



STATE OF NEW YORK  
**UNIFIED COURT SYSTEM**  
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**A. GAIL PRUDENTI**  
Chief Administrative Judge

**JOHN W. MCCONNELL**  
Counsel

**MEMORANDUM**

December 7, 2012

**TO:** All Interested Persons

**FROM:** John W. McConnell

**RE:** Proposed amendments of 22 NYCRR § 202.5-b, authorizing commencement of SCAR proceedings in "text file" format at the filing party's option.

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Real Property Tax Law (RPTL) § 730 establishes a small claims assessment review (SCAR) program in Supreme Court whereby real property owners may challenge real property assessments on the grounds that such assessments are unequal or excessive. Section 737 directs the Chief Administrator to adopt rules of practice and procedure for SCAR cases (Exhibit A).

SCAR proceedings are commenced during brief annual filing windows when attorneys and filing agents may file hundreds or thousands of petitions each week. To improve the SCAR process, NYSCEF administrators propose amending section 202.5-b to establish a bulk-upload procedure enabling the simultaneous e-filing of large numbers of SCAR cases (Exhibit B). This procedure would facilitate the filing of numerous petitions by attorneys and filing agents without the need to e-file the petitions individually, requiring time-consuming manual scanning and uploading of PDF documents and completion of online data entry.

Under the proposed amendments, SCAR proceedings could be commenced by e-filing the required data elements of each petition in "text-file" format. The text-file data would be converted by NYSCEF into standard form PDF petitions recorded on the NYSCEF site. A PDF petition would conform substantially to the original hard-copy, signed petition, except for the absence of signatures. To address any issues relating to signatures or completeness of PDF petitions generated from text file data, the proposal clarifies that the process begins with creation of a signed, hard-copy original that must be served on all respondents, unless service is waived. Further, the original petition must be retained and made available for inspection until the proceeding is fully concluded, enabling SCAR respondents to verify homeowner signatures and ensure that filing representatives are properly authorized. Currently, this procedure has been implemented in some counties by stipulation of the parties.

Proponents of this rule change note that authorization of bulk e-filing at the filer's option is consistent both with the RPTL's intent of providing a user-friendly SCAR process and

NYSCEF's purpose of providing a convenient, cost-effective means for filing court papers. Additional conforming amendments are proposed to the small claims assessment rules (22 NYCRR § 202.58) (Exhibit B).

Persons wishing to comment on this proposal should e-mail their submissions to [OCA-scar-filings@nycourts.gov](mailto:OCA-scar-filings@nycourts.gov) or write to: John W. McConnell, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 11th Fl., New York, New York 10004.

Comments must be received no later than February 7, 2013.

**EXHIBIT A**

## McKinney's RPTL § 737

McKinney's Consolidated **Laws** of New York Annotated Currentness**Real Property Tax Law (Refs & Annos)**Chapter 50-A. Of the Consolidated **Laws**▣ **Article 7.** Judicial Review▣ **Title 1-A.** Special Proceeding for Small Claims Assessment Review➔ **§ 737. Rules of practice and procedure**

The chief administrator of the courts shall adopt such rules of practice and procedure, not inconsistent herewith, as may be necessary to implement the small claims assessment review procedure hereby established. Such rules shall provide for the scheduling of evening hearings where practicable, the availability of petition forms, and the procedures for the filing of decision rendered by hearing officers pursuant to the provisions of this title.

## CREDIT(S)

(Added L.1981, c. 1022, § 1. Amended L.1982, c. 531, § 10.)

## HISTORICAL AND STATUTORY NOTES

L.1982, c. 531 legislation

L.1982, c. 531, § 10, eff. July 13, 1982, in sentence beginning "Such rules shall" inserted "where practicable".

L.1981, c. 1022 legislation

L.1981, c. 1022, § 3-a, added L.1982, c. 531, § 15, eff. July 13, 1982, provides:

"If any section, clause or provision of this act shall be unconstitutional or be ineffective in whole or in part, to the extent it is not unconstitutional or ineffective it shall be valid or effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective."

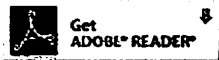
McKinney's R. P. T. L. § 737, NY RP TAX § 737

Current through L.2012, chapters 1 to 447.

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## McKinney's RPTL § 730

McKinney's Consolidated Laws of New York Annotated CurrentnessReal Property Tax Law (Refs & Annos)

Chapter 50-A. Of the Consolidated Laws

Article 7. Judicial Review

Title 1-A. Special Proceeding for Small Claims Assessment Review

## →§ 730. Procedure to review small claims

1. The chief administrator of the courts shall establish a small claims assessment review program in the supreme court. An owner of real property claiming to be aggrieved by an assessment on real property on the ground that such assessment is unequal or excessive may file a petition for review pursuant to this article provided that:

(a) the property owner shall have first filed a complaint pursuant to section five hundred twenty-four or section fourteen hundred eight of this chapter or the provisions of a local law or charter providing for administrative review of assessments;

(b) the property is: (i) improved by a one, two or three family owner-occupied structure used exclusively for residential purposes other than property subject to the assessment limitations of section five hundred eighty-one of this chapter and article nine-B of the real property law or (ii) the property is unimproved and is not of sufficient size as determined by the assessing unit or special assessing unit to contain a one, two or three family residential structure;

(c) the equalized value of the property does not exceed four hundred fifty thousand dollars or, in the event such equalized value exceeds four hundred fifty thousand dollars, the total assessment reduction requested does not exceed twenty-five percent of the assessed value of the property; and

(d) the petition shall not request an assessment lower than that requested in the complaint filed pursuant to section five hundred twenty-four or fourteen hundred eight of this chapter or the provisions of a local law or charter providing for administrative review of assessments.

