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Introduced by M. of A. JOYNER, REYES, GOTTFRIED, SEPTIMO, GALLAGHER, DINOWITZ, SEAWRIGHT, McDONALD, NIOU, BURGOS, DAVILA, EPSTEIN, SIMON, CRUZ, BARNWELL, MITAYNES, FORREST, CARROLL, FAHY, GONZALEZ-ROJAS, MAMDANI, BURDICK, FERNANDEZ, PERRY, HUNTER, MEEKS, SOLAGES, JACKSON, PAULIN, ABINANTI, OTIS, AUBRY -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Judiciary 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 real property actions and proceedings law and the real property law, in relation to establishing the civil right to counsel in eviction proceedings

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

1 Section 1. Legislative findings. The legislature hereby finds that
2 there is a fundamental human right to adequate housing accommodations.
3 Safe, secure, and accessible housing is essential to achieving equal
4 access to all other fundamental needs. Without housing, individuals and
5 families too often cannot preserve family integrity, gain employment or
6 other income, or enjoy access to healthcare, proper nutrition, and
7 education.
8 Legal proceedings that can lead to eviction are generally complex and
9 are governed by a large body of procedural and substantive law that
10 makes these proceedings extremely difficult to navigate without the
11 assistance of counsel. The overwhelming majority of landlords who seek
12 to evict tenants are represented by legal counsel, while in the areas of
13 New York State where there is no right to counsel most tenants are not
14 represented by counsel. Eviction proceedings, displacement as a result
15 of eviction proceedings, and executed evictions all have a disparate
16 impact on people of color, who are respondents in eviction proceedings

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

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1 in numbers that greatly exceed their proportion of the general New York
2 population. Representation of persons who face losing their homes in
3 legal proceedings makes a determinative difference in outcome by
4 preserving homes and ensuring compliance with laws that, among other
5 purposes, protect the right to safe and secure living conditions,
6 prohibit discrimination, regulate rents and provide rental subsidies.
7 Representation of persons who face losing their homes in legal
8 proceedings is essential to the fair functioning of the justice system
9 and protects the rights to due process and equal protection of the law.

10 Evictions disrupt lives and livelihoods, force tenants to seek alter-
11 native housing in a market with a severe shortage of affordable housing
12 and significantly increase the risk of homelessness. The short- and
13 long-term effects of evictions and homelessness are devastating to indi-
14 viduals and families and can affect physical and mental health, employ-
15 ment, education, and engagement with the criminal justice system.
16 Providing legal assistance to tenants who face eviction not only
17 protects individuals and families from the devastating effects of
18 eviction and homelessness, it saves public funds that would otherwise be
19 spent on shelters and services to people experiencing homelessness as
20 well as public expenses for addressing the wide range of detrimental
21 short- and long-term effects of eviction and homelessness.

22 New York is facing an eviction crisis of unfathomable proportions due
23 to the COVID-19 pandemic. According to an analysis of July 15th Census
24 Bureau data, almost half (46 percent) of all renting households in the
25 state were not able to pay rent and are at risk of eviction. In 2017,
26 New York City adopted legislation that guarantees a right to counsel for
27 tenants facing eviction. Even though the right to counsel in eviction
28 proceedings in New York City is still in the implementation phase, a
29 study conducted by the New York City Office of Civil Justice that
30 analyzed data pertaining to New York City Housing Court proceedings from
31 2013-2019 found that legal representation in eviction matters has an
32 enormously beneficial effect as shown by the following data:

33 1. Evictions dropped 41 percent overall since 2013, including a 15
34 percent drop in 2019 alone;

35 2. Eviction filings dropped by 30 percent between 2013 and 2019,
36 including a 20 percent drop in 2019 alone;

37 3. Default judgments dropped 34 percent between 2013 and 2019;

38 4. Requests by tenants to bring their cases back to the Housing Court
39 calendar on an emergency basis dropped by 38 percent during that time
40 period, because tenant representation is ensuring these issues are
41 addressed at the start of the case; and

42 5. Overall, 84 percent of tenants who were represented by counsel
43 remained in their homes.

44 § 2. The real property actions and proceedings law is amended by
45 adding a new article 7-C to read as follows:

46 ARTICLE 7-C

47 CIVIL RIGHT TO COUNSEL

48 IN EVICTION PROCEEDINGS ACT

49 Section 800. Short title.

50 800-a. Legislative purpose.

51 800-b. Construction; effect of other laws; severability.

52 800-c. Definitions.

53 800-d. Civil right to counsel in eviction proceedings created.

