

# STATE OF NEW YORK

354--A

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. MAGNARELLI -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property actions and proceedings law, in relation to special proceedings by tenants for judgment directing repairs of conditions and other relief in residential real property; and to amend the uniform city court act, the uniform district court act, and the uniform justice act, in relation to summary proceedings relating thereto

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "tenant dignity and safe housing act".

3 § 2. The real property actions and proceedings law is amended by  
4 adding a new article 7-C to read as follows:

### ARTICLE 7-C

5 SPECIAL PROCEEDINGS BY TENANTS FOR JUDGMENT DIRECTING REPAIRS OF  
6 CONDITIONS AND OTHER RELIEF IN RESIDENTIAL REAL PROPERTY CONSTITUTING  
7 VIOLATION OF APPLICABLE LOCAL OR STATE HOUSING STANDARDS OR REAL  
8 PROPERTY LAW § 235-b AND ANY OTHER APPROPRIATE RELIEF

9 Section 797. Jurisdiction; courts; venue.

10 797-a. Person who may maintain proceeding.

11 797-b. Respondent.

12 797-c. Commencement; notice of petition; petition.

13 797-d. Time of service; order to show cause.

14 797-e. Manner of service of notice of petition and petition;  
15 when service complete.

16 797-f. Contents of the petition.

17 797-g. Notice to local housing standard enforcement agency.

18 797-h. Answer.

19  
EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD05317-02-1

1           797-i. Trial.

2           797-j. Judgment.

3       § 797. Jurisdiction; courts; venue. 1. A special proceeding for judg-  
4 ment directing repairs of conditions and other relief in residential  
5 real property constituting violation of applicable local and state hous-  
6 ing standards or section two hundred thirty-five-b of the real property  
7 law may be maintained in a county court, justice court, district court,  
8 or city court.

9       2. The place of trial of the special proceeding shall be within the  
10 jurisdictional area of the court in which the residential real property  
11 or a portion thereof is situated.

12       § 797-a. Person who may maintain proceeding. 1. The proceeding may be  
13 maintained by any party, known herein as a tenant, who is an occupant of  
14 residential real property for thirty consecutive days or longer under an  
15 agreement not created by deed.

16       2. The proceeding may be maintained by one or more tenants of a resi-  
17 dential property.

18       § 797-b. Respondent. The following may be named as a respondent:

19       1. The person, corporation, limited liability company, general part-  
20 nership, limited partnership, or any other entity holding title to the  
21 real property.

22       2. The person or organization listed on any state or local residential  
23 registration statement.

24       3. Anyone who holds themselves out as landlord by such actions as  
25 collecting rent, making repairs, signing leases, or other such conduct.

26       4. A public housing authority or a governmental body that owns or  
27 manages the property.

28       § 797-c. Commencement; notice of petition; petition. 1. The proceeding  
29 shall be commenced by the filing of a notice of petition and petition  
30 with the clerk of the court. A notice of petition may be issued by an  
31 attorney, judge, or clerk of the court.

32       2. The notice of petition shall specify the time and place of the  
33 hearing on the petition and state that if the respondent shall fail to  
34 appear at such time and place to interpose any defense, the respondent  
35 may be precluded from asserting such defense.

36       3. The office of court administration shall promulgate simple forms  
37 that tenant-petitioners may use to commence the special proceedings.

38       4. Court clerks shall be charged with assisting petitioners to  
39 complete and serve the notice of petition and petition to commence the  
40 special proceeding.

41       § 797-d. Time of service; order to show cause. 1. The notice of peti-  
42 tion and petition shall be served at least ten and not more than seven-  
43 teen days before the time at which the petition is to be heard.

44       2. The court may grant an order to show cause to be served in lieu of  
45 a notice of petition at a time and in a manner specified therein.

46       § 797-e. Manner of service of notice of petition and petition; when  
47 service complete. 1. Personal service upon a natural person may be  
48 completed in the manner in which a summons is served under section three  
49 hundred eight of the civil practice law and rules.

50       2. Personal service upon a partnership may be completed in a manner in  
51 which a summons is served under sections three hundred eight, three  
52 hundred ten or three hundred ten-a of the civil practice law and rules.

53       3. Personal service on a corporation may be completed in a manner in  
54 which a summons is served under section three hundred eleven of the  
55 civil practice law and rules.

1 4. Personal service upon a limited liability company may be completed  
2 in a manner in which a summons is served under section three hundred  
3 eleven-a of the civil practice law and rules.

4 5. In the alternative, personal service may be completed by the court  
5 clerk on any natural person, partnership, corporation, or limited  
6 liability company by mailing the notice of petition and petition by  
7 certified and first-class mail to an address where local property tax  
8 bills are sent. If the jurisdiction in which the court sits has a rental  
9 registry requirement, service may be completed by mailing to the address  
10 for the real property in the registry.

