

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the New York city civil court act, in relation to judges of the New York city housing part

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

1 Section 1. Section 110 of the New York city civil court act, as added
2 by chapter 982 of the laws of 1972, subdivisions (a) and (l) as amended,
3 subdivision (n) as relettered and subdivision (o) as added by chapter
4 849 of the laws of 1977, paragraph 9 of subdivision (a) as amended by
5 chapter 309 of the laws of 1978, subdivision (c) as amended by chapter
6 701 of the laws of 1973, subdivision (e) as amended by chapter 528 of
7 the laws of 1984, subdivision (f) as amended by chapter 64 of the laws
8 of 2007, subdivision (g) as amended by chapter 488 of the laws of 2010,
9 subdivision (h) as amended by chapter 524 of the laws of 2005, subdivi-
10 sion (i) as amended by chapter 310 of the laws of 1978, subdivision (m)
11 as amended by chapter 664 of the laws of 1978, paragraph 3 of subdivi-
12 sion (m) as amended by chapter 524 of the laws of 1980, subdivision (n)
13 as added by chapter 704 of the laws of 1973 and subdivision (p) as added
14 by chapter 95 of the laws of 1989, is amended to read as follows:

15 S 110. Housing part. (a) A part of the court shall be devoted to
16 actions and proceedings involving the enforcement of state and local
17 laws for the establishment and maintenance of housing standards, includ-
18 ing, but not limited to, the multiple dwelling law and the housing main-
19 tenance code, building code and health code of the administrative code
20 of the city of New York, as follows:

21 (1) Actions for the imposition and collection of civil penalties for
22 the violation of such laws.

23 (2) Actions for the collection of costs, expenses and disbursements
24 incurred by the city of New York in the elimination or correction of a

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

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1 nuisance or other violation of such laws, or in the removal or demoli-
2 tion of any dwelling pursuant to such laws.

3 (3) Actions and proceedings for the establishment, enforcement or
4 foreclosure of liens upon real property and upon the rents therefrom for
5 civil penalties, or for costs, expenses and disbursements incurred by
6 the city of New York in the elimination or correction of a nuisance or
7 other violation of such laws.

8 (4) Proceedings for the issuance of injunctions and restraining orders
9 or other orders for the enforcement of housing standards under such
10 laws.

11 (5) Actions and proceedings under article seven-A of the real property
12 actions and proceedings law, and all summary proceedings to recover
13 possession of residential premises to remove tenants therefrom, and to
14 render judgment for rent due, including without limitation those cases
15 in which a tenant alleges a defense under section seven hundred fifty-
16 five of the real property actions and proceedings law, relating to stay
17 or proceedings or action for rent upon failure to make repairs, section
18 three hundred two-a of the multiple dwelling law, relating to the abate-
19 ment of rent in case of certain violations of section [D26-41.21]
20 27-2017 of such housing maintenance code.

21 (6) Proceedings for the appointment of a receiver of rents, issues and
22 profits of buildings in order to remove or remedy a nuisance or to make
23 repairs required to be made under such laws.

24 (7) Actions and proceedings for the removal of housing violations
25 recorded pursuant to such laws, or for the imposition of such violation
26 or for the stay of any penalty thereunder.

27 (8) Special proceedings to vest title in the city of New York to aban-
28 doned multiple dwellings.

29 (9) The city department charged with enforcing the multiple dwelling
30 law, housing maintenance code, and other state and local laws applicable
31 to the enforcement of proper housing standards may commence any action
32 or proceeding described in paragraphs one, two, three, four, six and
33 seven of this subdivision by an order to show cause, returnable within
34 five days, or within any other time period in the discretion of the
35 court. Upon the signing of such order, the clerk of the housing part
36 shall issue an index number.

37 (b) On the application of any city department, any party, or on its
38 own motion, the housing part of the civil court shall, unless good cause
39 is shown to the contrary, consolidate all actions and proceedings pend-
40 ing in such part as to any building.

41 (c) Regardless of the relief originally sought by a party the court
42 may recommend or employ any remedy, program, procedure or sanction
43 authorized by law for the enforcement of housing standards, if it
44 believes they will be more effective to accomplish compliance or to
45 protect and promote the public interest; provided in the event any such
46 proposed remedy, program or procedure entails the expenditure of monies
47 appropriated by the city, other than for the utilization and deployment
48 of personnel and services incidental thereto, the court shall give
49 notice of such proposed remedy, program or procedure to the city depart-
50 ment charged with the enforcement of local laws relating to housing
51 maintenance and shall not employ such proposed remedy, program or proce-
52 dure, as the case may be, if such department shall advise the court in
53 writing within the time fixed by the court, which shall not be less than
54 fifteen days after such notice has been given, of the reasons such order
55 should not be issued, which advice shall become part of the record. The

1 court may retain continuing jurisdiction of any action or proceeding
2 relating to a building until all violations of law have been removed.

