STATE OF NEW YORK

10407

IN ASSEMBLY

May 13, 2022

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

AN ACT to amend the real property actions and proceedings law and the New York city civil court act, in relation to expanding the right to seek the appointment of administrators of buildings, pursuant to article 7-A of the real property actions and proceedings law, to tenants and local governments throughout the state and to make procedures conform with realities of housing stock throughout the state; to amend chapter 570 of the laws of 1909 relating to the establishment of the city court of Buffalo, in relation to actions and proceedings under article 7-A of the real property actions and proceedings law; to amend chapter 464 of the laws of 2021 relating to enacting the Rochester housing court act, in relation to actions and proceedings under article 7-A of the real property actions and proceedings law; and to repeal section 777 of the real property actions and proceedings law relating thereto

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

Section 1. Subdivision 1 of section 769 of the real property actions and proceedings law, as amended by chapter 877 of the laws of 1982, is amended to read as follows:

1. A special proceeding by tenants of a dwelling [~~in the city of New York or the counties of Nassau, Suffolk, Rockland and Westchester~~] **or by the department or agency of a city, town, village, or county responsible for the enforcement of the multiple dwelling law, the multiple residence law, the uniform fire prevention and building code, or any other law, code or ordinance governing the occupancy and maintenance of residential property or addressing conditions dangerous to health, life, and safety in the municipality or county where the dwelling is located (hereinafter in this article referred to as "the housing standards department")** for a judgment directing the deposit of rents into court and their use for the purpose of remedying conditions dangerous to life, health or safety may be maintained in the civil court of the city of New York, the district court of the counties of Suffolk and Nassau**, the housing courts in the**

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

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cities of Buffalo and Rochester, and the county courts [~~or~~], city courts or town courts in [~~the counties of Rockland and Westchester~~] all other counties.

§ 2. Section 770 of the real property actions and proceedings law, as amended by chapter 655 of the laws of 1978, subdivision 1 as amended by chapter 455 of the laws of 2013, is amended to read as follows:

§ 770. Grounds for the proceeding. 1. One-third or more of the tenants occupying a dwelling [~~located in the city of New York or the commissioner of the department of the city of New York charged with enforcement of the housing maintenance code of such city, or in the counties of Nassau, Suffolk, Rockland and Westchester~~] and/or the housing standards department may [~~maintain~~] commence a special proceeding as provided in this article, upon the ground that there exists in such dwellings or in any part thereof a lack of heat or of running water or of light or of electricity or of adequate sewage disposal facilities, or any other condition dangerous to life, health or safety, which has existed for five days, or an infestation by rodents, or any combination of such conditions; or course of conduct by the owner or the owner's agents of harassment, illegal eviction, retaliation as defined by section two hundred twenty-three-b of the real property law, interference with the right of tenants to form, join or participate in tenants' groups pursuant to section two hundred thirty of the real property law, continued deprivation of services or other acts dangerous to life, health or safety, or a business practice of neglect as defined in subdivision three of this section, or the issuance of an order to the owner of such dwelling by the commissioner of such department of the city of New York pursuant to the alternative enforcement program under section 27-2153 of the administrative code of the city of New York, provided that such dwelling has not been discharged from the program pursuant to such section and there has not been a determination that the owner has substantially complied with such order.

2. If the proceeding is instituted by the [~~commissioner of the department of the city of New York charged with enforcement of the housing maintenance code of such city~~] housing standards department, one-third or more of the tenants may, at any time thereafter during the pendency of the proceeding or after final judgment pursuant to section seven hundred seventy-six [~~or seven hundred seventy-seven~~] of this article, petition for substitution of themselves in place and [~~stead~~] instead of such [~~commissioner of such~~] housing standards department, or, in the alternative, move to be joined as a party. Such substitution or joinder shall be ordered by the court unless good reason to the contrary shall be shown.

3. For the purposes of this article, a business practice of neglect shall be defined as a course of conduct comprising acts or omissions by the owner, person acting on the owner's behalf, mortgagee, and/or lienor of record, which results in a clear and convincing pattern of recurrent qualifying conditions and/or code violations, even if no such conditions or violations exist at the time of the filing of the petition. A qualifying condition for purposes of this article is a condition dangerous to health, life, or safety. A clear and convincing pattern of recurrent qualifying conditions and/or code violations exists when within the twelve months preceding the date of the filing of the petition:

(a) for at least one-third of the dwelling units within the subject dwelling, there have existed at least two qualifying conditions and/or code violations for a qualifying condition; or

(b) the sum of qualifying conditions and/or code violations for a qualifying condition which have existed within the subject dwelling or dwelling units therein equals or exceeds twice the number of dwelling units; or

(c) the sum of qualifying conditions and/or violations for qualifying conditions which the owner has failed to promptly correct within the subject dwelling or dwelling units therein equals or exceeds the number of dwelling units; or

(d) for at least one-third of the dwelling units within the subject dwelling, there have existed at least one qualifying condition and/or violation for a qualifying condition, and a clear and convincing pattern of recurrent qualifying conditions or code violations as defined in paragraph (a), (b), or (c) of this subdivision exists in another dwelling within New York state with the same owner.

