

## MEMORANDA

damages only were sought, and (2) pre-trial procedures had demonstrated that the potential recovery would not exceed \$3,000. While the basic monetary jurisdiction of the justice courts at that time was only \$1,000, section 214 authorized an increased jurisdictional limit—\$3,000—for cases that had been transferred down.

Section 214 has proven to be an effective tool in reducing calendar congestion in the superior courts in Westchester County. As the basic monetary jurisdiction of the justice courts has recently been increased by \$2,000, to be \$3,000, however, it is now necessary to increase their monetary jurisdiction on transfers under section 214 by a comparable amount. That increase, provided by this measure, will insure the continuing usefulness of the transfer procedure.

### COURTS—CITY COURT OF BUFFALO

*Text of Law, see Ch. 516*

#### Memorandum of Office of Court Administration

This measure would amend the Buffalo City Court Act and the Multiple Dwelling Law, in relation to the establishment of a housing part in the Buffalo City Court.

The purpose of this measure is to improve the quality of housing in the City of Buffalo by enabling stricter, more effective enforcement of housing standards. It proposes the consolidation of existing jurisdiction over actions related to efficient building maintenance and operation, now dispersed among several civil and criminal courts, into the housing part of the Buffalo City Court. As consolidated, this jurisdiction would be considerably broadened and the housing part would be empowered to recommend or employ any remedy, program, procedure or sanction authorized by federal, state or local law for the enforcement of housing standards.

It should be pointed out that there are two technical errors in the administrative provisions of this measure. First, proposed section 207 requires that members of the Advisory Council be appointed by the Administrative Judge of the City Court, with the approval of the "Presiding Justices [sic] of the Fourth Department". Second, proposed section 208 requires that the Advisory Council submit a copy of its annual report to the "Administrative Board of the Judicial Conference". These sections should be amended to reflect the provisions of new section 28 of Article VI of the Constitution and the new scheme of court administration, effective April 1, 1978, by (1) substituting "Chief Administrator of the Courts" for "Presiding Justices of the Fourth Department" (section 207), and (2) substituting "Chief Judge of the Court of Appeals" for "administrative Board of the Judicial Conference" (section 208).

Notwithstanding these technical deficiencies, which may be cured by the Legislature at a future session, the Office of Court Administration and the Chief Judge of the Buffalo City Court support this measure and its salutary aims. We foresee no adverse impact upon the operation of the City Court.

## Courts—City Court of Buffalo

Memorandum relating to this chapter, see page 1931

## CHAPTER 516

An Act to amend chapter five hundred seventy of the laws of nineteen hundred nine, relating to the establishment of the city court of Buffalo, in relation to establishing a housing part thereof, and to amend the multiple dwelling law, in relation to application thereof to cities of four hundred thousand or more.

Approved and effective July 21, 1978.

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

Section 1. Chapter five hundred seventy of the laws of nineteen hundred nine, relating to the establishment of the city court of Buffalo, is hereby amended by adding a new article X to read as follows:

ARTICLE X—HOUSING PART OF THE CITY COURT

Sec.

- 201. Definitions.
- 202. Actions and proceedings permitted.
- 203. Consolidation.
- 204. Relief permitted.
- 205. Joinder.
- 206. Judge; rules of evidence.
- 207. Advisory council; appointment.
- 208. Advisory council; reports.
- 209. Cross-index.
- 210. Corporation.
- 211. Service of summons.
- 212. Jury trial.

§ 201. Definitions

As used in this article 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 Buffalo.

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

§ 202. Actions and proceedings permitted

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

(a) Actions for the imposition and collection of criminal penalties, and for the imposition and collection of civil penalties, for the violation

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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 Buffalo 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.

(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 of Buffalo 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 Buffalo city court may, in his 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 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 of Buffalo to abandoned multiple dwellings and one and two-unit structures.

#### § 203. 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.

#### § 204. 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.

§ 205. Joinder

In any of the actions or proceedings specified in section two hundred two of this article 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.

§ 206. 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 of the administrative judge of the city court. Rules of evidence shall be applicable in actions and proceedings before the housing part.

§ 207. 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 Buffalo 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 of Buffalo and the city official in charge of housing programs shall each appoint one member to serve at their pleasure.

§ 208. 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

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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 of Buffalo, by the thirty-first day of each year.

### § 209. 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 two hundred two of this article. The clerk shall also maintain a cross-index number system indicating by street address all actions and proceedings brought under such section.

### § 210. Corporation

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

### § 211. 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 pursuant to section two hundred sixteen of the housing and property code of the city of Buffalo, 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 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 such code, except that such filing shall be made with the clerk of housing part.

### § 212. Jury trial

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

§ 2. Subdivision four of section three of the multiple dwelling law, as amended by chapter five hundred twenty-three of the laws of nineteen hundred sixty-seven, is hereby amended to read as follows:

4. a. Any city, town or village may make local laws, ordinances, resolutions or regulations not less restrictive than those provided in this chapter and may provide for their enforcement by legal or equitable actions or proceedings, and prescribe the penalties, sanctions and remedies for violations thereof. In the enforcement and administration of this chapter in a city of ~~one million~~ four hundred thousand or more persons, the penalties, sanctions and remedies enacted by local law may be applied, notwithstanding their inconsistency with this chapter, or the provisions of this chapter.

b. In a city of ~~one million~~ four hundred thousand or more persons, such local laws may authorize such actions or proceedings against the owner, lessee of a whole multiple dwelling, agent or other person having control of such dwelling, and any responsible party, or against the dwelling in rem. Such local laws may further authorize (1) that civil penalties may be enforced against the person liable therefor, and that in addition to the methods of enforcement for judgments established in the civil practice law and rules, a lien may be imposed against the premises and the rents therefrom; (2) that such civil penalties may be enforced against the dwelling by the imposition of a lien against the rents therefrom.

c. Such local laws may also authorize that all liens upon rents, whether authorized by state or local law, may be satisfied without further judicial proceedings by the collection of rents due or to become due.

§ 3. This act shall take effect immediately.

### Hospitals—Patient Care Charges and Revenue

*Memoranda relating to this chapter, see pages 1725, 1825*

## CHAPTER 517

An Act to amend the public health law, in relation to general hospital patient-care charges and revenue.

Approved July 24, 1978, effective as provided in section 6.

Passed on message of necessity. \*See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

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

Section 1. Legislative intent. Quality hospital care must be accessible to all people of the state of New York at reasonable cost. To insure that past efforts of the legislature to curtail burgeoning hospital costs are not rendered ineffectual and to preserve the health insurance benefits which the people of the state of New York now receive and to provide for containment of hospital charge increases to all persons with or without health insurance and to protect the health and welfare of the people, the legislature hereby adopts this act.

§ 2. Subdivision two of section twenty-eight hundred seven of the public health law is hereby amended by adding four new paragraphs (h), (i), (j) and (k) to read, respectively, as follows:

(h) General hospital charges to subscribers or beneficiaries of contracts entered into pursuant to the provisions of article nine-c of the insurance law<sup>1</sup> or to members of a comprehensive health services plan pursuant to the provisions of article forty-four of this chapter<sup>2</sup> for patient services rendered shall not exceed the rates of payment approved by the superintendent of insurance or the commissioner, respectively, for payments by such article nine-c of the insurance law or article forty-four of this chapter. No general hospital may demand or request any charge for such covered services in addition to the charges authorized by this paragraph.

No general hospital shall refuse to provide patient services to such subscribers or beneficiaries solely on the grounds of such subscription or membership.