54 800-e. New York state office of civil justice established.

55 800-f. Provision of legal services and tenant education.

56 800-g. Community engagement.

800-h. Public hearings.

800-i. Reporting.

§ 800. Short title. This article shall be known and may be cited as the "civil right to counsel in eviction proceedings act".

§ 800-a. Legislative purpose. 1. Civil right to counsel. The purpose of this article is to create a civil right to counsel in eviction proceedings in New York state that guarantees all covered individuals are provided high quality legal representation at government expense in all covered proceedings. The civil right to counsel for people who face eviction is intended to ensure fair and balanced proceedings that comport with the constitutional rights to due process and equal protection and, given the devastating consequences of eviction, outweigh all other considerations in the administration of legal proceedings that could result in eviction.

2. New York constitutional source of the right. The source of the right exists in section one of article seventeen of the New York state constitution, which provides that the aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine. Further, section three of article seventeen of the New York state constitution provides that the protection and promotion of the health of the inhabitants of the state are matters of public concern and provisions therefor shall be made by the state and by such of its subdivisions and in such manner, and by such means as the legislature shall from time to time determine.

§ 800-b. Construction; effect of other laws; severability. 1. This article shall be interpreted broadly to effectuate the purposes described in section eight hundred-a of this article.

2. This article shall not be construed to negate, alter, or limit any right to counsel in any civil or criminal action or proceeding otherwise provided under the New York state constitution or any New York state statute. In the event of any conflict between the provisions of this article and any other provision of law, this article shall govern.

3. If any word, phrase, clause, sentence, paragraph, subdivision, section or part of this article or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of this article, and shall be confined in its operation to the controversy in which it was rendered, and to the word, phrase, clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 800-c. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Coordinator" means the civil justice coordinator appointed pursuant to section eight hundred-e of this article.

2. "Covered individual" means an individual who resides in a housing accommodation and is at risk of losing their housing or reasonably anticipated to be at risk of losing their housing.

3. "Covered proceeding" means any proceeding to evict a covered individual, including a summary proceeding to seek possession for the non-payment of rent or a holdover, or any other proceeding for termination of tenancy, or any proceeding that could result in an individual losing such individual's housing accommodation. "Covered proceeding" shall include, but not be limited to proceedings:

1 (a) To evict a covered individual, and such proceedings are covered as
2 soon as an owner or managing agent serves a predicate notice terminating
3 a tenancy, demanding rent or any other writing indicating an intent to
4 initiate a covered proceeding;

5 (b) Initiated by a covered individual to correct violations of law
6 relating to hazardous housing standards;

7 (c) To terminate an eligible individual from participation in any New
8 York state, locality, or federal housing subsidy program;

9 (d) Initiated by a covered individual in response to unlawful landlord
10 or owner behavior;

11 (e) Owner or landlord initiated appeals or appeals initiated by a
12 covered individual upon an adverse ruling; and

13 (f) Any other proceeding commenced against or by an individual that a
14 designated legal organization determines in its sole discretion can be
15 reasonably anticipated to lead to loss of such individual's home or
16 housing accommodation.

17 4. "Designated legal organization" means a not-for-profit organization
18 or association having non-profit status under section 501 (c) (3) of the
19 U.S. internal revenue code that has the capacity to provide comprehen-
20 sive and effective legal services and is designated by the coordinator
21 pursuant to this article.

22 5. "Designated community organization" means a not-for-profit organ-
23 ization or association having non-profit status under section 501 (c)
24 (3) of the U.S. internal revenue code that provide community education
25 and organization regarding rights of tenants.

26 6. "Designated statewide languages" means languages designated by the
27 coordinator pursuant to section eight hundred-e of this article.

28 7. "Full legal representation" means ongoing legal representation
29 provided by a designated legal organization to a covered individual and
30 includes all legal advice, advocacy, and assistance associated with such
31 representation. "Full legal representation" shall include, but not be
32 limited to: filing a notice of appearance, filing and preparation of
33 pleadings and motions on behalf of covered individuals, court appear-
34 ances on behalf of covered individuals, pre- and post-trial settlement
35 conferences, and any other activities needed to provide zealous and
36 effective representation in a covered proceeding.

37 8. "Housing accommodation" means that part of any building or struc-
38 ture or any part thereof, permanent or temporary, occupied or intended,
39 arranged or designed to be used or occupied, by one or more individuals
40 as a residence, home, dwelling unit or apartment, sleeping place, board-
41 ing house, lodging house or hotel, and all essential services, privi-
42 leges, furnishings, furniture and facilities supplied in connection with
43 the occupation thereof.

