

STATE OF NEW YORK

709

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. ROSENTHAL -- read once and referred to the
Committee on Housing

AN ACT to amend the real property actions and proceedings law, in
relation to proceedings to recover possession

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

1 Section 1. The opening paragraph of section 711 of the real property
2 actions and proceedings law, as amended by section 1 of part II of chap-
3 ter 56 of the laws of 2024, is amended to read as follows:

4 [A] No tenant in a residential dwelling shall be removed from
5 possession except in a special proceeding or through other judicial
6 process. For the purposes of this article, a tenant shall include an
7 occupant of one or more rooms in a rooming house or a resident, not
8 including a transient occupant, of one or more rooms in a hotel who has
9 been in possession for thirty consecutive days or longer. A tenant shall
10 not include a squatter. For the purposes of this section, a squatter is
11 a person who enters onto or intrudes upon real property without the
12 permission of the person entitled to possession, and continues to occupy
13 the property without title, right or permission of the owner or owner's
14 agent or a person entitled to possession. In the event of a conflict
15 between the provisions regarding squatters of this section and the
16 provisions of subdivision three of section seven hundred thirteen of
17 this article, the provisions of section seven hundred thirteen of this
18 article shall be controlling. No tenant or lawful occupant of a dwelling
19 or housing accommodation shall be removed from possession except in a
20 special proceeding. A special proceeding may be maintained under this
21 article upon the following grounds:

22 § 2. Subdivision 1 of section 721 of the real property actions and
23 proceedings law, as added by chapter 312 of the laws of 1962, is amended
24 to read as follows:

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

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1 1. The landlord or lessor, provided, however, that no person may
2 institute a proceeding pursuant to this article with respect to premises
3 located in a multiple dwelling until such time as the owner of the
4 multiple dwelling has registered properly with the agency responsible
5 for code enforcement, in accordance with the provisions of section three
6 hundred of the multiple residence law or section three hundred of the
7 multiple dwelling law.

8 § 3. Subdivision 1 of section 731 of the real property actions and
9 proceedings law, as amended by chapter 563 of the laws of 1994, is
10 amended to read as follows:

11 1. The special proceeding prescribed by this article shall be
12 commenced by petition and a notice of petition prepared in accordance
13 with rules approved by the appellate division with jurisdiction over the
14 proceedings. Such rules shall provide for the use of language that is
15 designed to be understood by the respondent in the proceeding. The peti-
16 tion shall include such other notice of the rights of the respondent as
17 may be deemed appropriate, including a statement that a form answer is
18 available from the clerk of the court. A notice of petition may be
19 issued only by an attorney, judge or the clerk of the court; it may not
20 be issued by a party prosecuting the proceeding in person.

21 § 4. Section 741 of the real property actions and proceedings law, as
22 added by chapter 312 of the laws of 1962, the opening paragraph as
23 amended by chapter 583 of the laws of 1979, subdivision 5 as amended by
24 chapter 302 of the laws of 1976, subdivisions 5-a and 5-b as added by
25 section 5 of part HH of chapter 56 of the laws of 2024, subdivision 6 as
26 added by chapter 615 of the laws of 2022, subdivision 7 as added by
27 chapter 579 of the laws of 2023 and subdivision 8 as amended by chapter
28 64 of the laws of 2024, is amended to read as follows:

29 § 741. Contents of petition. The petition shall be verified by the
30 person authorized by section seven hundred twenty-one of this article to
31 maintain the proceeding; or by a legal representative, attorney or agent
32 of such person pursuant to subdivision (d) of section [~~thirty—hundred~~]
33 three thousand twenty of the civil practice law and rules. An attorney
34 of such person may verify the petition on information and belief
35 notwithstanding the fact that such person is in the county where the
36 [~~attorney has his~~] attorney's office is located. Every petition shall:

37 1. State the interest of the petitioner in the premises from which
38 removal is sought.

39 2. State the respondent's interest in the premises and [~~his~~] such
40 respondent's relationship to petitioner with regard thereto.

41 3. Describe the premises from which removal is sought.

42 4. State whether there are any violations of any state or local hous-
43 ing codes which remain outstanding on the premises or common areas. In
44 cities with a population of one million or more, or in any municipality
45 in which housing code violations are classified by degree of threat to
46 health and safety, the petition shall itemize any such violations which
47 have been identified by the applicable code enforcement agency in its
48 notice of violation as being "hazardous", "immediately hazardous" or
49 which have been otherwise categorized as constituting a serious, or
50 imminent, threat to health and safety or requiring immediate repair.