For the purpose of this section, the equalized value of the property shall equal the assessed value of the property divided by the most recent equalization rate or, in the case of a special assessing unit, the most recent class one ratio, when established. In the event there has been a material change in the level of assessment the special equalization rate shall be used to determine the equalized value of the property.

An owner of real property who qualifies under paragraphs (a) through (d) of this subdivision shall also include:

(i) a person or persons whose real property is held in trust solely for the benefit of such person or persons if the property serves as the primary residence of such person or persons and the trust which holds title to the property was lawfully created to hold title solely for estate planning and asset protection purposes; and

(ii) a person or persons who reside in real property which is owned by a limited partnership if the property serves as the primary residence of such person or persons and said limited partnership does not engage in any commercial activity, was lawfully created to hold title solely for estate planning and asset protection purposes and the partner or partners who primarily reside thereon personally pay all of the real property taxes and other

costs associated with the property's ownership.

2. Upon determining any such complaint every real property tax board of assessment review shall inform every owner of one, two or three family owner-occupied residential real property in writing of the right to small claims assessment review in the manner provided by subdivision four of section five hundred twenty-five of this chapter. Such notice shall specify the last date on which petitions must be filed and the location where small claims assessment review forms may be obtained. The petition form for small claims assessment review shall be provided to such property owner, upon request, at no cost in accordance with the rules promulgated pursuant to section seven hundred thirty-seven of this title.

3. The petition for review pursuant to this title shall be filed within thirty days after the completion and filing of the final assessment roll containing such assessment or, in a city with a population of one million or more, before the twenty-fifth day of October following the time when the determination sought to be reviewed was made, in accordance with the rules promulgated pursuant to section seven hundred thirty-seven of this title. A fee of thirty dollars shall be paid upon filing of each petition, which shall be the sole fee required for petitions filed pursuant to this title. The county clerk of each county outside the city of New York shall retain five dollars of each filing fee and shall pay the balance of each fee to the state commissioner of taxation and finance as provided in paragraph (e) of subdivision two of section thirty-nine of the judiciary law. For the purposes of this section an assessment roll shall not be considered finally completed and filed until the last day provided by law for the filing of such assessment roll or until notice thereof has been given as required by law, whichever is later. Failure to file the petition within such time shall constitute a complete defense to the petition and the petition must be dismissed.

4. The petition form for small claims assessment review shall be prescribed by the office of court administration after consultation with the commissioner. Such form shall require the petitioner to set forth his name, address and telephone number, a description of the real property for which small claims assessment review is sought, the name of the assessing unit having made the assessment, the amount of the assessment and of the reduction in assessed valuation or taxable assessed valuation requested, each tax district which utilizes such assessment and the tax rate or adjusted tax rate of each tax district or consolidated tax rate, if applicable, a concise statement of the ground or grounds upon which review is sought and any such other information as may be required by the office of court administration.

5. No petition for small claims assessment review shall relate to more than one parcel of real property.

6. The petition may be made by a person who has knowledge of the facts stated therein and who is authorized in writing by the property owner to file such petition. Such written authorization must be made a part of such petition and bear a date within the same calendar year during which the complaint is filed.

7. Commencement of a proceeding under this article shall not stay the proceedings of the assessors or other persons against whom the proceeding is maintained or to whom the assessment is delivered, to be acted upon according to law.

8. The petitioner shall mail a copy of the petition within ten days from the date of filing with the clerk of the supreme court to: (a) the clerk of the assessing unit named in the petition, or if there be no such clerk, then to the officer who performs the customary duties of that official, or to the president of the tax commission in a city with a population of more than one million and having a tax commission; (b) the assessor or chairman of the board of assessors of the assessing unit named in the petition; (c) the clerk of any school district, except a school district governed by the provisions of article fifty-two of the education law, within which any part of the real property on which the assessment to be reviewed is located, or if there be no clerk or the clerk's name and address cannot be obtained, then to a trustee; (d) the treasurer of any county in which any part of the real property is located; and (e) the clerk of a village which has enacted a local law as provided in subdivision three

of section fourteen hundred two of this chapter if the assessment to be reviewed is on a parcel located within such village. Service upon the clerk of the assessing unit or other appropriate official specified in paragraph (a) of this subdivision shall be made by personal delivery or by certified mail, return receipt requested. In the event that service is made by personal delivery, the clerk of the assessing unit or other appropriate person shall provide a receipt for such service to the petitioner stating the date and time of service. Neither the school district, county nor such village shall be deemed to have been made a party to the proceeding.

9. Repealed by L.2012, c. 114, § 2, eff. July 18, 2012.

#### CREDIT(S)

(Added L.1981, c. 1022, § 1. Amended L.1982, c. 531, §§ 1 to 5; L.1982, c. 714, § 21; L.1983, c. 357, § 1; L.1983, c. 735, § 23; L.1984, c. 473, § 18; L.1985, c. 687, § 2; L.1986, c. 858, § 1; L.1987, c. 221, § 1; L.1991, c. 552, § 1; L.1993, c. 154, § 1; L.1997, c. 517, § 1, eff. Jan. 1, 1998; L.2003, c. 62, pt. J, § 26, eff. July 14, 2003; L.2003, c. 363, § 1, eff. Aug. 19, 2003; L.2005, c. 215, § 1, eff. July 12, 2005; L.2006, c. 556, § 1, eff. Aug. 16, 2006; L.2010, c. 56, pt. W, § 1, subd. (b), eff. June 22, 2010; L.2012, c. 114, §§ 1, 2, eff. July 18, 2012.)

