

5465

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. YOUNG -- 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 real property actions and proceedings law, in relation to grounds for bringing a special proceeding, and payment to and liability of administrators appointed pursuant to a special proceeding

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 770 of the real property actions
2 and proceedings law, as amended by chapter 877 of the laws of 1982, is
3 amended to read as follows:
4 1. One-third or more of the tenants occupying a dwelling located in
5 the city of New York or the commissioner of the department of the city
6 of New York charged with enforcement of the housing maintenance code of
7 such city, or in the counties of Nassau, Suffolk, Rockland and Westches-
8 ter may maintain a special proceeding as provided in this article, upon
9 the ground that there exists in such dwellings or in any part thereof a
10 lack of heat or of running water or of light or of electricity or of
11 adequate sewage disposal facilities, or any other condition dangerous to
12 life, health or safety, which has existed for five days, or an infesta-
13 tion by rodents, or any combination of such conditions; or course of
14 conduct by the owner or [his] THE OWNER'S agents of harassment, illegal
15 eviction, continued deprivation of services or other acts dangerous to
16 life, health or safety; OR THE ISSUANCE OF AN ORDER TO THE OWNER OF SUCH
17 DWELLING BY THE COMMISSIONER OF SUCH DEPARTMENT OF THE CITY OF NEW YORK
18 PURSUANT TO THE ALTERNATIVE ENFORCEMENT PROGRAM UNDER SECTION 27-2153 OF
19 THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, PROVIDED THAT SUCH
20 DWELLING HAS NOT BEEN DISCHARGED FROM THE PROGRAM PURSUANT TO SUCH
21 SECTION AND THERE HAS NOT BEEN A DETERMINATION THAT THE OWNER HAS
22 SUBSTANTIALLY COMPLIED WITH SUCH ORDER; OR THE EXISTENCE OF ARREARS OF

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

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1 ANY MUNICIPAL CHARGE OR LIEN DUE AND OWING TO THE CITY OF NEW YORK ON
2 SUCH DWELLING, PROVIDED, HOWEVER THAT THE EXISTENCE OF SUCH ARREARS OR
3 LIEN SHALL FORM THE GROUNDS FOR SUCH PROCEEDING ONLY WHEN SUCH PROCEED-
4 ING HAS BEEN COMMENCED BY THE COMMISSIONER OF SUCH DEPARTMENT OF THE
5 CITY OF NEW YORK.

6 S 2. Subdivision 1 of section 778 of the real property actions and
7 proceedings law, as amended by chapter 95 of the laws of 1989, is
8 amended to read as follows:

9 1. The court is authorized and empowered, in implementation of a judg-
10 ment rendered pursuant to section seven hundred seventy-six or seven
11 hundred seventy-seven of this article, to appoint a person other than
12 the owner, a mortgagee or lienor, to receive and administer the rent
13 moneys or security deposited with [him] SUCH OWNER, MORTGAGEE OR LIENOR,
14 subject to the court's direction. The court may appoint the commissioner
15 of the department of the city of New York charged with enforcement of
16 the housing maintenance code of such city or [his] THE COMMISSIONER'S
17 designee as such administrator, provided that [he] THE COMMISSIONER OR
18 THE COMMISSIONER'S DESIGNEE shall consent, in writing, to such appoint-
19 ment. Any administrator is authorized and empowered in accordance with
20 the direction of the court, to order the necessary materials, labor and
21 services to remove or remedy the conditions specified in the judgment,
22 and to make disbursements in payment thereof; and to demand, collect and
23 receive the rents from the tenants; and to institute all necessary legal
24 proceedings including, but not limited to, summary proceedings for the
25 removal of any tenant or tenants; and to rent or lease for terms not
26 exceeding three years ALL OR any part of said premises, however, the
27 court may [direct] AUTHORIZE the administrator to rent or lease [commer-
28 cial parts] ALL OR ANY PART of said premises for terms that the court
29 may approve. In addition, such administrator is authorized and empowered
30 in accordance with the direction of the court to accept and repay such
31 moneys as may be received from the department charged with enforcement
32 of the housing maintenance code of the city of New York for the purpose
33 of replacing or substantially rehabilitating systems or making other
34 repairs or capital improvements authorized by the court. All moneys
35 expended by the department pursuant to the foregoing shall constitute a
36 debt recoverable from the owner and a lien upon the building and lot,
37 and upon the rents and other income thereof. Such lien shall be enforced
38 in accordance with the provisions of article eight of subchapter five of
39 the housing maintenance code of the city of New York. SUCH LIEN, IN
40 ADDITION TO ANY OTHER OUTSTANDING MUNICIPAL CHARGE OR LIEN ON SUCH PREM-
41 ISES, SHALL BE SATISFIED IN FULL BY SUCH OWNER AS A CONDITION OF THE
42 COURT GRANTING DISCHARGE OF THE ADMINISTRATOR. Such administrator,
43 shall, upon completion of the work prescribed in such judgment, file
44 with the court a full accounting of all receipts and expenditures for
45 such work. Such administrator shall dispose of the rents and other
46 monies deposited with [him] SUCH ADMINISTRATOR according to the follow-
47 ing order of priority:

48 (a) Payment in full for all of the work specified in the judgment.
49 Until all of the work specified in the judgment has been completed and
50 payment for such work has been made, no other disbursements shall be
51 permitted, except for fuel bills, fire and liability insurance, and
52 bills for ordinary repairs and maintenance.

53 (b) Payment of a reasonable amount for the services of such adminis-
54 trator, INCLUDING REIMBURSEMENT OF ANY LEGAL FEES INCURRED BY SUCH
55 ADMINISTRATOR IN CONNECTION WITH MANAGEMENT OF THE BUILDING.

1 (c) Payment of outstanding real property tax liens claimed by the city
2 of New York.

3 (d) Payment of outstanding emergency repair liens filed and recorded
4 by the city of New York and outstanding liens filed and recorded by the
5 city pursuant to this section.

6 (e) Payment to the owner of any surplus remaining after payments of
7 paragraphs (a) through (d) of this subdivision have been made.

8 S 3. Subdivision 6 of section 778 of the real property actions and
9 proceedings law, as added by chapter 877 of the laws of 1982, is amended
10 to read as follows:

11 6. Such administrator shall be liable only in his OR HER official
12 capacity for injury to persons and property by reason of conditions of
13 the premises in a case where an owner would have been liable; he OR SHE
14 shall not have any liability in his OR HER personal capacity. APPOINT-
15 MENT OF AN ADMINISTRATOR PURSUANT TO SUBDIVISION ONE OF THIS SECTION
16 SHALL NOT RELIEVE AN OWNER OF LIABILITY FOR INJURY TO PERSONS AND PROP-
17 ERTY IN SUCH CASE.

18 S 4. This act shall take effect immediately.