be known as the "COVID-19 rental assistance fund".

2. Such fund shall consist of any unrestricted federal emergency assistance funding provided to the state that may be appropriated for such purpose, and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Nothing in this section shall prevent the state from soliciting and receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

3. Moneys of the fund shall be expended only for relief due to reduced rental income caused by outbreak of novel coronavirus disease 2019 (COVID-19).

4. Moneys shall be paid out of the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of housing and community renewal. Any interest received by the comptroller on moneys on deposit in the COVID-19 rental assistance fund shall be retained in and become part of such fund.

§ 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 7, 2020.