#### HISTORICAL AND STATUTORY NOTES

##### L.2012, c. 114 legislation

Subd. 1, last undesig. par. L.2012, c. 114, § 1, added the last undesignated paragraph and cls. (i) and (ii) under that.

Subd. 9. L.2012, c. 110, § 2, repealed subd. 9, which had read:

"9. Where real property is held in trust solely for the benefit of a person or persons, such person or persons may be deemed to be the owner or owners of such property for purposes of this title."

##### L.2010, c. 56 legislation

L.2010, c. 56, pt. W, § 1, subd. (b), provides:

"Wherever the terms 'state board of real property services,' 'state board' or 'state office of real property services' appear in the real property tax law, such terms are hereby changed to 'commissioner', provided that in sections 204, 206, 208, 614, 816, 818, 1253 and 1263 of the real property tax law, such terms shall be changed to 'state board of real property tax services,' and provided further that the text of sections 200, 202, 216, 489-o, 489-11, 1210 and 1218 of the real property tax law shall be changed only as provided by the ensuing provisions of this act, and provided further that the provisions of this subdivision shall not apply to the text of sections 200-a, 201 and 203 of the real property tax law as added by sections five and seven of this act."

##### L.2006, c. 556 legislation

Subd. 8. L.2006, c. 556, § 1, rewrote subd. 8, which had read:

"The petitioner shall mail a copy of the petition within ten days from the date of filing with the clerk of the supreme court to: (a) the clerk of the assessing unit named in the petition, or if there be no such clerk, then to the officer who performs the customary duties of that official, or to the president of the tax commission in a city with a population of more than one million and having a tax commission; (b) the clerk of any school district, except a school district governed by the provisions of article fifty-two of the education law, within which any part of the real property on which the assessment to be reviewed is located, or if there be no clerk or the clerk's name and address cannot be obtained, then to a trustee; (c) the treasurer of any county in which any part of

**EXHIBIT B**



**202.5-b. Electronic Filing in Supreme Court; Consensual Program.**

**(a) Application.**

(1) On consent, documents may be filed and served by electronic means in Supreme Court in such civil actions and in such counties as shall be authorized by order of the Chief Administrator of the Courts and only to the extent and in the manner provided in this section.

(2) Definitions. For purposes of this section:

(i) “electronic means” shall mean any method of transmission of information between computers or other machines, other than facsimile machines, designed for the purpose of sending and receiving such transmissions, and which allows the recipient to reproduce the information transmitted in a tangible medium of expression;

(ii) “NYSCEF” shall mean the New York State Courts Electronic Filing System and the “NYSCEF site” shall mean the New York State Courts Electronic Filing System website located at [www.nycourts.gov/efile](http://www.nycourts.gov/efile);

(iii) “e-filing”, “electronic filing” and “electronically filing” shall mean the filing and service of documents in a civil action by electronic means through the NYSCEF site;

(iv) an “authorized e-filing user” shall mean a person who has registered to use e-filing pursuant to subdivision (c) of this section;

(v) an “action” shall include a special proceeding and an “e-filed action” shall mean an action in which documents are electronically filed and served in accordance with this section;

(vi) “hard copy” shall mean information set forth in paper form;

(vii) “working copy” shall mean a hard copy that is an exact copy of a document that has been electronically filed in accordance with this section;

(viii) “party” or “parties” shall mean the party or parties to an action or counsel thereto; and

(ix) “Resource Center” shall mean the NYSCEF Resource Center, the e-filing help center available at 646-386-3033 or [efile@courts.state.ny.us](mailto:efile@courts.state.ny.us) and through the NYSCEF site.

**(b) E-filing in Actions in Supreme Court.** Except as otherwise provided in section 202.5-bb of these rules, the following shall apply to all actions in Supreme Court:

(1) Commencing an action by electronic means. A party may commence any action in the Supreme Court in any county (provided that e-filing has been authorized in that county and in the class of

actions to which that action belongs pursuant to paragraph (1) of subdivision (a) of this section) by electronically filing the initiating documents with the County Clerk through the NYSCEF site. When so authorized, a petition to commence a proceeding for review of a small claims assessment pursuant to Real Property Tax Law § 730 may be e-filed, including as follows: the petition, in the form prescribed by the Chief Administrator in accordance with such section, shall be completed and signed in hard copy as provided in that section and shall be e-filed by transmission to the NYSCEF site, in conformity with procedures established by the site, of a text file containing all of the information set forth in the completed and executed hard copy petition (exclusive of the signature(s)). Upon receipt of such transmission, the site shall generate and record the completed petition in proper form in portable document format.

(2) E-filing in an action after commencement.

(i) Consent of the parties required. After commencement of an action wherein e-filing is authorized, documents may be electronically filed and served, but only by, and electronic service shall be made only upon, a party or parties who have consented thereto. A party's failure to consent to participation in electronic filing and service shall not bar any other party to the action from filing documents electronically with the County Clerk and the court or serving documents upon any other party who has consented to participation. A party who has not consented to participation shall file documents with the court and the County Clerk, and serve and be served with documents, in hard copy. When an e-filing party serves a document in hard copy on a non-participating party, the document served shall bear full signatures of all signatories and proof of such service shall be filed electronically.

(ii) Consent to e-filing; how obtained. A consent to e-filing in an action shall state that the party providing it agrees to the use of e-filing in the action and to be bound by the filing and service provisions in this section. A party who has commenced an action electronically shall serve upon the other parties together with the initiating documents a notice regarding availability of e-filing in a form approved by the Chief Administrator. A party who seeks to use e-filing in a pending action shall serve said notice upon all other parties. Whenever such a notice is served, proof of service thereof shall be transmitted to the court. Service of such a notice shall constitute consent to e-filing in the action by the party causing such service to be made. A party served with such a notice shall promptly file with the court and serve on all parties of record either a consent or a declination of consent. An authorized e-filing user may file a consent electronically in the manner provided at the NYSCEF site. Consent may also be obtained by stipulation. The filing of a consent to e-filing hereunder shall not constitute an appearance in the action.