51 5. State whether the petitioner has been notified by the local depart-
52 ment of social services that payment for rent is being withheld pursuant
53 to section one hundred forty-three-b of the social services law for any
54 portion of the premises.

55 6. With respect to premises subsidized directly or indirectly under a
56 state or federal program which requires that conditions be met in

connection with lease termination or eviction, state the name of the program, the name of the agency charged with supervision and whether the petitioner has complied with all applicable rules, regulations and administrative hearing requirements and has served all notices required in connection with lease termination or eviction from that public or subsidized housing program.

7. State the facts upon which the special proceeding is based.

~~[5-]~~ 8. State the relief sought. The relief may include a judgment for rent due, and for a period of occupancy during which no rent is due, for the fair value of use and occupancy of the premises if the notice of petition contains a notice that a demand for such a judgment has been made. Any willful material misstatement or omission by the petitioner with respect to the requirements of this section shall subject the petitioner to a civil penalty, not to exceed one thousand dollars, to be assessed in the eviction proceeding or in a subsequent plenary action. The petitioner may request leave of the court to amend the petition for the purpose of correcting material misstatements or curing omissions. In the event leave to amend is granted, the respondent shall be provided an adjournment to respond of not less than ten days from the date of service of the amended petition. A petitioner shall be deemed to have made a material misstatement or omission with respect to the requirements of subdivision four of this section upon submission to the court of certified records, or otherwise properly authenticated records, of the local agency or agencies charged with code compliance that violations of applicable codes, other than tenant caused or housekeeping as determined by the court, were outstanding at the time of the verification of the petition which were not described therein. A material misstatement shall be deemed willful unless the petitioner can establish by a preponderance of the evidence that such misstatement was not willful. In addition to the foregoing, in the event that an eviction warrant is executed in a proceeding in which a willful material misstatement is made, the respondent shall be entitled to damages not exceeding three times the costs incurred as a result of the eviction unless the petitioner can establish that the eviction would have been justified regardless of the misstatement.

~~[5-a-]~~ 9. Append or incorporate the notice required pursuant to section two hundred thirty-one-c of the real property law, which shall state the following: (i) if the premises are or are not subject to article six-A of the real property law, the "good cause eviction law", and if the premises are exempt, such petition shall state why the premises are exempt from such law; (ii) if the landlord is not renewing the lease for a unit subject to article six-A of the real property law, the lawful basis for such non-renewal; and (iii) if the landlord is increasing the rent upon an existing lease of a unit subject to article six-A of the real property law above the applicable local rent standard, as defined in subdivision eight of section two hundred eleven of the real property law, the justification for such increase.

~~[5-b-]~~ 10. If the petitioner claims exemption from the provisions of article six-A of the real property law pursuant to subdivision one of section two hundred fourteen of the real property law, append or incorporate the information required pursuant to subdivision one of section two hundred fourteen of the real property law.

~~[6-]~~ 11. In the city of Albany, where the premises from which removal is sought is subject to a local law requiring the registration of said premises as a condition of legal rental, allege proof of compliance with such local law.

1 ~~[7-]~~ 12. In the city of Newburgh, where the premises from which
2 removal is sought is subject to a local law requiring the registration
3 of said premises as a condition of legal rental, allege proof of compli-
4 ance with such local law.

5 ~~[8-]~~ 13. In the city of Syracuse, where the premises from which
6 removal is sought is subject to a local law requiring the registration
7 of said premises as a condition of legal rental, allege proof of compli-
8 ance with such local law.

9 § 5. Section 743 of the real property actions and proceedings law, as
10 amended by section 16 of part M of chapter 36 of the laws of 2019, is
11 amended to read as follows:

12 § 743. Answer. Except as provided in section seven hundred thirty-two
13 of this article, relating to a proceeding for non-payment of rent, at
14 the time when the petition is to be heard the respondent, or any person
15 in possession or claiming possession of the premises, may answer, orally
16 or in writing. If the answer is oral the substance thereof shall be
17 recorded by the clerk or, if a particular court has no clerk, by the
18 presiding judge or justice of such court, and maintained in the case
19 record. A form answer, in a form approved by the appellate division
20 with jurisdiction over the proceeding, shall be made available to the
21 respondent by the clerk of the court. The form answer shall include
22 possible defenses to the proceeding, including but not limited to
23 defenses established by sections two hundred twenty-three and two
24 hundred thirty-five-b of the real property law, section one hundred
25 forty-three-b of the social services law and section three hundred
26 five-a of the multiple residence law. The answer may contain any legal
27 or equitable defense, or counterclaim. The court may render affirmative
28 judgment for the amount found due on the counterclaim.