44 9. "Office" means the New York state office of civil justice estab-
45 lished pursuant to section eight hundred-e of this article.

46 10. "Eviction proceeding" means a covered proceeding.

47 § 800-d. Civil right to counsel in eviction proceedings created. 1.
48 The civil right to full representation by counsel in covered proceedings
49 for covered individuals is hereby created.

50 2. The civil right to counsel in covered proceedings shall apply to a
51 covered individual upon the service of a predicate notice upon such
52 individual, upon the commencement of a covered proceeding, or upon a
53 determination by a designated legal organization that a covered proceed-
54 ing is reasonably anticipated, whichever occurs earlier.

1 § 800-e. New York state office of civil justice established. 1. There
2 is hereby established the "New York state office of civil justice" to
3 conduct planning and implementation of the purposes of this article.

4 2. The office shall be headed by a civil justice coordinator who shall
5 be appointed by the governor. The civil justice coordinator shall have
6 the power and duty to:

7 (a) create and implement a program to provide access to legal services
8 pursuant to section eight hundred-f of this article;

9 (b) advise and assist the governor in planning and implementing coor-
10 dination and cooperation among state agencies necessary for the imple-
11 mentation of this article;

12 (c) prepare and submit to the governor, the temporary president of the
13 senate, and the speaker of the assembly an annual report of the need for
14 designated legal organizations and designated community organizations in
15 the state, and whether current designated legal organizations and desig-
16 nated community organizations are able to meet the needs of covered
17 individuals;

18 (d) propose an amount of funding for designated legal organizations
19 and designated community organizations that is sufficient to assist all
20 covered individuals, and to enable such organizations to provide high
21 quality assistance and have reasonable workloads, decent working condi-
22 tions, and adequate compensation for their staff;

23 (e) serve as liaison for the state with designated legal organizations
24 and designated community organizations;

25 (f) promulgate any rules and regulations necessary for the implementa-
26 tion of the provisions of this article;

27 (g) prepare a list of designated languages that shall consist of
28 languages spoken by a large enough population of New York residents that
29 preparation of materials and conduct of education and engagement by
30 designated community organizations in such languages is appropriate;

31 (h) support outreach and education by designated community organiza-
32 tions, to spread awareness of the availability of designated legal
33 organizations; and

34 (i) perform such other duties as the governor may assign.

35 § 800-f. Provision of legal services and tenant education. 1. The
36 coordinator shall, with consultation as required by subdivision three of
37 this section, develop a plan to (a) implement a program to provide coun-
38 sel for covered individuals in covered proceedings and (b) designate
39 community organizations to engage and educate tenants of their rights in
40 eviction proceedings. Such plan shall be finalized no later than six
41 months following the effective date of this article and shall be fully
42 implemented as soon as possible, but no later than two years following
43 the effective date of this article and shall:

44 (i) Ensure that a system is in place to provide all covered individ-
45 uals in the state with counsel for covered proceedings, and that any
46 notice of petition for summary eviction proceedings commenced under
47 article seven of this chapter provides notice to covered individuals of
48 their right to counsel and how they may secure such counsel;

49 (ii) Ensure that all covered individuals receive access to full legal
50 representation as provided under subdivision two of section eight
51 hundred-d of this article; and

52 (iii) Identify at least one designated legal organization or consorti-
53 um of designated legal organizations capable of providing legal services
54 in covered proceedings in each region of the state. In identifying
55 designated legal organizations, the coordinator shall only consider

1 providers that have the capacity to provide high quality legal assist-
2 ance and, at minimum, meet the following qualifications:

3 (A) have non-profit status under section 501 (c) (3) of the U.S.
4 internal revenue code;

5 (B) maintain a practice of furnishing free legal services to individ-
6 uals who cannot afford the services of a licensed legal professional;

7 (C) possess expertise in housing law, landlord-tenant law, or related
8 experience in representing covered individuals in covered proceedings;

9 (D) demonstrate expertise in recognizing and responding to the legal
10 issues facing low-income residents of the state of New York;

11 (E) possess adequate infrastructure and expertise to provide consist-
12 ent, high quality supervision, oversight, training, evaluation, and
13 strategic responses to emerging or changing needs in the client communi-
14 ties served; and

15 (F) with sufficient funding, have the capacity to maintain reasonable
16 caseloads and working conditions for their attorneys, paralegals, and
17 other staff.