(iii) Documents previously filed with the court; termination or modification of e-filing procedures. When an action becomes subject to e-filing, the court may direct that documents previously filed in the action in hard copy be filed electronically by the parties. The court may at any time order discontinuation of e-filing in such action or modification of e-filing procedures therein in order to prevent prejudice and promote substantial justice.

**(c) Authorized E-filing Users, Passwords and Registration.**

(1) Registration required. Documents may be filed or served electronically only by a person who has registered as an authorized e-filing user or as otherwise provided in this subdivision.

(2) Registering as an authorized e-filing user.

(i) Who may register. An attorney admitted to practice in the State of New York, or a person seeking to serve as an authorized e-filing agent on behalf of attorneys of record in an e-filed action or actions (hereinafter "filing agent") may register as an authorized e-filing user of the NYSCEF site. An attorney admitted pro hac vice in an action, a party to an action who is not represented by an attorney, or a person who has been authorized in writing by an owner or owners of real property to submit a petition as provided in section 730 of the Real Property Tax Law and who has been licensed to engage in such business as required by the jurisdiction in which the business is operated (hereinafter "small claims assessment review filing agent") may also register as an authorized e-filing user, but solely for purposes of such action or, in the case of a small claims assessment review filing agent, solely for those proceedings under section 730 of the Real Property Tax Law in which he or she has been authorized to submit a petition.

(ii) How to register. Registration shall be on a form prescribed by the Chief Administrator. If so provided by the Chief Administrator, registration shall not be complete until the registering person has been approved as an e-filing user. An authorized e-filing user shall notify the Resource Center immediately of any change in the information provided on his or her registration form.

(3) Identification and password. Upon registration, an authorized e-filing user shall be issued a confidential User Identification Designation ("User ID") and a password by the Unified Court System ("UCS"). An authorized e-filing user shall maintain his or her User ID and password as confidential, except as provided in paragraph (4) of this subdivision. Upon learning of the compromise of the confidentiality of either the User ID or the password, an authorized e-filing user shall immediately notify the Resource Center. At its initiative or upon request, the UCS may at any time issue a new User ID or password to any authorized e-filing user.

(4) User ID and password; use by authorized person. An authorized e-filing user may authorize another person to file a document electronically on his or her behalf in a particular action using the User ID and password of the user, but, in such event, the authorized e-filing user shall retain full responsibility for any document filed.

**(d) Electronic Filing of Documents.**

(1) Electronic Filing of Documents. (i) Electronic filing required; format of e-filed documents; statement of authorization. In any action subject to e-filing, all documents required to be filed with the court by a party that has consented to such e-filing shall be filed and served electronically, except as provided in this section. Documents shall be e-filed in text-searchable portable document format (PDF-A) and shall otherwise comply with the technical requirements set forth at the NYSCEF site.

A filing agent (other than one employed by a governmental entity) shall e-file a statement of authorization from counsel of record in an action, in a form approved by the Chief Administrator, prior to or together with the first e-filing in that action by the agent on behalf of that counsel. (ii) Emergency exception; other hard copy filings. Documents that are required to be filed and served electronically in accordance with this section or paragraph (1) of subdivision (c) of section 202.5-bb of these rules may nevertheless be filed and served in hard copy where required by statute or court order, where the document is an application that may by statute be presented without notice, or provided the document is accompanied by the affirmation or affidavit of the filing attorney or party stating that: (i) a deadline for filing and service fixed by statute, rule or order of the court will expire on the day the document is being filed and served or on the following business day; and (ii) the attorney, party or filing agent therefor is unable to file and serve such document electronically because of technical problems with his or her computer equipment or Internet connection. In the event a filer shall file and serve documents in hard copy pursuant to this paragraph, each such document shall include the notice required by this paragraph, and the filer shall file those documents with the NYSCEF site within three business days thereafter. (iii) Form of notice required on hard copy filing. Where an action is subject to e-filing and a party or attorney seeks to file a document therein in hard copy, such document shall include, on a separate page firmly affixed thereto, a notice of hard copy submission, in a form approved by the Chief Administrator, that the party or attorney: (A) is authorized to and does withhold consent to e-filing, (B) is exempt from having to e-file, or (C) is authorized or required to file such document in hard copy pursuant to an exception provided in these Rules.

(2) Payment of Fees. Whenever documents are filed electronically that require the payment of a filing fee, the person who files the documents shall provide therewith, in payment of the fee: (i) such credit card information as shall be required at the NYSCEF site to permit a card to be charged by the County Clerk; or (ii) the form or information required by the County Clerk to permit him or her to debit an account maintained with the County Clerk by an attorney or law firm appearing for a party to the action; or (iii) such information as shall be required at the NYSCEF site to permit an automated clearing house debit to be made; or (iv) any other form of payment authorized by the Chief Administrator. Notwithstanding the foregoing, where permitted by the County Clerk, an authorized e-filing user who electronically files documents that require the payment of a filing fee may cause such fee to be paid thereafter at the office of the County Clerk.

(3) Filing and receipt of documents; notification; secure information.