3 (d) In any of the actions or proceedings specified in subdivision (a)
4 OF THIS SECTION and on the application of any party, any city department
5 or the court, on its own motion, may join any other person or city
6 department as a party in order to effectuate proper housing maintenance
7 standards and to promote the public interest.

8 (e) Actions and proceedings before the housing part shall be tried
9 before civil court judges, acting civil court judges, or housing judges.
10 Housing judges shall be [appointed] ELECTED pursuant to [subdivision (f)
11 of this section] SECTION FIFTEEN OF ARTICLE SIX OF THE CONSTITUTION and
12 shall be duly constituted judicial officers, empowered to hear, deter-
13 mine and grant any relief within the powers of the housing part in any
14 action or proceeding except those to be tried by jury. Such housing
15 judges shall have the power of judges of the court to punish for
16 contempts. Rules of evidence shall be applicable in actions and
17 proceedings before the housing part. The determination of a housing
18 judge shall be final and shall be entered and may be appealed in the
19 same manner as a judgment of the court; provided that the assignment of
20 actions and proceedings to housing judges, the conduct of the trial and
21 the contents and filing of a housing judge's decision, and all matters
22 incidental to the operation of the housing part, shall be in accordance
23 with rules jointly promulgated by the first and second departments of
24 the appellate division for such part.

25 (f) [The housing judges shall be appointed by the administrative judge
26 from a list of persons selected annually as qualified by training,
27 interest, experience, judicial temperament and knowledge of federal,
28 state and local housing laws and programs by the advisory council for
29 the housing part. The list of persons who have been approved by such
30 advisory council, whether or not appointed to such judicial position,
31 shall be deemed public information and be published in the city record
32 immediately after such list is submitted to the administrative judge.]
33 The annual salary of a housing judge shall be one hundred [fifteen]
34 TWENTY-FIVE thousand [four] SIX hundred dollars.

35 (g) The advisory council for the housing part shall be composed of
36 three members representative of real estate owners or lessors, including
37 the chair of the New York city housing authority; three members repre-
38 sentative of tenants' organizations; and two members representative of
39 each of the following: civic groups, bar associations and the public at
40 large. Such members shall be appointed by the administrative judge, with
41 the approval of the presiding justices of the first and second depart-
42 ments of the appellate division. Except for the member representing the
43 housing authority, the members of the advisory council shall be
44 appointed for non-renewable terms of three years. In addition the mayor
45 of the city of New York shall appoint one member to serve at his or her
46 pleasure and the commissioner of housing and community renewal shall be
47 a member.

48 (h) The advisory council shall meet at least four times a year, and on
49 such additional occasions as they may require or as may be required by
50 the administrative judge. Members shall receive no compensation. Members
51 shall visit the housing part from time to time to review the manner in
52 which the part is functioning, and make recommendations to the adminis-
53 trative judge and to the advisory council. A report on the work of the
54 part shall be prepared annually and submitted to the administrative
55 judge, the administrative board of the judicial conference, the majority
56 and minority leaders of the senate and assembly, the governor, the

1 chairpersons of the judiciary committee in the senate and assembly and
2 the mayor of the city of New York by the thirty-first day of January of
3 each year.

4 (i) Housing judges shall have been admitted to the bar of the state
5 for at least five years, two years of which shall have been in active
6 practice. Each housing judge shall serve full-time for [five] TEN
7 years[. Reappointment shall be at the discretion of the administrative
8 judge and on the basis of the performance, competency and results
9 achieved during the preceding term].

10 [(k)] (J) Unless a party requests a manual stenographic record by
11 filing a notice with the clerk two working days prior to the date set
12 for an appearance before the court, hearings shall be recorded mechan-
13 ically. A party may request a transcript from a mechanical recording.
14 Any party making a request for a copy of either a mechanically or manu-
15 ally recorded transcript shall bear the cost thereof and shall furnish a
16 copy of the transcript to the court, and to the other parties.

