STATE OF NEW YORK

7367

2021-2022 Regular Sessions

IN ASSEMBLY

May 6, 2021

Introduced by M. of A. HUNTER -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to directing public welfare officials to withhold rent from a landlord for violation of the warranty of habitability

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

Section 1. Section 143-b of the social services law, as added by chapter 997 of the laws of 1962, subdivisions 5 and 6 as amended by chapter 701 of the laws of 1965, is amended to read as follows:

§ 143-b. Avoidance of abuses in connection with rent checks. 1. Whenever a recipient of public assistance and care is eligible for or entitled to receive aid or assistance in the form of a payment for or toward the rental of any housing accommodations occupied by such recipient or [~~his~~] **their** family, such payment may be made directly by the public welfare department to the landlord.

2. Every public welfare official shall [~~have power to and may~~] withhold the payment of any such rent in any case where [~~he has~~] **they have** knowledge that there exists or there is outstanding any violation of law in respect to the building containing the housing accommodations occupied by the person entitled to such assistance which is [~~dangerous, hazardous or detrimental to life or health~~] **a violation of the warranty of habitability pursuant to section two hundred thirty-five-b of the real property law**. A report of each such violation shall be made to the appropriate public welfare department by the appropriate department or agency having jurisdiction over violations.

3. Every public welfare official shall [~~have the power to~~] initiate or [~~to~~] request the recipient to initiate before the appropriate housing rent commission any proper proceeding for the reduction of maximum rents applicable to any housing accommodation occupied by a person entitled to assistance in the form of a rent payment whenever such official has

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

LBD11058-01-1

knowledge that essential services which such person is entitled to receive are not being maintained by the landlord or have been substantially reduced by the landlord.

4. The public welfare department [~~may~~] **shall** obtain and maintain current records of violations in buildings where welfare recipients reside which relate to conditions which are [~~dangerous, hazardous or detrimental to life or health~~] **a violation of the warranty of habitability pursuant to section two hundred thirty-five-b of the real property law**.

5. (a) It shall be a valid defense in any action or summary proceeding against a welfare recipient for non-payment of rent to show existing violations in the building wherein such welfare recipient resides which relate to conditions which are [~~dangerous, hazardous or detrimental to life or health~~] **a violation of the warranty of habitability pursuant to section two hundred thirty-five-b of the real property law** as the basis for non-payment.

(b) In any such action or proceeding the plaintiff or landlord shall not be entitled to an order or judgment awarding [~~him~~] **them** possession of the premises or providing for removal of the tenant, or to a money judgment against the tenant, on the basis of non-payment of rent for any period during which there was outstanding any violation of law relating to [~~dangerous or hazardous conditions or conditions detrimental to life or health~~] **a violation of the warranty of habitability pursuant to section two hundred thirty-five-b of the real property law**. For the purposes of this paragraph such violation of law shall be deemed to have been removed and no longer outstanding upon the date when the condition constituting a violation was actually corrected, such date to be determined by the court upon satisfactory proof submitted by the plaintiff or landlord.

(c) The defenses provided herein in relation to an action or proceeding against a welfare recipient for non-payment of rent shall apply only with respect to violations reported to the appropriate public welfare department by the appropriate department or agency having jurisdiction over violations.

6. [~~Nothing in this section shall prevent the public welfare department from making provision for payment of the rent which was withheld pursuant to this section upon proof satisfactory to it that the condition constituting a violation was actually corrected.~~] **Upon receipt by the public welfare department of proof satisfactory to it that the condition constituting a violation was actually corrected, the public welfare department shall seek a diminution of rent owed based on the period of time such violation was outstanding.** Where rents were reduced by order of the appropriate rent commission, the public welfare department [~~may~~] **shall** make provision for payment of the reduced rent in conformity with such order.

§ 2. This act shall take effect immediately.