(i) When documents are filed. Documents may be transmitted at any time of the day or night to the NYSCEF site. A document is filed when its electronic transmission or, in the case of a petition that is e-filed by submission of a text file as provided in subdivision (b)(1) of this section, the electronic transmission of the text file is recorded at that site, provided, however, that where payment of a fee is required upon the filing of a document, the document is not filed until transmission of the document and the information or form or information as required in (i), (ii) or (iii) of paragraph (2) of this subdivision has been recorded at the NYSCEF site; or, if no transmission of that information or form or information is recorded, where permitted by the County Clerk, until payment is presented to the County Clerk.

(ii) Notification. No later than the close of business on the business day following the electronic filing of a document, a notification, in a form prescribed by the Chief Administrator, shall be transmitted electronically by the NYSCEF site to the person filing such document and all other parties participating in e-filing. When documents initiating an action are filed electronically, the County Clerk shall assign an index number or filing number to the action and that number shall be transmitted to the person filing such documents as part of the notification. If, where permitted, payment is submitted after the initiating documents have been transmitted electronically, the County Clerk shall assign the number upon presentation of that payment.

(iii) Secure information. When electronically filing a document, the filer shall indicate whether it contains any of the following: individually identifiable health information, a social security number (where filing of such number is allowed by General Business Law §399-dd(6)), a credit card or bank account number, an individual's date of birth or home address, a minor child's name, or trade secrets. If such person indicates that any of this information is contained in the document, access to it on the NYSCEF site will be restricted to consenting parties to the action, the County Clerk and the court and, if the filer is a filing agent, to the agent. The document will, however, be available for public inspection at the office of the County Clerk unless sealed by the court. Secure filings of the following documents shall not be permitted: (1) affirmation/affidavit of service; (2) notice of pendency; (3) cancellation of notice of pendency (lis pendens); (4) bill of costs; (5) proof of service; (6) request for judicial intervention (all forms); (7) release of lien; and (8) satisfaction of judgment.

(4) Official record; maintenance of files; working copies. When a document has been filed electronically pursuant to this section, the official record shall be the electronic recording of the document stored by the County Clerk. The County Clerk or his or her designee may scan and e-file documents that were filed in hard copy in an action subject to e-filing or maintain those documents in hard copy form. All documents maintained by the County Clerk as the official electronic record shall also be filed in the NYSCEF system. Where a document that was filed in hard copy is thereafter e-filed, the filing date recorded in NYSCEF shall be the date of hard copy filing. The court may require the parties to provide working copies of documents filed electronically. In such event, each working copy shall include, firmly affixed thereto, a copy of a confirmation notice in a form prescribed by the Chief Administrator.

(5) Decisions, orders and judgments. Unless the court directs otherwise, any document that requires a judge's signature shall be transmitted electronically and in hard copy to the court. Unless the Chief Administrator authorizes use of electronic signatures, decisions, orders and judgments signed by a judge shall be signed in hard copy. All signed decisions, orders and judgments shall be converted into electronic form and transmitted to the NYSCEF site by the appropriate clerk.

(6) Exhibits and other documents in hard copy. Notwithstanding any other provision of this section, and subject to such guidelines as may be established by the Chief Administrative Judge, the County Clerk or his or her designee may require or permit a party to file in hard copy, in accordance with procedures set by the County Clerk or designee, an exhibit or other document which it is impractical or inconvenient to file electronically.

**(e) Signatures.**

(1) **Signing of a document.** An electronically filed document shall be considered to have been signed by, and shall be binding upon, the person identified as a signatory, if:

(i) it bears the physical signature of such person and is scanned into an electronic format that reproduces such signature; or

(ii) the signatory has electronically affixed the digital image of his or her signature to the document; or

(iii) it is electronically filed under the User ID and password of that person; or

(iv) in a tax certiorari action in which the parties have stipulated to this procedure, it is an initiating document that is electronically filed without the signature of the signatory in a form provided above in this subparagraph, provided that, prior to filing, the document is signed in full in hard copy (which hard copy must be preserved until the conclusion of all proceedings, including appeals, in the case in which it is filed); or

(v) in a small claims assessment review proceeding, it is a petition recorded by the NYSCEF site upon the filing of a text file as provided in subdivision (b) (1) of this section, provided that, prior to filing, the document was signed in full in hard copy (which hard copy must be preserved until the conclusion of all proceedings in the matter, including article 78 review and any appeals, and must be made available during the proceeding upon request of the respondent or the court); or

(vi) it otherwise bears the electronic signature of the signatory in a format conforming to such standards and requirements as may hereafter be established by the Chief Administrator.

(2) **Compliance with Part 130.** A document shall be considered to have been signed by an attorney or party in compliance with section 130-1.1-a of the Rules of the Chief Administrator (22 NYCRR §130-1.1-a) if it has been signed by such attorney or party as provided in paragraph (1) of this subdivision and it bears the signatory's name.

(3) **Certification of Signature.** A judge, party or attorney may add his or her signature to a stipulation or other filed document by signing and filing, or causing to be filed, a Certification of Signature for such document in a form prescribed by the Chief Administrator.

**(f) Service of Documents.**

(1) **Service of initiating documents in an action.** Initiating documents may be served in hard copy pursuant to Article 3 of the CPLR, or, in tax certiorari cases, pursuant to the Real Property Tax Law, and shall bear full signatures as required thereby, or by electronic means if the party served agrees to accept such service. In the case of a proceeding to review a small claims assessment where the petition has been e-filed by the submission of a text file as provided in subdivision (b) (1) of this

section, a hard copy of the petition, fully completed and signed as set forth in that subdivision, shall be mailed, and shall be served upon the assessing unit or tax commission, as provided in Section 730 of the Real Property Tax Law, unless otherwise stipulated. A party served by electronic means shall, within 24 hours of service, provide the serving party or attorney with an electronic confirmation that the service has been effected.

(2) Service of interlocutory documents in an e-filed action.

