

# STATE OF NEW YORK

11138

## IN ASSEMBLY

November 6, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Magnarelli)  
-- read once and referred to the Committee on Judiciary

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

### ARTICLE 7-C

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

7 Section 797. Jurisdiction; courts; venue.

8 797-a. Person who may maintain proceeding.

9 797-b. Respondent.

10 797-c. Commencement; notice of petition; petition.

11 797-d. Time of service; order to show cause.

12 797-e. Manner of service of notice of petition and petition;  
13 when service complete.

14 797-f. Contents of the petition.

15 797-g. Notice to local housing standard enforcement agency.

16 797-h. Answer.

17 797-i. Trial.

18 797-j. Judgment.

19 § 797. Jurisdiction; courts; venue. 1. A special proceeding for judg-  
20 ment directing repairs of conditions and other relief in residential  
21 real property constituting violation of applicable local and state hous-  
22 ing standards or section two hundred thirty-five-b of the real property  
23

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

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1 law may be maintained in a county court, justice court, district court,  
2 or city court.

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

6 § 797-a. Person who may maintain proceeding. 1. The proceeding may be  
7 maintained by any party, known herein as a tenant, who is an occupant of  
8 residential real property for thirty consecutive days or longer under an  
9 agreement not created by deed.

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

12 § 797-b. Respondent. The following may be named as a respondent:

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

16 2. The person or organization listed on any state or local residential  
17 registration statement.

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

20 4. A public housing authority or a governmental body that owns or  
21 manages the property.

22 § 797-c. Commencement; notice of petition; petition. 1. The proceeding  
23 shall be commenced by the filing of a notice of petition and petition  
24 with the clerk of the court. A notice of petition may be issued by an  
25 attorney, judge, or clerk of the court.

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

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

32 4. Court clerks shall be charged with assisting petitioners to  
33 complete and serve the notice of petition and petition to commence the  
34 special proceeding.

35 § 797-d. Time of service; order to show cause. 1. The notice of peti-  
36 tion and petition shall be served at least ten and not more than seven-  
37 teen days before the time at which the petition is to be heard.

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

40 § 797-e. Manner of service of notice of petition and petition; when  
41 service complete. 1. Personal service upon a natural person may be  
42 completed in the manner in which a summons is served under section three  
43 hundred eight of the civil practice law and rules.

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

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

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

53 5. In the alternative, personal service may be completed by the court  
54 clerk on any natural person, partnership, corporation, or limited  
55 liability company by mailing the notice of petition and petition by  
56 certified and first-class mail to an address where local property tax

1 bills are sent. If the jurisdiction in which the court sits has a rental  
2 registry requirement, service may be completed by mailing to the address  
3 for the real property in the registry.

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

8 § 797-f. Contents of the petition. 1. The petition shall be verified  
9 by the person authorized to maintain the proceeding under section seven  
10 hundred ninety-seven-a of this article or by a legal representative,  
11 attorney, or agent of such person pursuant to rule three hundred twenty  
12 of the civil practice law and rules. The attorney of such person may  
13 verify upon information and belief.

14 2. Every petition shall:

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

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

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

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

26 § 797-g. Notice to local housing standard enforcement agency. The  
27 clerk of the court shall mail a copy of the filed notice of petition and  
28 petition to the appropriate government agency charged with enforcing  
29 local or state housing standards within the court's jurisdiction.

30 § 797-h. Answer. At or prior to the time the petition is to be heard  
31 the respondent may answer orally or in writing. If the answer is oral  
32 the substance thereof shall be recorded by the clerk or, if a particular  
33 court has no clerk, by the presiding judge or justice of such court, and  
34 maintained in the case record. The answer may contain any legal or equi-  
35 table defense.

36 § 797-i. Trial. Where triable issues of fact are raised, they shall be  
37 tried by the court unless, at the time the petition is noticed to be  
38 heard, a party demands a trial by jury, in which case trial shall be by  
39 jury. At the time when issue is joined, the court, at the request of  
40 either party shall adjourn the trial of the issue, not less than four-  
41 teen days, except by consent of all parties. A party's second or subse-  
42 quent request for adjournment shall be granted in the court's sole  
43 discretion.

44 § 797-j. Judgment. 1. The court shall direct that final judgment be  
45 entered determining the rights of the parties.

46 2. The judgment may include:

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

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

54 c. A reduction in future rent for the diminished value of the real  
55 property resulting from violation of applicable local and state housing  
56 standards or section two hundred thirty-five-b of the real property law

1 until such time that, to the court's satisfaction, the violation has  
2 been cured; and

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

4 § 2. Section 204 of the uniform city court act is amended to read as  
5 follows:

6 § 204. Summary proceedings.

7 The court shall have jurisdiction of summary proceedings to recover  
8 possession of real property located in whole or in part within the city,  
9 to remove tenants therefrom, and to render judgment for rent due without  
10 regard to amount. The court shall have jurisdiction of summary  
11 proceedings commenced under article seven-C of the real property actions  
12 and proceedings law relating to real property located in whole or in  
13 part within the city, and render relief authorized therein.

14 § 3. Section 204 of the uniform district court act is amended to read  
15 as follows:

16 § 204. Summary proceedings.

17 The court shall have jurisdiction of summary proceedings to recover  
18 possession of real property located in whole or in part within a  
19 district of the court in the county, to remove tenants therefrom, and to  
20 render judgment for rent due without regard to amount. The court shall  
21 have jurisdiction of summary proceedings commenced under article seven-C  
22 of the real property actions and proceedings law relating to real prop-  
23 erty located in whole or in part within the district, and render relief  
24 authorized therein.

25 § 4. Section 204 of the uniform justice court act is amended to read  
26 as follows:

27 § 204. Summary proceedings.

28 The court shall have jurisdiction of summary proceedings to recover  
29 possession of real property located in whole or in part within the muni-  
30 cipality, to remove tenants therefrom, and to render judgment for rent  
31 due without regard to amount. The court shall have jurisdiction of  
32 summary proceedings commenced under article seven-C of the real property  
33 actions and proceedings law relating to real property located in whole  
34 or in part within the municipality, and render relief authorized there-  
35 in.

36 § 5. This act shall take effect on the one hundred eightieth day after  
37 it shall have become a law.