



General Assembly

January Session, 2013

Raised Bill No. 6661

LCO No. 4491



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING USE AND OCCUPANCY PAYMENTS IN SUMMARY PROCESS MATTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47a-26b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) If the defendant appears, the court shall, upon motion and
4 without hearing, unless the defendant files an objection within five
5 days of the filing of the motion, order the defendant to deposit with
6 the court within [ten] five days of the filing of the motion payments for
7 use and occupancy in an amount equal to the last agreed-upon rent or,
8 in the absence of a prior agreed-upon rent, in an amount equal to the
9 fair rental value of the premises during the pendency of such action
10 accruing from the date of such order. If the motion is served upon the
11 defendant with the complaint, the motion shall be deemed for
12 purposes of this section to have been filed on the date on which the
13 [defendant appears] return of service of the complaint and motion is
14 made. If the motion is served upon the defendant with the complaint,
15 the defendant's objection to the motion, if any, shall be filed not later

16 than the time prescribed for the defendant to file an appearance. If all
17 or a portion of the defendant's rent is being paid to the plaintiff by a
18 housing authority, municipality, state agency or similar entity, this
19 requirement shall be satisfied if the defendant deposits with the court
20 an amount equal to his portion of the last agreed-upon rent. The
21 motion for use and occupancy payments shall include a statement of
22 the amount of the last agreed-upon rent. The motion shall be filed on a
23 form prescribed by the Office of the Chief Court Administrator and
24 shall contain, in clear and simple language, a notice advising the
25 defendant that, if the defendant files an objection within five days of
26 the date the motion was filed, the court will conduct a hearing on the
27 motion prior to entering an order, but, if the defendant does not file an
28 objection during such time period, the court will order use and
29 occupancy payments without a hearing. The form shall also contain a
30 place for the defendant to claim an objection to the motion and notice
31 that the defendant may file an objection [at any time] within the time
32 periods prescribed in this subsection. The filing by the plaintiff of a
33 motion for use and occupancy payments shall not suspend the time
34 limits for pleading under section 47a-26a.

35 (b) Notice to the defendant of an order for use and occupancy
36 payments shall be given on a form prescribed by the Office of the Chief
37 Court Administrator. Such form shall state in clear and simple
38 language and in readable format (1) the amount to be paid, (2) the date
39 by which such payment must be received by the clerk, and (3) the
40 consequences of failure to make payment as ordered.

41 (c) If the defendant files an objection to the motion, a hearing on the
42 objection shall be held not [more] later than seven days after such
43 objection is filed, after which the court shall order the defendant to
44 deposit with the court, not later than five days after the date of the
45 order, payments for use and occupancy in an amount equal to the fair
46 rental value of the premises during the pendency of such action
47 accruing from the date of such order. If all or a portion of the
48 defendant's rent is being paid to the plaintiff by a housing authority,

49 municipality, state agency or similar entity, this requirement shall be
50 satisfied if the defendant deposits with the court an amount equal to
51 his portion of the fair rental value of the premises. The last agreed-
52 upon rent shall be prima facie evidence of the fair rental value of the
53 premises. The party claiming a different amount shall have the burden
54 of proving that the last agreed-upon rent is not the fair rental value.
55 Such order shall permit the payment of such amounts in monthly
56 installments, as such amounts become due. Nothing in this subsection
57 shall preclude either party from subsequently moving to modify the
58 amount of the payment order for cause shown.

59 (d) If the defendant fails to make such payments as ordered, the
60 clerk shall, immediately and without the filing of a motion, order [the
61 defendant to file his answer and, if the defendant fails to do so within
62 four days of the mailing of such order, judgment shall forthwith be
63 entered for] judgment by default in favor of the plaintiff. [If] In a
64 matter in which a motion for use and occupancy was served upon the
65 defendant with the complaint, if the defendant files [an answer within
66 such four-day period, the clerk shall set such matter down for hearing
67 not less than three nor more than seven days after such answer and
68 reply, if any, are filed] a motion to set aside the judgment by default,
69 the court may not grant such motion unless the defendant has fully
70 complied with (1) the court's prior order concerning the deposit of use
71 and occupancy payments with the court, and (2) the requirements set
72 forth in sections 47a-26i, 52-212, 52-212a and 52-259c.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	47a-26b

Statement of Purpose:

To expedite resolution of summary process matters by revising procedures associated with use and occupancy payments.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]