(i) E-mail address for service. Each party in an action subject to electronic filing that has consented thereto shall identify on an appropriate form an e-mail address at which service of interlocutory documents on that party may be made through notification transmitted by the NYSCEF site (hereinafter the "e-mail service address"). Each filing user shall promptly notify the Resource Center in the event of a change in his or her e-mail service address.

(ii) How service is made. Where parties to an action have consented to e-filing, a party causes service of an interlocutory document to be made upon another party participating in e-filing by filing the document electronically. Upon receipt of an interlocutory document, the NYSCEF site shall automatically transmit electronic notification to all e-mail service addresses in such action. Such notification shall provide the title of the document received, the date received, and the names of those appearing on the list of e-mail service addresses to whom that notification is being sent. Each party receiving the notification shall be responsible for accessing the NYSCEF site to obtain a copy of the document received. Except as provided otherwise in subdivision (h) (3) of this section, the electronic transmission of the notification shall constitute service of the document on the e-mail service addresses identified therein; however, such service will not be effective if the filing party learns that the notification did not reach the address of the person to be served. Proof of such service will be recorded on the NYSCEF site. A party may, however, utilize other service methods permitted by the CPLR provided that, if one of such other methods is used, proof of that service shall be filed electronically.

**(g) Addition of Parties or Proposed Intervenors in a Pending E-Filed Action.** A party to be added in an action subject to e-filing shall be served with initiating documents in hard copy together with the notice regarding availability of e-filing specified in paragraph (2)(ii) of subdivision (b) of this section, to which response shall be made as set forth in that paragraph. A proposed intervenor or other non-party who seeks relief from the court in an action subject to e-filing, if consenting to e-filing, shall promptly file and serve a consent. If an added party or intervenor does not consent to e-filing, subsequent documents shall be served by and on that party or intervenor in hard copy but the action shall continue as an e-filed one as to all consenting parties.

**(h) Entry of Orders and Judgments and Notice of Entry.**

(1) Entry; date of entry. In an action subject to e-filing, the County Clerk or his or her designee shall file orders and judgments of the court electronically, which shall constitute entry of the order or judgment. The date of entry shall be the date on which transmission of the order or judgment is recorded at the NYSCEF site. Notwithstanding the foregoing, if the County Clerk receives an order

or judgment and places a filing stamp and date thereon reflecting that the date of receipt is the date of filing but does not e-file the document until a later day, the Clerk shall record at the NYSCEF site as the date of entry the date shown on the filing stamp.

(2) Notice requesting entry of judgment. The County Clerk may require that a party seeking entry of judgment electronically serve upon the County Clerk, in a form specified by the County Clerk, a request for entry of judgment.

(3) Notification; service of notice of entry by parties. Upon entry of an order or judgment, the NYSCEF site shall transmit to the e-mail service addresses a notification of receipt of such entry, which shall not constitute service of notice of entry by any party. A party shall serve notice of entry of an order or judgment on another party by serving a copy of the order or judgment and written notice of its entry. A party may serve such documents electronically by filing them with the NYSCEF site and thus causing transmission by the site of notification of receipt of the documents, which shall constitute service thereof by the filer. In the alternative, a party may serve a copy of the order or judgment and written notice of its entry in hard copy by any method set forth in CPLR 2103 (b) (1) to (6). If service is made in hard copy by any such method and a copy of the order or judgment and notice of its entry and proof of such hard copy service are thereafter filed with the NYSCEF site, transmission by NYSCEF of notification of receipt of those documents shall not constitute additional service of the notice of entry on the parties to whom the notification is sent.

(i) **Technical Failures.** The NYSCEF site shall be considered to be subject to a technical failure on a given day if the site is unable to accept filings or provide access to filed documents continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon of that day. Notice of all such technical failures shall be provided on the site. When e-filing is hindered by a technical failure, a party may file with the appropriate clerk and serve in hard copy. With the exception of deadlines that by law cannot be extended, the time for filing of any document that is delayed due to technical failure of the site shall be extended for one day for each day on which such failure occurs, unless otherwise ordered by the court. In the event an attorney or party shall file and serve documents in hard copy pursuant to this paragraph, each such document shall include the notice required by paragraph (1) of subdivision (d) of this section, and the filer shall file those documents with the NYSCEF site within three business days after restoration of normal operations at that site.

(j) **Electronic Filing of Discovery Materials.** In any action subject to e-filing, parties and non-parties producing materials in response to discovery demands may enter into a stipulation, which shall be e-filed, authorizing the electronic filing of discovery responses and discovery materials to the degree and upon terms and conditions set forth in the stipulation. In the absence of such a stipulation, no party shall file electronically any such materials except in the form of excerpts, quotations, or selected exhibits from such materials as part of motion papers, pleadings or other filings with the court.

(k) **Copyright, Confidentiality and Other Proprietary Rights.**



**(1) Submissions pursuant to e-filing procedures shall have the same copyright, confidentiality and proprietary rights as paper documents.**

**(2) In an action subject to e-filing, any person may apply for an order prohibiting or restricting the electronic filing in the action of specifically identified materials on the grounds that such materials are subject to copyright or other proprietary rights, or trade secret or other privacy interests, and that electronic filing in the action is likely to result in substantial prejudice to those rights or interests. Unless otherwise permitted by the court, a motion for such an order shall be filed not less than ten days before the materials to which the motion pertains are due to be produced or filed with the court.**

**202.5-bb. Electronic Filing in Supreme Court; Mandatory Program.**

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**(b) Commencement of Actions Under this Section.**

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(3) Service of initiating documents. Personal service of initiating documents upon a party in an action that must be commenced electronically in accordance with this section shall be made as provided in Article 3 of the Civil Practice Law and Rules or the Real Property Tax Law, or by electronic means if the party served agrees to accept such service. Such service shall be accompanied by a notice, in a form approved by the Chief Administrator, advising the recipient that the action is subject to electronic filing pursuant to this section. A party served by electronic means shall, within 24 hours of service, provide the serving party or attorney with an electronic confirmation that the service has been effected.

