S T A T E O F N E W Y O R K

2694

2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Judiciary

AN ACT to amend chapter 416 of the laws of 1893 relating to the city court of Yonkers, in relation to establishing a housing part of the city court

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

Section 1. Section 1 of title 1 of chapter 416 of the laws of 1893 relating to the city court of Yonkers is amended by adding a new subdivision (d) to read as follows:

(D) PURSUANT TO SECTION 73-A IN CONJUNCTION WITH A PROCEEDING IN THE HOUSING PART.

S 2. Title 1 of chapter 416 of the laws of 1893 relating to the city court of Yonkers is amended by adding a new section 1-a to read as follows:

S 1-A. HOUSING REMEDIES. THE COURT SHALL HAVE JURISDICTION OF THE FOLLOWING ACTIONS AND PROCEEDINGS PROVIDED THAT THE REAL PROPERTY INVOLVED OR PART OF IT IS SITUATED WITHIN THE CITY OF YONKERS:

(A) ACTIONS AND PROCEEDINGS FOR THE ESTABLISHMENT, ENFORCEMENT OR FORECLOSURE OF LIENS UPON REAL PROPERTY AND UPON THE RENTS THEREFROM FOR CRIMINAL AND CIVIL PENALTIES, OR FOR COSTS, EXPENSES AND DISBURSEMENTS INCURRED BY THE CITY OF YONKERS IN THE ELIMINATION OR CORRECTION OF A NUISANCE OR OTHER VIOLATIONS OF HOUSING STANDARDS, INCLUDING, BUT NOT LIMITED TO, THE BUILDING, SANITARY, ZONING, AND FIRE CODES OF THE CITY OF YONKERS;

(B) ACTIONS AND PROCEEDINGS FOR THE ISSUANCE OF INJUNCTIONS AND RESTRAINING ORDERS OR OTHER ORDERS FOR THE ENFORCEMENT OF HOUSING STANDARDS UNDER SUCH LAW; AND

(C) SPECIAL PROCEEDINGS TO VEST TITLE IN THE CITY OF YONKERS TO ABANDONED MULTIPLE DWELLINGS.

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

LBD02988-01-1

S 3. Chapter 416 of the laws of 1893 relating to the city court of Yonkers is amended by adding a new title 10-A to read as follows:

TITLE X-A

HOUSING PART

S 73-A. HOUSING PART. (A) A PART OF THE COURT SHALL BE DEVOTED TO ACTIONS AND PROCEEDINGS INVOLVING THE ENFORCEMENT OF STATE AND LOCAL LAWS FOR THE ESTABLISHMENT AND MAINTENANCE OF HOUSING STANDARDS, INCLUDING, BUT NOT LIMITED TO, THE BUILDING, SANITARY, ZONING AND FIRE CODES OF THE CITY OF YONKERS, AS FOLLOWS:

(1) ACTIONS FOR THE IMPOSITION AND COLLECTION OF CRIMINAL AND CIVIL PENALTIES FOR THE VIOLATION OF SUCH LAWS.

(2) ACTIONS FOR THE COLLECTION OF COSTS, EXPENSES AND DISBURSEMENTS INCURRED BY THE CITY OF YONKERS IN THE ELIMINATION OR CORRECTION OF A NUISANCE OR OTHER VIOLATION OF SUCH LAWS, OR IN THE REMOVAL OR DEMOLITION OF ANY DWELLING PURSUANT TO SUCH LAWS.

(3) ACTIONS AND PROCEEDINGS FOR THE ESTABLISHMENT, ENFORCEMENT OR FORECLOSURE OF LIENS UPON REAL PROPERTY AND UPON RENTS THEREFROM FOR CRIMINAL AND CIVIL PENALTIES, OR FOR COSTS, EXPENSES AND DISBURSEMENTS INCURRED BY THE CITY OF YONKERS IN THE ELIMINATION OR CORRECTION OF A NUISANCE OR OTHER VIOLATION OF SUCH LAWS.

(4) PROCEEDINGS FOR THE ISSUANCE OF INJUNCTIONS AND RESTRAINING ORDERS OR OTHER ORDERS FOR THE ENFORCEMENT OF HOUSING STANDARDS UNDER SUCH LAWS.

(5) ACTIONS AND PROCEEDINGS UNDER ARTICLE 7-A OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, AND ALL SUMMARY PROCEEDINGS TO RECOVER POSSESSION OF RESIDENTIAL PREMISES, TO REMOVE TENANTS THEREFROM AND TO RENDER JUDGMENT FOR RENT DUE, INCLUDING WITHOUT LIMITATION CASES IN WHICH A TENANT ALLEGES A DEFENSE UNDER SECTION 755 OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, RELATING TO STAY OF PROCEEDINGS OR ACTION FOR RENT UPON FAILURE TO MAKE REPAIRS, AND ACTIONS AND PROCEEDINGS RELATING TO THE ABATEMENT OF RENT.

