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

5465--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subdivision 1 of section 770 of the real property actions and proceedings law, as amended by chapter 877 of the laws of 1982, is amended to read as follows:

1. One-third or more of the tenants occupying a dwelling located in the city of New York or the commissioner of the department of the city of New York charged with enforcement of the housing maintenance code of such city, or in the counties of Nassau, Suffolk, Rockland and Westchester may maintain a special proceeding as provided in this article, upon the ground that there exists in such dwellings or in any part thereof a lack of heat or of running water or of light or of electricity or of adequate sewage disposal facilities, or any other condition dangerous to life, health or safety, which has existed for five days, or an infestation by rodents, or any combination of such conditions; or course of conduct by the owner or [his] THE OWNER'S agents of harassment, illegal eviction, continued deprivation of services or other acts dangerous to life, health or safety, OR THE ISSUANCE OF AN ORDER TO THE OWNER OF SUCH DWELLING BY THE COMMISSIONER OF SUCH DEPARTMENT OF THE CITY OF NEW YORK PURSUANT TO THE ALTERNATIVE ENFORCEMENT PROGRAM UNDER SECTION 27-2153 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, PROVIDED THAT SUCH DWELLING HAS NOT BEEN DISCHARGED FROM THE PROGRAM PURSUANT TO SUCH

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

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SECTION AND THERE HAS NOT BEEN A DETERMINATION THAT THE OWNER HAS SUBSTANTIALLY COMPLIED WITH SUCH ORDER.

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

1. The court is authorized and empowered, in implementation of a judgment rendered pursuant to section seven hundred seventy-six or seven hundred seventy-seven of this article, to appoint a person other than the owner, a mortgagee or lienor, to receive and administer the rent moneys or security deposited with [him] SUCH OWNER, MORTGAGEE OR LIENOR, subject to the court's direction. The court may appoint the commissioner of the department of the city of New York charged with enforcement of the housing maintenance code of such city or [his] THE COMMISSIONER'S designee as such administrator, provided that [he] THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE shall consent, in writing, to such appointment. Any administrator is authorized and empowered in accordance with the direction of the court, to order the necessary materials, labor and services to remove or remedy the conditions specified in the judgment, and to make disbursements in payment thereof; and to demand, collect and receive the rents from the tenants; and to institute all necessary legal proceedings including, but not limited to, summary proceedings for the removal of any tenant or tenants; and to rent or lease for terms not exceeding three years any part of said premises, however, the court may direct the administrator to rent or lease commercial parts of said premises for terms that the court may approve. In addition, such administrator is authorized and empowered in accordance with the direction of the court to accept and repay such moneys as may be received from the department charged with enforcement of the housing maintenance code of the city of New York for the purpose of replacing or substantially rehabilitating systems or making other repairs or capital improvements authorized by the court. All moneys expended by the department pursuant to the foregoing shall constitute a debt recoverable from the owner and a lien upon the building and lot, and upon the rents and other income thereof. Such lien shall be enforced in accordance with the provisions of article eight of subchapter five of the housing maintenance code of the city of New York. Such administrator, shall, upon completion of the work prescribed in such judgment, file with the court a full accounting of all receipts and expenditures for such work. Such administrator shall dispose of the rents and other monies deposited with [him] SUCH ADMINISTRATOR according to the following order of priority:

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

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

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

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

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

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

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

S 4. Section 778 of the real property actions and proceedings law is amended by adding a new subdivision 11 to read as follows:

11. THE COURT MAY ONLY DISCHARGE AN ADMINISTRATOR IF THE OWNER HAS PAID IN FULL OR ENTERED INTO A PAYMENT AGREEMENT TO PAY IN FULL ALL OUTSTANDING REAL PROPERTY TAX LIENS CLAIMED BY THE CITY OF NEW YORK, ALL OUTSTANDING EMERGENCY REPAIR LIENS FILED AND RECORDED BY THE CITY OF NEW YORK, ALL OUTSTANDING CHARGES AND LIENS ASSESSED IN CONNECTION TO THE ALTERNATIVE ENFORCEMENT PROGRAM AUTHORIZED BY SECTION 27-2153 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, AND OUTSTANDING LIENS FILED AND RECORDED BY THE CITY PURSUANT TO THIS SECTION. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO BUILDINGS TRANSFERRED PURSUANT TO SUBDIVISION TEN OF THIS SECTION.

S 5. This act shall take effect immediately.