11 6. Proof of service shall be filed with the clerk of the court within  
12 three days thereafter. Personal service on the respondent shall be  
13 complete upon personal delivery. Any authorized mail service pursuant to  
14 this subdivision shall be complete upon the filing of proof of service.

15 § 797-f. Contents of the petition. 1. The petition shall be verified  
16 by the person authorized to maintain the proceeding under section seven  
17 hundred ninety-seven-a of this article or by a legal representative,  
18 attorney, or agent of such person pursuant to rule three hundred twenty  
19 of the civil practice law and rules. The attorney of such person may  
20 verify upon information and belief.

21 2. Every petition shall:

22 a. State the interest of the petitioner in the premises for which  
23 relief under this article is sought;

24 b. Describe the premises that is the subject of the petition;

25 c. State the facts upon which the special proceeding is based, includ-  
26 ing those conditions constituting violation of applicable state or local  
27 housing standards or section two hundred thirty-five-b of the real prop-  
28 erty law; and

29 d. State the relief sought. Such relief may include an order to  
30 repair, a monetary judgment in favor of petitioner for diminished value  
31 of real property, and an order reducing future rent until violations  
32 have been cured.

33 § 797-g. Notice to local housing standard enforcement agency. The  
34 clerk of the court shall mail a copy of the filed notice of petition and  
35 petition to the appropriate government agency charged with enforcing  
36 local or state housing standards within the court's jurisdiction.

37 § 797-h. Answer. At or prior to the time the petition is to be heard  
38 the respondent may answer orally or in writing. If the answer is oral  
39 the substance thereof shall be recorded by the clerk or, if a particular  
40 court has no clerk, by the presiding judge or justice of such court, and  
41 maintained in the case record. The answer may contain any legal or equi-  
42 table defense.

43 § 797-i. Trial. Where triable issues of fact are raised, they shall be  
44 tried by the court unless, at the time the petition is noticed to be  
45 heard, a party demands a trial by jury, in which case trial shall be by  
46 jury. At the time when issue is joined, the court, at the request of  
47 either party shall adjourn the trial of the issue, not less than four-  
48 teen days, except by consent of all parties. A party's second or subse-  
49 quent request for adjournment shall be granted in the court's sole  
50 discretion.

51 § 797-j. Judgment. 1. The court shall direct that final judgment be  
52 entered determining the rights of the parties.

53 2. The judgment may include:

54 a. An order to repair conditions constituting violation of applicable  
55 local and state housing standards or section two hundred thirty-five-b  
56 of the real property law;

1 b. A monetary judgment in favor of the petitioner for the diminished  
2 value of the real property resulting from violation of applicable local  
3 and state housing standards or section two hundred thirty-five-b of the  
4 real property law;

5 c. A reduction in future rent for the diminished value of the real  
6 property resulting from violation of applicable local and state housing  
7 standards or section two hundred thirty-five-b of the real property law  
8 until such time that, to the court's satisfaction, the violation has  
9 been cured; and

10 d. Any other relief that the court may deem just.

11 § 3. Section 204 of the uniform city court act is amended to read as  
12 follows:

13 § 204. Summary proceedings.

14 The court shall have jurisdiction of summary proceedings to recover  
15 possession of real property located in whole or in part within the city,  
16 to remove tenants therefrom, and to render judgment for rent due without  
17 regard to amount. The court shall have jurisdiction of summary  
18 proceedings commenced under article seven-C of the real property actions  
19 and proceedings law relating to real property located in whole or in  
20 part within the city, and render relief authorized therein.

21 § 4. Section 204 of the uniform district court act is amended to read  
22 as follows:

23 § 204. Summary proceedings.

24 The court shall have jurisdiction of summary proceedings to recover  
25 possession of real property located in whole or in part within a  
26 district of the court in the county, to remove tenants therefrom, and to  
27 render judgment for rent due without regard to amount. The court shall  
28 have jurisdiction of summary proceedings commenced under article seven-C  
29 of the real property actions and proceedings law relating to real prop-  
30 erty located in whole or in part within the district, and render relief  
31 authorized therein.

32 § 5. Section 204 of the uniform justice court act is amended to read  
33 as follows:

34 § 204. Summary proceedings.

35 The court shall have jurisdiction of summary proceedings to recover  
36 possession of real property located in whole or in part within the muni-  
37 cipality, to remove tenants therefrom, and to render judgment for rent  
38 due without regard to amount. The court shall have jurisdiction of  
39 summary proceedings commenced under article seven-C of the real property  
40 actions and proceedings law relating to real property located in whole  
41 or in part within the municipality, and render relief authorized there-  
42 in.

43 § 6. This act shall take effect on the one hundred eightieth day after  
44 it shall have become a law.