17 [(l)] (K) Any city department charged with enforcing any state or
18 local law applicable to the enforcement of proper housing standards may
19 be represented in the housing part by its department counsel in any
20 action or proceeding in which it is a party. A corporation which is a
21 party may be represented by an officer, director or a principal stock-
22 holder.

23 [(m)] (L) The service of process in any of the actions or proceedings
24 specified in subdivision (a) OF THIS SECTION which are brought under the
25 housing maintenance code of the administrative code of the city of New
26 York shall be made as herein provided:

27 (1) Service of process shall be made in the manner prescribed for
28 actions or proceedings in this court, except where the manner of such
29 service is provided for in the housing maintenance code of the adminis-
30 trative code of the city of New York, such service may, as an alterna-
31 tive, be made as therein provided.

32 (2) Where the manner of service prescribed for actions or proceedings
33 in this court includes delivery of the summons to a person at the actual
34 place of business of the person to be served, such delivery may be made
35 alternatively to a person of suitable age and discretion at the address
36 registered with the department charged with the enforcement of local
37 laws relating to housing maintenance pursuant to article [forty-one] TWO
38 OF SUBCHAPTER FOUR OF CHAPTER TWO OF TITLE TWENTY-SEVEN of such code,
39 hereinafter referred to as the "registered address".

40 (3) Where the manner of service prescribed for actions or proceedings
41 in this court includes affixing the summons to the door of the actual
42 place of business of the person to be served, the summons may, as an
43 alternative, be posted in a conspicuous place on either the premises
44 specified in the summons or the registered address.

45 (4) Where the manner of service for actions or proceedings in this
46 court includes mailing the summons to the person to be served at his OR
47 HER last known residence, the summons may, as an alternative, be mailed
48 to the registered address; however, if the person to be served has not
49 registered as required by article [forty-one] TWO OF SUBCHAPTER FOUR OF
50 CHAPTER TWO OF TITLE TWENTY-SEVEN of such housing maintenance code, such
51 summons may, as an alternative, be mailed to an address registered in
52 the last registration statement filed with such department other than
53 the address of the managing agent of the premises and to the last known
54 address of the person to be served.

55 (5) Where the manner of service for actions or proceedings in this
56 court includes mailing the summons to the person to be served at his OR

1 HER last known residence, if the person to be served is a corporation
2 and if either: (i) an officer of such corporation, (ii) the managing
3 agent of such corporation for the premises involved in the suit or (iii)
4 a person designated by such corporation to receive notices in its
5 behalf, other than the secretary of state, has been named a party to the
6 suit, the summons may, as an alternative, be mailed to the registered
7 address of such corporation or, if such corporation has not registered
8 as required by such code, to the address of such corporation set forth
9 in a document filed or recorded with a governmental agency.

10 (6) A copy of the summons with proof of service shall be filed in the
11 manner provided in section four hundred nine OF THIS ACT, except that
12 such filing shall be made with the clerk of the housing part in the
13 county in which the action is brought.

14 [(n)] (M) Nothing contained in [the] THIS section [one hundred ten]
15 shall in any way affect the right of any party to trial by jury as here-
16 tofore provided by law.

17 [(o)] (N) There shall be a sufficient number of pro se clerks of the
18 housing part to assist persons without counsel. Such assistance shall
19 include, but need not be limited to providing information concerning
20 court procedure, helping to file court papers, and, where appropriate,
21 advising persons to seek administrative relief.

22 [(p)] (O) The court shall review the performance and records of admin-
23 istrators appointed pursuant to article seven-A of the real property
24 actions and proceedings law or receivers appointed pursuant to paragraph
25 six of subdivision (a) of this section. Such review shall include but
26 not be limited to an examination of the accountings submitted by such
27 administrators or receivers and an examination of the plan submitted to
28 the court pursuant to subdivision nine of section seven hundred seven-
29 ty-eight of the real property actions and proceedings law. The court may
30 compel the production of any records it deems necessary to perform such
31 review.

32 S 2. For purposes of this act, those judges currently sitting as hous-
33 ing court judges of the housing part of the civil court of the city of
34 New York on the effective date of this act may continue in such judicial
35 positions until the expiration of their appointed judicial term. Upon
36 any such expiration or other vacancy occurring in such judicial position
37 the ensuing vacancy shall be filled in the manner provided by subdivi-
38 sion (e) of section 110 of the New York city civil court act.

39 S 3. This act shall take effect on the first of January next succeed-
40 ing the date on which it shall have become a law.