(6) PROCEEDINGS FOR THE APPOINTMENT OF A RECEIVER OF RENTS, ISSUES AND PROFITS OF BUILDINGS IN ORDER TO REMOVE OR REMEDY A NUISANCE OR TO MAKE REPAIRS REQUIRED TO BE MADE UNDER SUCH LAWS.

(7) ACTIONS AND PROCEEDINGS FOR THE REMOVAL OF HOUSING VIOLATIONS RECORDED PURSUANT TO SUCH LAWS, OR FOR THE IMPOSITION OF SUCH VIOLATION OR FOR THE STAY OF ANY PENALTY THEREUNDER.

(8) SPECIAL PROCEEDINGS TO VEST TITLE IN THE CITY OF YONKERS TO ABANDONED MULTIPLE DWELLINGS.

(B) SUCH PART OF THE COURT SHALL, IN ADDITION TO THOSE ACTIONS AND PROCEEDINGS ASSIGNED IN SUBDIVISION (A) OF THIS SECTION, BE ASSIGNED SUCH ACTIONS AND PROCEEDINGS AS SHALL BE DEEMED APPROPRIATE BY THE CHIEF JUDGE OF THE CITY COURT.

(C) THE CITY DEPARTMENT CHARGED WITH ENFORCING THE BUILDING CODE AND OTHER STATE AND LOCAL LAWS APPLICABLE TO THE ENFORCEMENT OF PROPER HOUSING STANDARDS MAY COMMENCE ANY ACTION OR PROCEEDING DESCRIBED IN PARAGRAPHS (1), (2), (3), (4), (6) AND (7) OF SUBDIVISION (A) OF THIS SECTION BY AN ORDER TO SHOW CAUSE, RETURNABLE WITHIN FIVE DAYS, OR WITHIN ANY OTHER TIME PERIOD IN THE DISCRETION OF THE COURT. UPON THE SIGNING OF SUCH ORDER, THE CLERK OF THE HOUSING PART SHALL ISSUE AN INDEX NUMBER.

(D) ON THE APPLICATION OF ANY CITY DEPARTMENT, ANY PARTY, OR ON ITS OWN MOTION, THE HOUSING PART OF THE CITY COURT MAY CONSOLIDATE ALL ACTIONS AND PROCEEDINGS PENDING IN SUCH PART AS TO ANY BUILDING.

(E) REGARDLESS OF THE RELIEF ORIGINALLY SOUGHT BY A PARTY, THE COURT MAY RECOMMEND OR EMPLOY ANY REMEDY, PROGRAM, PROCEDURE OR SANCTION

AUTHORIZED BY LAW FOR THE ENFORCEMENT OF HOUSING STANDARDS, IF IT BELIEVES THEY WILL BE MORE EFFECTIVE TO ACCOMPLISH COMPLIANCE OR TO PROTECT AND PROMOTE THE PUBLIC INTEREST; PROVIDED IN THE EVENT ANY SUCH PROPOSED REMEDY, PROGRAM OR PROCEDURE ENTAILS THE EXPENDITURE OF MONIES APPROPRIATED BY THE CITY, OTHER THAN FOR THE UTILIZATION AND EMPLOYMENT OF PERSONNEL AND SERVICES INCIDENTAL THERETO, THE COURT SHALL GIVE NOTICE OF SUCH PROPOSED REMEDY, PROGRAM OR PROCEDURE TO THE CITY DEPARTMENT CHARGED WITH THE ENFORCEMENT OF LOCAL LAWS RELATING TO HOUSING MAINTENANCE AND SHALL NOT EMPLOY SUCH PROPOSED REMEDY, PROGRAM OR PROCEDURE, AS THE CASE MAY BE, IF SUCH DEPARTMENT SHALL ADVISE THE COURT IN WRITING WITHIN THE TIME FIXED BY THE COURT, WHICH SHALL NOT BE LESS THAN FIFTEEN DAYS AFTER SUCH NOTICE HAS BEEN GIVEN, OF THE REASONS SUCH ORDER SHOULD NOT BE ISSUED, WHICH ADVICE SHALL BECOME PART OF THE RECORD. THE COURT MAY RETAIN CONTINUING JURISDICTION OF ANY ACTION OR PROCEEDING RELATING TO A BUILDING UNTIL ALL VIOLATIONS OF LAW HAVE BEEN REMOVED.

