

# STATE OF NEW YORK

2308

2017-2018 Regular Sessions

## IN ASSEMBLY

January 17, 2017

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:

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

4 (d) Pursuant to section 73-a in conjunction with a proceeding in the  
5 housing part.

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

9 § 1-a. Housing remedies. The court shall have jurisdiction of the  
10 following actions and proceedings provided that the real property  
11 involved or part of it is situated within the city of Yonkers:

12 (a) actions and proceedings for the establishment, enforcement or  
13 foreclosure of liens upon real property and upon the rents therefrom for  
14 criminal and civil penalties, or for costs, expenses and disbursements  
15 incurred by the city of Yonkers in the elimination or correction of a  
16 nuisance or other violations of housing standards, including, but not  
17 limited to, the building, sanitary, zoning, and fire codes of the city  
18 of Yonkers;

19 (b) actions and proceedings for the issuance of injunctions and  
20 restraining orders or other orders for the enforcement of housing stand-  
21 ards under such law; and

22 (c) special proceedings to vest title in the city of Yonkers to aban-  
23 doned multiple dwellings.

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

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

3 TITLE X-A

4 Housing Part

5 § 73-a. Housing Part. (a) A part of the court shall be devoted to  
6 actions and proceedings involving the enforcement of state and local  
7 laws for the establishment and maintenance of housing standards, includ-  
8 ing, but not limited to, the building, sanitary, zoning and fire codes  
9 of the city of Yonkers, as follows:

10 (1) Actions for the imposition and collection of criminal and civil  
11 penalties for the violation of such laws.

12 (2) Actions for the collection of costs, expenses and disbursements  
13 incurred by the city of Yonkers in the elimination or correction of a  
14 nuisance or other violation of such laws, or in the removal or demoli-  
15 tion of any dwelling pursuant to such laws.

16 (3) Actions and proceedings for the establishment, enforcement or  
17 foreclosure of liens upon real property and upon rents therefrom for  
18 criminal and civil penalties, or for costs, expenses and disbursements  
19 incurred by the city of Yonkers in the elimination or correction of a  
20 nuisance or other violation of such laws.

21 (4) Proceedings for the issuance of injunctions and restraining orders  
22 or other orders for the enforcement of housing standards under such  
23 laws.

24 (5) Actions and proceedings under article 7-A of the real property  
25 actions and proceedings law, and all summary proceedings to recover  
26 possession of residential premises, to remove tenants therefrom and to  
27 render judgment for rent due, including without limitation cases in  
28 which a tenant alleges a defense under section 755 of the real property  
29 actions and proceedings law, relating to stay of proceedings or action  
30 for rent upon failure to make repairs, and actions and proceedings  
31 relating to the abatement of rent.

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

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

38 (8) Special proceedings to vest title in the city of Yonkers to aban-  
39 doned multiple dwellings.

40 (b) Such part of the court shall, in addition to those actions and  
41 proceedings assigned in subdivision (a) of this section, be assigned  
42 such actions and proceedings as shall be deemed appropriate by the chief  
43 judge of the city court.

44 (c) The city department charged with enforcing the building code and  
45 other state and local laws applicable to the enforcement of proper hous-  
46 ing standards may commence any action or proceeding described in para-  
47 graphs (1), (2), (3), (4), (6) and (7) of subdivision (a) of this  
48 section by an order to show cause, returnable within five days, or with-  
49 in any other time period in the discretion of the court. Upon the sign-  
50 ing of such order, the clerk of the housing part shall issue an index  
51 number.

52 (d) On the application of any city department, any party, or on its  
53 own motion, the housing part of the city court may consolidate all  
54 actions and proceedings pending in such part as to any building.

55 (e) Regardless of the relief originally sought by a party, the court  
56 may recommend or employ any remedy, program, procedure or sanction

1 authorized by law for the enforcement of housing standards, if it  
2 believes they will be more effective to accomplish compliance or to  
3 protect and promote the public interest; provided in the event any such  
4 proposed remedy, program or procedure entails the expenditure of monies  
5 appropriated by the city, other than for the utilization and employment  
6 of personnel and services incidental thereto, the court shall give  
7 notice of such proposed remedy, program or procedure to the city depart-  
8 ment charged with the enforcement of local laws relating to housing  
9 maintenance and shall not employ such proposed remedy, program or proce-  
10 dure, as the case may be, if such department shall advise the court in  
11 writing within the time fixed by the court, which shall not be less than  
12 fifteen days after such notice has been given, of the reasons such order  
13 should not be issued, which advice shall become part of the record. The  
14 court may retain continuing jurisdiction of any action or proceeding  
15 relating to a building until all violations of law have been removed.

16 (f) In any of the actions or proceedings specified in subdivisions (a)  
17 and (b) of this section, and on the application of any party or any city  
18 department or, on its own motion, the court may join any other person or  
19 city department as a party in order to effectuate proper housing mainte-  
20 nance standards and to promote the public interest.

21 (g) Actions and proceedings before the housing part shall be tried  
22 before a city court judge or judges.

23 (h) The chief judge of the city court shall assign one or more of the  
24 judges of such court to serve as judge of the housing part.

25 (i) Hearings may be recorded mechanically in the discretion of the  
26 court. A party may request a transcript from a mechanical recording. Any  
27 party making a request for a copy of either a mechanically or manually  
28 recorded transcript shall bear the cost thereof and shall furnish a copy  
29 of the transcript to the court, and to the other parties.

30 (j) Any city department charged with enforcing any state or local law  
31 applicable to the enforcement of proper housing standards may be repres-  
32 ented in the housing part by corporation counsel in any action or  
33 proceeding in which it is a party. A corporation which is a party may be  
34 represented by an officer, director or a principal stockholder, or any  
35 employee authorized by the corporation.

36 (k) Nothing contained in this section shall in any way affect the  
37 right of any party to trial by jury as heretofore provided by law.

38 (l) There shall be a sufficient number of pro se clerks of the housing  
39 part to assist persons without counsel. Such assistance shall include,  
40 but need not be limited to, providing information regarding court proce-  
41 dure, helping to file court papers, and, where appropriate, advising  
42 persons to seek administrative relief.

43 (m) On the date upon which a petition to recover possession of real  
44 property based upon nonpayment of rent is noticed to be heard, in any  
45 case in which breach of the warranty of habitability or other triable  
46 issues of fact are raised, jurisdiction is not contested, and full  
47 payment of rent not alleged, the court shall grant a reasonable adjourn-  
48 ment for trial purposes, and may direct the respondent to pay the unpaid  
49 rent into escrow in the court clerk's office prior to trial, upon such  
50 terms as may be just. Where such escrow is ordered, respondent shall be  
51 informed by the court that default in payment of such escrow will result  
52 in the entry of a default judgment against respondent. In any such  
53 cases, the court may condition the granting of a stay in an order to  
54 show cause upon the deposit of a similar escrow in the court clerk's  
55 office prior to the return date of such order, and upon such terms as

1 may be just. Disposition of such escrow amounts shall be subject to  
2 further order of the court.

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