**Section 202.58 Small claims tax assessment review proceedings; small claims sidewalk assessment review proceedings; special rules.**

**(a) Establishment.**

(1) There is hereby established in the Supreme Court of the State of New York in each county a program to hear special proceedings for small claims tax assessment review pursuant to title 1-A of Article 7 of the Real Property Tax Law; provided, however, that insofar as Hamilton County may lack required personnel and facilities, Fulton and Hamilton Counties shall be deemed one county for the purposes of this rule.

(2) There also is established in the Supreme Court in each county within the City of New York a program to hear special proceedings for small claims sidewalk assessment review pursuant to section 19-152.3 of the Administrative Code of the City of New York.

**(b) Commencement of Small Claims Tax Assessment Review Proceeding.**

(1) A special proceeding pursuant to title 1-A of Article 7 of the Real Property Tax shall be commenced by a petition in a form in substantial compliance with the forms prescribed by the Chief Administrator of the Courts. Forms shall be available at no cost at each County Clerk's office.

(2) Except as otherwise provided hereafter, t[T]hree copies of the petition shall be filed with the County Clerk in the county in which the property is located within 30 days after the final completion and filing of the assessment roll containing the assessment at issue, except that in the City of New York, the petition shall be filed before the 25th day of October following the time when the determination sought to be reviewed was made. The petition may be filed with the County Clerk by ordinary mail if mailed within the 30-day time period, or in the City of New York, if mailed prior to the 25th day of October, as evidenced by the postmark. In counties in which electronic filing is authorized by the Chief Administrator, the petition may or shall be filed electronically through the New York State Courts Electronic Filing System ("NYSCEF") within the deadline set forth above. A filing fee of \$25 shall be paid at the time of filing, which may be in the form of a check payable to the County Clerk.

(3) Within 10 days of filing the petition with the County Clerk, the petitioner shall send by mail, a copy of the petition to:

(i) the clerk of the assessing unit named in the petition or, if there is no such clerk, to the officer who performs the customary duties of the clerk, except that in the City of New York the petition shall be mailed to the president of the New York City Tax Commission or to a designee of the president;

(ii) except in the cities of Buffalo, New York, Rochester, Syracuse and Yonkers, to the clerk of any school district within which any part of the real property on which the assessment to be reviewed is located or, if there is no clerk of the school district or such name and address cannot be obtained, to a trustee of the school district;

(iii) the treasurer of any county in which any part of the real property is located; and

(iv) the clerk of a village which has enacted a local law, in accordance with the provisions of subdivision 3 of section 1402 of the Real Property Tax Law, providing that the village shall cease to be an assessing unit and that village taxes shall be levied on a copy of the part of the town or

county assessment roll.

(4) The County Clerk shall assign a small claims assessment review filing number to each petition, and, in proceedings commenced by filing in hard copy, shall retain one copy and shall forward two copies within two days of filing to the clerk designated by the appropriate administrative judge to process assessment review petitions.

**(c) Commencement of Small Claims Sidewalk Assessment Review Proceeding.**

(1) A special proceeding pursuant to section 19-152.3 of the Administrative Code of the City of New York shall be commenced by a petition in a form prescribed by the Department of Transportation of the City of New York in consultation with the Office of Court Administration. Forms shall be available at no cost at each County Clerk's office within the City of New York.

(2) Three copies of the petition shall be filed with the County Clerk in the county in which the property is located, provided that at least 30 days have elapsed from the presentation of the notice of claim to the Office of the Comptroller pursuant to section 19-152.2 of the Administrative Code. The petition may be filed with the County Clerk by ordinary mail. A filing fee of \$25 shall be paid at the time of filing, which may be in the form of a check payable to the County Clerk.

(3) Within seven days of filing the petition with the County Clerk, the petitioner personally shall deliver or send by certified mail, return receipt requested, a copy of the petition to the Commissioner of Transportation of the City of New York or the commissioner's designee.

(4) The County Clerk shall assign a sidewalk assessment review filing number to each petition, shall retain one copy and shall forward two copies within two days of filing to the clerk designated by the appropriate administrative judge to process sidewalk assessment review petitions.

**(d) Selection of Hearing Officer Panels.**

(1) The Chief Administrator of the Courts shall establish Panels of small claims hearing officers found qualified to hear small claims tax assessment review proceedings pursuant to title 1-A of Article 7 of the Real Property Tax Law and Panels of small claims hearing officers found qualified to hear small claims sidewalk assessment review proceedings pursuant to section 19-152.3(d) of the Administrative Code of the City of New York.

(2) The administrative judge of the county in which the Panel will serve, or the deputy chief administrative judge for the courts within the City of New York, if the Panel is to serve in New York City, shall invite applicants to apply by publishing an announcement in the appropriate law journals, papers of general circulation or trade journals, and by communicating directly with such groups as may produce qualified candidates.

(3) The announcements and communications shall set forth the nature of the position, the qualifications for selection as contained in section 731 of the Real Property Tax Law, or section 19-152.3(d) of the Administrative Code of the City of New York, and the compensation.

(4) The administrative judge shall screen each applicant in conformance with the requirements set forth in section 731 of the Real Property Tax Law or section 19-152.3(d) of the Administrative Code of the City of New York, for qualifications, character and ability to handle the hearing officer responsibilities, and shall forward the names of recommended nominees, with a summary of their qualifications, to the Chief Administrator for appointment.