(F) IN ANY OF THE ACTIONS OR PROCEEDINGS SPECIFIED IN SUBDIVISIONS (A) AND (B) OF THIS SECTION, AND ON THE APPLICATION OF ANY PARTY OR ANY CITY DEPARTMENT OR, ON ITS OWN MOTION, THE COURT MAY JOIN ANY OTHER PERSON OR CITY DEPARTMENT AS A PARTY IN ORDER TO EFFECTUATE PROPER HOUSING MAINTENANCE STANDARDS AND TO PROMOTE THE PUBLIC INTEREST.

(G) ACTIONS AND PROCEEDINGS BEFORE THE HOUSING PART SHALL BE TRIED BEFORE A CITY COURT JUDGE OR JUDGES.

(H) THE CHIEF JUDGE OF THE CITY COURT SHALL ASSIGN ONE OR MORE OF THE JUDGES OF SUCH COURT TO SERVE AS JUDGE OF THE HOUSING PART.

(I) HEARINGS MAY BE RECORDED MECHANICALLY IN THE DISCRETION OF THE COURT. A PARTY MAY REQUEST A TRANSCRIPT FROM A MECHANICAL RECORDING. ANY PARTY MAKING A REQUEST FOR A COPY OF EITHER A MECHANICALLY OR MANUALLY RECORDED TRANSCRIPT SHALL BEAR THE COST THEREOF AND SHALL FURNISH A COPY OF THE TRANSCRIPT TO THE COURT, AND TO THE OTHER PARTIES.

(J) ANY CITY DEPARTMENT CHARGED WITH ENFORCING ANY STATE OR LOCAL LAW APPLICABLE TO THE ENFORCEMENT OF PROPER HOUSING STANDARDS MAY BE REPRESENTED IN THE HOUSING PART BY CORPORATION COUNSEL IN ANY ACTION OR PROCEEDING IN WHICH IT IS A PARTY. A CORPORATION WHICH IS A PARTY MAY BE REPRESENTED BY AN OFFICER, DIRECTOR OR A PRINCIPAL STOCKHOLDER, OR ANY EMPLOYEE AUTHORIZED BY THE CORPORATION.

(K) NOTHING CONTAINED IN THIS SECTION SHALL IN ANY WAY AFFECT THE RIGHT OF ANY PARTY TO TRIAL BY JURY AS HERETOFORE PROVIDED BY LAW.

(L) THERE SHALL BE A SUFFICIENT NUMBER OF PRO SE CLERKS OF THE HOUSING PART TO ASSIST PERSONS WITHOUT COUNSEL. SUCH ASSISTANCE SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, PROVIDING INFORMATION REGARDING COURT PROCEDURE, HELPING TO FILE COURT PAPERS, AND, WHERE APPROPRIATE, ADVISING PERSONS TO SEEK ADMINISTRATIVE RELIEF.

(M) ON THE DATE UPON WHICH A PETITION TO RECOVER POSSESSION OF REAL PROPERTY BASED UPON NONPAYMENT OF RENT IS NOTICED TO BE HEARD, IN ANY CASE IN WHICH BREACH OF THE WARRANTY OF HABITABILITY OR OTHER TRIABLE ISSUES OF FACT ARE RAISED, JURISDICTION IS NOT CONTESTED, AND FULL PAYMENT OF RENT NOT ALLEGED, THE COURT SHALL GRANT A REASONABLE ADJOURNMENT FOR TRIAL PURPOSES, AND MAY DIRECT THE RESPONDENT TO PAY THE UNPAID RENT INTO ESCROW IN THE COURT CLERK'S OFFICE PRIOR TO TRIAL, UPON SUCH TERMS AS MAY BE JUST. WHERE SUCH ESCROW IS ORDERED, RESPONDENT SHALL BE INFORMED BY THE COURT THAT DEFAULT IN PAYMENT OF SUCH ESCROW WILL RESULT IN THE ENTRY OF A DEFAULT JUDGMENT AGAINST RESPONDENT. IN ANY SUCH CASES, THE COURT MAY CONDITION THE GRANTING OF A STAY IN AN ORDER TO SHOW CAUSE UPON THE DEPOSIT OF A SIMILAR ESCROW IN THE COURT CLERK'S OFFICE PRIOR TO THE RETURN DATE OF SUCH ORDER, AND UPON SUCH TERMS AS

MAY BE JUST. DISPOSITION OF SUCH ESCROW AMOUNTS SHALL BE SUBJECT TO FURTHER ORDER OF THE COURT.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.