29 § 6. Subdivision 1 of section 745 of the real property actions and
30 proceedings law, as amended by section 17 of part M of chapter 36 of the
31 laws of 2019, is amended to read as follows:

32 1. Where triable issues of fact are raised, they shall be tried by the
33 court unless, at the time the petition is noticed to be heard, a party
34 demands a trial by jury, in which case trial shall be by jury. When the
35 petition indicates pursuant to subdivision four of section seven hundred
36 forty-one of this article, that there are outstanding code violations,
37 the court shall inquire regarding the duration and severity of the
38 outstanding violations and may stay the proceeding pending removal of
39 the violations in accordance with section seven hundred fifty-five of
40 this article, or make other disposition of the proceeding including
41 granting a total or partial abatement of rent, or dismissal of the
42 proceeding, as appropriate. At the time when issue is joined the court,
43 at the request of either party shall adjourn the trial of the issue, not
44 less than fourteen days, except by consent of all parties. A party's
45 second or subsequent request for adjournment shall be granted in the
46 court's sole discretion.

47 § 7. Section 749 of the real property actions and proceedings law is
48 amended by adding two new subdivisions 4 and 5 to read as follows:

49 4. The notice described in subdivision two of this section shall
50 include a statement advising the respondent that assistance to prevent
51 the eviction or otherwise to prevent the respondent from becoming home-
52 less may be available from the local department of social services and
53 shall include the phone number provided to the enforcement officer by
54 any private or public agency providing such assistance at the request of
55 such agency. Referral to legal aid, legal services or other legal
56 assistance offices shall also be included on such notices at the request

1 of such offices. In a proceeding based upon non-payment, such notice
2 shall also advise the respondent of the rent determined due together
3 with taxes, assessments, interest, penalties and costs in accordance
4 with the provisions of subdivision one of section seven hundred fifty-
5 one of this article, and shall advise the respondent of the amount
6 required and procedure for payment.

7 5. Upon written or oral notification to the officer by an authorized
8 representative of the local department of social services that an appli-
9 cation for assistance to prevent eviction is pending on behalf of the
10 respondent household, the officer shall refrain from execution of the
11 warrant until such time as that officer is advised by the social
12 services official of the determination of such application, provided,
13 however, that the social services district shall guarantee payment to
14 the petitioner for any additional rent accruing during this period to be
15 calculated on a pro-rata basis for the number of days delay occasioned
16 by the operation of this provision.

17 § 8. The opening paragraph and subdivision 1 of section 751 of the
18 real property actions and proceedings law, as added by chapter 312 of
19 the laws of 1962, are amended to read as follows:

20 The respondent may, at any time before a warrant is [~~issued~~]
21 executed, stay the [~~issuing~~] execution thereof and also stay an
22 execution to collect the costs, as follows:

23 1. Where the lessee or tenant holds over after a default in the
24 payment of rent, or of taxes or assessments, [~~he~~] such lessee or tenant
25 may effect a stay by depositing the amount of the rent due or of such
26 taxes or assessments, and interest and penalty, if any thereon due, and
27 the costs of the special proceeding, with the clerk of the court, or
28 where the office of clerk is not provided for, with the court, who shall
29 thereupon, upon demand, pay the amount deposited to the petitioner or
30 [~~his~~] such petitioner's duly authorized agent; or by delivering to the
31 court or clerk [~~his~~] a written assurance by an authorized representative
32 of the local department of social services or an undertaking to the
33 petitioner in such sum as the court approves to the effect that [~~he will~~
34 pay] the rent[~~, or~~] due will be paid together with such taxes or assess-
35 ments, and interest and penalty and costs within ten days, at the expi-
36 ration of which time a warrant may issue, unless [~~he~~] the respondent
37 produces to the court satisfactory evidence of the payment.

38 § 9. This act shall take effect on the first of February next succeed-
39 ing the date on which it shall have become a law and shall apply to
40 actions and proceedings commenced on or after such effective date;
41 provided, however, that the amendments to subdivisions 5-a and 5-b of
42 section 741 of the real property actions and proceedings law made by
43 section four of this act shall not affect the repeal of such subdivision
44 and shall be deemed repealed therewith. Effective immediately, the
45 addition, amendment and/or repeal of any rule or regulation necessary
46 for the implementation of this act on its effective date are authorized
47 to be made and completed on or before such effective date.