(5) Hearing officers shall serve at the pleasure of the Chief Administrator, and their appointments may be rescinded by the chief administrator at any time.

(6) The Chief Administrator may provide for such orientation courses, training courses and continuing education courses for persons applying to be hearing officers and for persons serving on hearing officer Panels as the Chief Administrator may deem necessary and desirable.

**(e) Assignment of Hearing Officers.**

(1) The assessment review clerk of the county in which the Panel will serve shall draw names of hearing officers at random from the Panel and shall assign to each hearing officer at least the first three, but no more than six, petitions filed with the County Clerk pursuant to these rules; provided, however, where necessary to ensure the fair and expeditious administration of justice, the Chief Administrator may authorize the assignment of related petitions and the assignment of more than six petitions to a single hearing officer.

(2) No person who has served as a hearing officer shall be eligible to serve again until all other hearing officers on the Panel have had an opportunity to serve.

(3) A hearing officer shall disqualify himself or herself from hearing a matter where a conflict exists as defined by the Public Officers Law or, with respect to small claims tax assessment review hearing officers, by subdivision 2 of section 731 of the Real Property Tax Law. Where a hearing officer disqualifies himself or herself, such hearing officer shall notify the chief administrator or designee and the matter shall be reassigned to another hearing officer.

(4) The hearing officer shall determine, after contacting the parties, the date, time and place for the hearing, which shall be held within 45 days with respect to a small claims tax assessment review proceeding, and within 30 days with respect to a small claims sidewalk assessment review proceeding, after the filing of the petition, or as soon thereafter as is practicable, and which shall be held, where practicable, at a location within the county where the real property is located. The hearing officer shall schedule hearings in the evening at the request of any party, unless special circumstances require otherwise. Written notice of the date, time and place of the hearing shall be sent by mail by the hearing officer to the parties or their attorneys, if represented, at least 10 working days prior to the date of the hearing, except that, in an electronically filed proceeding, such notice may be sent by e-mail to parties participating in e-filing; provided, however, failure to receive such notice in such period shall not bar the holding of a hearing.

(5) Adjournments shall not be granted by the hearing officer except upon good cause shown.

(6) All parties are required to appear at the hearing. Failure to appear shall result in the petition being dismissed or in the petition being determined upon inquest by the hearing officer based upon the available evidence submitted.

**(f) Decision and Order.**

(1) The decision and order of the hearing officer shall be rendered expeditiously and, in a small claims tax assessment review proceeding, the notice required by section 733(4) of the Real Property Tax Law shall be attached to the petition form.

(2) Costs.

(i) In a small claims tax assessment review proceeding, if the assessment is reduced by an amount equal to or greater than half the reduction sought, the hearing officer shall award the petitioner costs against the respondent assessing unit in the amount of \$25. If the assessment is reduced by an amount less than half of the reduction sought, the hearing officer may award the petitioner costs against the respondent assessing unit in an amount not to exceed \$25.

(ii) In a small claims sidewalk assessment review proceeding, if the hearing officer grants the petition in full or in part, the hearing officer shall award the petitioner costs against the respondent in the amount of \$25. In any other case, the hearing officer, in his or her discretion, may award the petitioner costs in the amount of \$25, if he or she deems it appropriate.

(3) The hearing officer in a small claims tax assessment review proceeding shall transmit one copy of the decision and order, by ordinary mail, or may, in an electronically filed proceeding, transmit instead a copy via NYSCEF, to the petitioner, the clerk of the assessing unit and the assessment review clerk of the court. The hearing officer in a small claims sidewalk assessment review proceeding shall transmit one copy of the decision and order, by ordinary mail, to the petitioner, the Commissioner of Transportation of the City of New York or the commissioner's designee, and the assessment review clerk of the court.

(4) The assessment review clerk shall file the petition and the attached decision and order with the County Clerk. In an electronically filed proceeding, the decision and order may be posted with the NYSCEF site, which shall constitute filing with the County Clerk.

(5) The assessment review clerk shall make additional copies of the decision and order, as necessary, and, in the case of a small claims tax assessment review proceeding, shall transmit a copy to the clerk of each tax district relying on the assessment that is named in the petition and to the treasurer of any county in which any part of the real property is located. In the case of a small claims sidewalk assessment review proceeding, where the order grants the petition in full or in part, the assessment review clerk shall mail a copy of the decision and order to the Collector of the City of New York.

**(g) Advertising by Hearing Officers.** No person who is appointed a hearing officer shall, in any public advertisement published or distributed to advance such person's business or professional interests, refer to his or her status as a hearing officer. No hearing officer shall use letterhead or business cards bearing the title of hearing officer except in direct connection with such person's official duties as hearing officer.

**(h)**

(1) Proceedings pursuant to Title 1-A of Article 7 of the Real Property Tax Law may be heard and determined by a judicial hearing officer. The judicial hearing officer shall be designated and assigned by the appropriate administrative judge to hear such proceedings as determined by that judge or by the assessment review clerk, and the hearing shall be conducted in accordance with this section.

(2) Judicial hearing officers appointed to hear proceedings pursuant to this section shall receive compensation as provided in section 122.8 of the rules of the Chief Administrator, or such other compensation as the Chief Administrator may direct. A location in which a hearing is held pursuant to this section shall be deemed a "facility designated for court appearances" within the meaning of section 122.8.

**(i) Collateral Proceedings.** All applications for judicial relief shall be made in the Supreme Court in the county where the real property subject to review is located. If a judicial hearing officer has heard and determined a proceeding under the section, any application for judicial relief may not be heard by a judicial hearing officer, except upon consent of the parties.