18 2. The coordinator shall require each designated legal organization to
19 identify the geographic areas for which such organization shall provide
20 legal services. For each such geographic area, the coordinator shall
21 maintain a list of designated legal service organizations.

22 3. In developing the program under subdivision one of this section,
23 the coordinator shall consult with:

24 (a) Tenants, representatives for tenants, and community groups;

25 (b) Representatives of designated legal organizations and unions
26 engaged in representing employees of designated legal organizations;

27 (c) Representatives of the New York state bar association, the New
28 York city bar association, the network of bar leaders, and other local
29 bar associations in New York state; and

30 (d) Representatives of the judiciary.

31 4. The coordinator shall estimate annually the expenditures required
32 for each year of implementation of the program described in this
33 section. The estimate of required expenditures shall be sufficient to
34 enable designated legal organizations to provide high quality assistance
35 and maintain the qualifications set forth in subparagraph (iii) of para-
36 graph (b) of subdivision one of this section. Beginning January first,
37 two thousand twenty-three, and no later than January first of each year
38 thereafter, the coordinator shall publish a summary of any changes to
39 such estimates for expenditures.

40 5. The coordinator shall annually review the performance of designated
41 legal organizations.

42 § 800-g. Community engagement. 1. The coordinator shall identify one
43 or more designated community organizations capable of providing communi-
44 ty education and organization. In identifying designated community
45 organizations, the coordinator shall only consider organizations that
46 have the capacity to provide high quality assistance and shall, at mini-
47 mum, meet the following qualifications:

48 (a) have non-profit status under section 501 (c) (3) of the U.S.
49 internal revenue code;

50 (b) maintain a practice of furnishing free services;

51 (c) possess expertise and experience in community education and organ-
52 ization, and ties to the communities they serve;

53 (d) demonstrate expertise in recognizing and responding to the housing
54 issues facing low-income residents of the state of New York;

1 (e) possess adequate expertise to provide consistent, high quality
2 supervision, oversight, training, evaluation, and strategic response to
3 emerging or changing needs in the communities served; and

4 (f) maintain reasonable workloads and working conditions for their
5 staff.

6 2. With the support of the coordinator and adequate funding, desig-
7 nated community organizations shall be responsible for engaging and
8 educating tenants of their rights in eviction proceedings, including but
9 not limited to: hosting trainings and other workshops for tenants;
10 distributing written information to tenants; assisting tenants in form-
11 ing and maintaining tenant associations; referring tenants to designated
12 legal organizations; and other activities to engage, educate, or inform
13 tenants of their rights in eviction proceedings. Engagement and educa-
14 tion shall be provided in designated statewide languages.

15 § 800-h. Public hearings. 1. Following the establishment of the
16 program established pursuant to section eight hundred-f of this article,
17 once each year the coordinator shall hold a public hearing for each
18 judicial department to receive recommendations and feedback about such
19 program.

20 2. Such hearing shall be open to the public, and the coordinator shall
21 provide notice of such hearing, no less than thirty days before such
22 hearing, by:

23 (a) posting in the designated statewide languages in the housing
24 courts and other forums in which eviction proceedings are held;

25 (b) posting in the designated statewide languages in public offices of
26 county social services/human resources departments; and

27 (c) publicizing through local media and to each designated legal
28 organization, each designated community organization, local elected
29 officials, the supervising judges of the housing courts, other forums in
30 which eviction proceedings are held, and community-based organizations.

31 3. At such hearings, written and oral testimony may be provided.

32 4. The coordinator shall cause a transcript of such hearings to be
33 produced and shall post such transcript online no later than forty-five
34 days after a hearing.

35 § 800-i. Reporting. 1. The coordinator shall provide the governor, the
36 temporary president of the senate, and the speaker of the assembly with
37 an annual financial audit of the program's activities, prepared by a
38 certified public accountant licensed in the state of New York and
39 carried out in accordance with generally accepted auditing standards.

