STATE OF NEW YORK

3280

2021-2022 Regular Sessions

IN SENATE

January 28, 2021

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

AN ACT in relation to enacting the Rochester housing court act

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

Section 1. Short title. This act shall be known and may be cited as the "Rochester housing court act".

§ 2. Definitions. As used in this act unless the context otherwise requires, the following words and terms shall have the meaning ascribed to them:

(a) "Housing codes" means all state and local laws for the establishment and maintenance of housing standards, including but not limited to the multiple dwelling law, real property law, real property actions and proceedings law, real property tax law, and the housing and property code, building code, zoning ordinance, and fire prevention code and related ordinances of the city of Rochester.

(b) "City" means the city of Rochester.

§ 3. Actions and proceedings permitted. Notwithstanding any other provision of law, a separate part of the city court of Rochester shall be exclusively devoted to actions and proceedings involving the enforcement of all housing codes, pertaining to all real property situated within the city as follows:

(a) Actions for the imposition and collection of criminal penalties, and for the imposition and collection of civil penalties, for the violation of any state or local laws involving the establishment and maintenance of housing standards.

(b) Actions for the collection of costs, expenses and disbursements incurred by the city of Rochester in the elimination or correction of a nuisance or other violation of any of the housing codes, or in the removal or demolition of any dwelling pursuant to such housing codes.

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

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(c) Actions and proceedings for the establishment, enforcement or foreclosure of liens upon real property and upon the rents therefrom for civil penalties, or for costs, expenses and disbursements incurred by the city in the elimination or correction of a nuisance or other violation of any of the housing codes or in the removal or demolition of any building pursuant to such housing codes.

(d) Proceedings for the issuance of injunctions and restraining orders or other orders for the enforcements of housing standards under any of the housing codes.

(e) All summary proceedings to recover possession of residential premises to remove tenants therefrom, and to render judgment for rent due, in which a tenant alleges a defense under section seven hundred fifty-five of the real property actions and proceedings law, relating to stay or proceedings or action for rent upon failure to make repairs, section three hundred two-a of the multiple dwelling law, relating to the abatement of rent in case of certain violations of any housing codes, and section two hundred thirty-five-b of the real property law, relating to a landlord's duty to maintain habitable premises, or any other law involving housing code enforcement. The administrative judge of Rochester city court may, in his or her discretion, empower the housing part to hear all summary proceedings to recover possession of residential premises, regardless of whether a tenant alleges a defense, at any time when he or she feels that housing part is capable of handling all such summary proceedings.

(f) 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 housing codes.

(g) Actions and proceedings for the removal of housing violations recorded pursuant to such housing codes, or for the imposition of such violation or for the stay of any penalty thereunder.

(h) Special proceedings to vest title in the city to abandoned multiple dwellings and one and two-unit structures.

§ 4. Consolidation. On the application of any city department, any party or on its own motion, the housing part shall, unless good cause is shown to the contrary, consolidate all actions and proceedings pending in such part as to any building.

§ 5. Relief permitted. 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 moneys appropriated by the city, other than for the utilization and deployment 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.

§ 6. Joinder. In any of the actions or proceedings specified in section three of this act and on the application of any party, any city

department or the court, on its own motion, 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.

§ 7. Judge; rules of evidence. Actions and proceedings before the housing part shall be tried before the housing part judge, who shall be assigned to the housing part by the administrative judge of the city court. Rules of evidence shall be applicable in actions and proceedings before the housing part.

§ 8. Advisory council; appointment. An advisory council for the housing part shall be established, and it shall be composed of two members representative of each of the following: the real estate industry, tenants' organizations, civic groups, bar associations, the Rochester housing committee and four members from the public at-large. Such members shall be appointed by the administrative judge of the city court, with the approval of the presiding justices of the fourth department. The members of the advisory council shall be appointed for a renewable term of three years provided that one of the initial members of each classification of membership shall serve for two years, such classes to be determined by the administrative judge. In addition, the mayor of the city and the city official in charge of housing programs shall each appoint one member to serve at their pleasure.

§ 9. Advisory council; reports. The advisory council shall meet at least four times a year, and on such additional occasions as they may require or as may be required by the administrative judge. Members shall receive no compensation. Members shall visit housing part from time to time to review the manner in which the part is functioning, and make recommendations to the administrative judge and to the advisory council. A report on the work of the court shall be prepared annually and submitted to the administrative judge, the administrative board of the judicial conference, the majority and minority leaders of the senate and assembly, the governor and the mayor of the city, by January thirty-first of each year.

§ 10. Cross-index. The clerk of the court shall maintain a cross-index of the names of all owners against which any action or proceeding has been brought under section three of this act. The clerk shall also maintain a cross-index number system indicating by street address all actions and proceedings brought under such section.

§ 11. Corporation. A corporation which is a party may be represented by an officer, director or a principal stockholder.

§ 12. Service of summons. Where the manner of service prescribed for actions and proceedings in this court includes delivery of the summons to a person at the actual place of business of the person to be served, such delivery may be made alternatively to a person of suitable age and discretion at the address registered with the department charged with the enforcement of local laws relating to housing maintenance, hereinafter referred to as the "registered address". Where the manner of service prescribed for actions and proceedings in this court includes affixing the summons to the door of the actual place of business of the person to be served, the summons may, as an alternative, be posted in a conspicuous place on the premises specified in the summons. Where the manner of service for actions or proceedings in this court includes mailing the summons to the person to be served at his or her last known residence, the summons may, as an alternative, be mailed to the registered address. A copy of the summons with proof of service shall be filed in the manner provided in section four hundred nine of the uniform

city court act, except that such filing shall be made with the clerk of housing part.

§ 13. Jury trial. Nothing contained in this act shall in any way affect the right of any party to trial by jury as heretofore provided by law.

§ 14. This act shall take effect on the sixtieth day after it shall have become a law. Effective immediately, the office of court administration shall promulgate rules and regulations necessary for the implementation of this act on its effective date.