40 2. No later than January first, two thousand twenty-three and January
41 first of every other year thereafter, the coordinator shall submit to
42 the governor, the temporary president of the senate, and the speaker of
43 the assembly, and post online, a review of the program established
44 pursuant to section eight hundred-f of this article and information
45 regarding such program's implementation, to the extent such information
46 is available, including, but not limited to:

47 (a) The estimated number of covered individuals in the state;

48 (b) The number of covered individuals who have received legal
49 services, disaggregated by the following characteristics of such indi-
50 viduals:

51 (i) gender, race, ethnicity, and age;

52 (ii) county and postal code of residence;

53 (iii) household size;

54 (iv) estimated length of tenancy;

55 (v) approximate household income;

1 (vi) receipt of ongoing public assistance at the time such legal
2 services were initiated;

3 (vii) tenancy in rent-regulated housing; and

4 (viii) tenancy in housing operated by or subsidized through a federal,
5 state or local rental subsidy program;

6 (c) Legal services provided by type of legal issue;

7 (d) A list of designated legal organizations, the geographic region in
8 which such organizations provide services, and the amount of funding
9 provided to each;

10 (e) Outcomes immediately following the provision of full legal repre-
11 sentation, as applicable and available, including, but not limited to,
12 the number of:

13 (i) judgments allowing individuals to remain in their residence;

14 (ii) judgments requiring individuals to be displaced from their resi-
15 dence; and

16 (iii) instances where an attorney representing a covered individual
17 was discharged or withdrew;

18 (f) A list of landlords involved in eviction proceedings;

19 (g) Residential evictions conducted by sheriffs or city marshals,
20 disaggregated by county;

21 (h) A list of designated community organizations, the geographic
22 region in which such organizations provide services, and the amount of
23 funding provided to each;

24 (i) The number of buildings in which outreach was conducted, the
25 number of workshops offered, the number of attendees at such workshops,
26 the number of people referred to non-profits having status under section
27 501 (c) (3) of the U.S. internal revenue code, and the number of train-
28 ings offered; and

29 (j) An evaluation of implementation challenges and recommendations for
30 any future programmatic improvements.

31 § 3. Section 701 of the real property actions and proceedings law is
32 amended by adding a new subdivision 3 to read as follows:

33 3. Any court maintaining a covered proceeding, as defined by section
34 eight hundred-c of this chapter, shall notify all respondents by mail
35 upon filing of a petition, not less than fourteen days before trial, of
36 such respondent's civil right to counsel in an eviction proceeding under
37 article seven-C of this chapter.

38 § 4. Subdivisions 1 and 2 of section 711 of the real property actions
39 and proceedings law, subdivision 1 as amended by chapter 305 of the laws
40 of 1963 and subdivision 2 as amended by section 12 of part M of chapter
41 36 of the laws of 2019, are amended to read as follows:

42 1. The tenant continues in possession of any portion of the premises
43 after the expiration of his term, without the permission of the landlord
44 or, in a case where a new lessee is entitled to possession, without the
45 permission of the new lessee. Acceptance of rent after commencement of
46 the special proceeding upon this ground shall not terminate such
47 proceeding nor effect any award of possession to the landlord or to the
48 new lessee, as the case may be. A proceeding seeking to recover
49 possession of real property by reason of the termination of the term
50 fixed in the lease pursuant to a provision contained therein giving the
51 landlord the right to terminate the time fixed for occupancy under such
52 agreement if he deem the tenant objectionable, shall not be maintainable
53 unless the landlord shall by competent evidence establish to the satis-
54 faction of the court that the tenant is objectionable. No proceeding
55 shall be maintained, and no court shall accept for filing, any petition
56 to recover possession of real property unless the petitioner or an agent

1 of the petitioner has filed an affidavit attesting that the petitioner
2 or the petitioner's agent has provided the respondent with written
3 notice, in the notice of petition and any required predicate notice, of
4 such respondent's right to counsel in eviction proceedings under article
5 seven-C of this chapter.

6 2. The tenant has defaulted in the payment of rent, pursuant to the
7 agreement under which the premises are held, and a written demand of the
8 rent has been made with at least fourteen days' notice requiring, in the
9 alternative, the payment of the rent, or the possession of the premises,
10 has been served upon him as prescribed in section seven hundred thirty-
11 five of this article. No proceeding shall be maintained, and no court
12 shall accept filing for any petition for non-payment of rent unless the
13 written demand for rent required by this section contains a notice of
14 the respondent's civil right to counsel in eviction proceedings, as
15 required by subdivision six of section seven hundred forty-one of this
16 article. Any person succeeding to the landlord's interest in the prem-
17 ises may proceed under this subdivision for rent due his predecessor in
18 interest if he has a right thereto. Where a tenant dies during the term
19 of the lease and rent due has not been paid and the apartment is occu-
20 pied by a person with a claim to possession, a proceeding may be
21 commenced naming the occupants of the apartment seeking a possessory
22 judgment only as against the estate. Entry of such a judgment shall be
23 without prejudice to the possessory claims of the occupants, and any
24 warrant issued shall not be effective as against the occupants.

25 § 5. Section 713 of the real property actions and proceedings law is
26 amended by adding a new subdivision 12 to read as follows:

27 12. No proceeding shall be maintained, and no court shall accept for
28 filing, any petition to recover possession of real property unless the
29 petitioner or an agent of the petitioner has filed an affidavit attest-
30 ing that the petitioner or the petitioner's agent has provided the
31 respondent with written notice, in the notice of petition and any
32 required predicate notice, of such respondent's right to counsel in
33 eviction proceedings under article seven-C of this chapter.

34 § 6. Section 741 of the real property actions and proceedings law is
35 amended by adding three new subdivisions 6, 7 and 8 to read as follows:

36 6. Notify the respondent of the existence of the civil right to coun-
37 sel in eviction proceedings under article seven-C of this chapter, and
38 shall provide a phone number, website address and other information to
39 assist the respondent in securing counsel.

40 7. State the right to an adjournment of the proceedings until a
41 covered individual, as defined in section eight hundred-c of this chap-
42 ter, is able to retain and consult with counsel.

43 8. State that any and all predicate notices served upon the respondent
44 included notice of the civil right to counsel in eviction proceedings
45 under article seven-C of this chapter, and provided a phone number,
46 website address and other information to assist the respondent in secur-
47 ing counsel.

48 § 7. Section 745 of the real property actions and proceedings law is
49 amended by adding a new subdivision 3 to read as follows:

50 3. Where a respondent who is a covered individual under article
51 seven-C of this chapter appears in court without counsel, the court
52 shall notify such respondent orally of the civil right to counsel in
53 eviction proceedings established by article seven-C of this chapter, and
54 if such respondent would like counsel, the court shall adjourn the trial
55 and provide sufficient time, not less than fourteen days, for such
56 respondent to retain and consult counsel and shall grant such further

1 adjournments as the court deems necessary for such covered individual to
2 obtain counsel.

3 § 8. Subdivisions 1 and 3 of section 749 of the real property actions
4 and proceedings law, as amended by section 19 of part M of chapter 36 of
5 the laws of 2019, are amended to read as follows:

6 1. Upon rendering a final judgment for petitioner, the court shall
7 issue a warrant directed to the sheriff of the county or to any consta-
8 ble or marshal of the city in which the property, or a portion thereof,
9 is situated, or, if it is not situated in a city, to any constable of
10 any town in the county, describing the property, stating the earliest
11 date upon which execution may occur pursuant to the order of the court,
12 and commanding the officer to remove all persons named in the proceed-
13 ing, provided upon a showing of good cause, the court may issue a stay
14 of re-letting or renovation of the premises for a reasonable period of
15 time. However, no court shall issue a judgment authorizing the issuance
16 of a warrant of eviction against a respondent who has defaulted, or
17 authorize the execution of an eviction pursuant to a default judgment,
18 unless the petitioner or an agent of the petitioner has filed an affida-
19 vit attesting that the petitioner or the petitioner's agent has provided
20 the respondent with written notice of the respondent's civil right to
21 counsel in eviction proceedings in the notice of petition and in any
22 predicate notice as required by sections seven hundred eleven, seven
23 hundred forty-one and seven hundred forty-five of this article.

24 3. Nothing contained herein shall deprive the court of the power to
25 stay or vacate such warrant for good cause shown prior to the execution
26 thereof, or to restore the tenant to possession subsequent to execution
27 of the warrant. The failure of the court or the petitioner to comply
28 with the civil right to counsel in eviction proceedings pursuant to
29 article seven-C of this chapter shall constitute good cause to vacate
30 such warrant. In a judgment for non-payment of rent, the court shall
31 vacate a warrant upon tender or deposit with the court of the full rent
32 due at any time prior to its execution, unless the petitioner estab-
33 lishes that the tenant withheld the rent due in bad faith. Petitioner
34 may recover by action any sum of money which was payable at the time
35 when the special proceeding was commenced and the reasonable value of
36 the use and occupation to the time when the warrant was issued, for any
37 period of time with respect to which the agreement does not make any
38 provision for payment of rent.

39 § 9. The real property law is amended by adding a new section 235-j to
40 read as follows:

41 § 235-j. Lease provisions waiving right to counsel void. Any
42 provision of a lease or contract waiving or limiting the right to coun-
43 sel in eviction proceedings under article seven-C of the real property
44 actions and proceedings law shall be void.

45 § 10. This act shall take effect immediately; provided, however, that
46 sections three through nine of this act shall take effect two years
47 after such date.