§ 3. Section 771 of the real property actions and proceedings law, as amended by chapter 877 of the laws of 1982, is amended to read as follows:

§ 771. Commencement; notice of petition; time and manner of service. 1. A special proceeding prescribed by this article shall be commenced by the service of a petition and notice of petition. [~~A notice of petition may be issued only by a judge or the clerk of the court.~~]

2. The notice of petition shall specify the time and place of the hearing on the petition and state that if at such time, a defense to such petition is not interposed and established by the owner or any mortgagee or lienor of record, a final judgment may be rendered directing that the rents due on the date of entry of such judgment from the petitioning tenants and the rents due on the dates of service of such judgment on all other tenants occupying such dwelling, from such other tenants, shall be deposited with the administrator appointed pursuant to section seven hundred seventy-eight of this article, and any rents to become due in the future from such petitioners and from all other tenants occupying such dwelling shall be deposited with such administrator as they fall due; and that such deposited rents shall be used, subject to the court's direction, to the extent necessary to remedy the condition or conditions alleged in the petition.

3. The notice of petition and petition shall be served:

a. upon the owner of such dwelling last registered with the department of housing preservation and development of such city pursuant to article [~~forty-one of chapter twenty-six~~] two of subchapter four of chapter two of title twenty-seven of the administrative code of the city of New York [~~and in Nassau, Suffolk, Rockland and Westchester counties upon the person set forth as the owner on the last recorded deed to the rented property and~~];

b. upon every mortgagee and lienor of record[~~, and upon the city of New York, at least five days before the time at which the petition is noticed to be heard~~];

c. upon the municipality where the dwelling is located; and

d. upon any non-petitioning tenants.

4. The proof of service shall be filed with the court before which the petition is to be heard on or before the return date.

5. Manner of service of the notice of petition and petition. a. Upon the owner. (1) Service [~~of the notice of petition and petition~~] shall be made upon the owner at least five days before the time at which the petition is noticed to be heard by personally delivering [~~them~~] the notice of petition and petition to the person or persons required to be served pursuant to paragraphs a and b of subdivision three of this

section. [~~Service upon the city of New York shall be made by personal delivery to the commissioner of the city department charged with enforcement of the housing maintenance code of such city, or to an agent duly authorized to accept such service on his behalf. If service cannot with due diligence be made within the city upon an owner, mortgagee or lienor of record in such manner, it shall be made:~~

~~(1) upon the owner last registered with the department of housing preservation and development pursuant to article forty-one of chapter twenty-six of the administrative code of the city of New York and in Nassau, Suffolk, Rockland and Westchester counties upon the person set forth as the owner on the last recorded deed to the rented property by delivering to and leaving personally with the person designated pursuant to article forty-one of chapter twenty-six of such code as managing agent of the subject dwelling, and in Nassau, Suffolk, Rockland and Westchester counties upon the person designated as the managing agent of the rented property if one shall have been designated, a copy of the notice of petition and petition;~~

~~(2) upon a mortgagee or lienor of record, by registered or certified mail, return receipt requested, at the address set forth in the recorded mortgage or lien.~~

~~b. If such personal service upon the person designated pursuant to article forty-one of chapter twenty-six of the administrative code of the city of New York as managing agent of the subject dwelling and in Nassau, Suffolk, Rockland and Westchester counties upon the person set forth as the owner on the last recorded deed to the rented property cannot be made with due diligence, service upon such last registered owner shall be made by affixing a copy of the notice and petition upon a conspicuous part of the subject dwelling; and in addition, within two days after such affixing, by sending a copy thereof by registered or certified mail, return receipt requested, to the owner at the last address registered by him with the department of housing preservation and development or, in the absence of such registration, to the address set forth in the last recorded deed with respect to such premises.~~]

(2) If such service cannot be made with due diligence within the city of New York if the dwelling is located therein or otherwise within the county where the dwelling is located, it shall be made by affixing a copy of the notice and petition upon a conspicuous part of the subject dwelling; and in addition, within two days after such affixing, by sending to the owner a copy thereof by registered or certified mail, return receipt requested, and a copy thereof by registered or certified or regular first-class mail, no return receipt requested. If the subject dwelling is located in the city of New York, such mailing shall be sent to the address last registered with the department of housing preservation and development pursuant to article two of subchapter four of chapter two of title twenty-seven of the administrative code of the city of New York, or in the absence of such registration, to the address set forth in the last recorded deed for the subject dwelling. If the subject dwelling is located outside the city of New York, such mailing shall be sent to the address where local property tax bills for the subject dwelling are sent or, in the alternative if the jurisdiction in which the court sits has a rental registry requirement, at the registered address for the subject dwelling.

(3) Upon receipt of service of the petition, the owner shall provide to the petitioners, within three days, a written list of all mortgagees and lienors of which the owner is aware and addresses for each.

b. Upon mortgagees and lienors. (1) Service shall be made upon each mortgagee and lienor of record at least five days before the time at which the petition is noticed to be heard by either personally delivering the notice of petition and petition or, in the alternative, sending a copy thereof to each mortgagee and lienor of record at the address set forth in the recorded mortgage or lien by certified or registered mail, return receipt requested, and a second copy thereof by certified or registered or regular first-class mail, no return receipt requested.

(2) For the purposes of this article, a "mortgagee or lienor of record" shall include only those mortgagees or lienholders whose interest is recorded in a publicly accessible database or can be provided on request by the municipal or county registrar, as long as the request includes, at minimum, the address and borough, block, and lot number of the subject dwelling, and follows the applicable rules and regulations of the registrar of the county or municipality in which the property is located for requesting such information.

c. Upon the municipality. Service shall be made at least five days before the time at which the petition is noticed to be heard upon the municipality as required by paragraph c of subdivision three of this section to the official charged with management of the housing standards department of such municipality, or to an agent duly authorized to accept service on their behalf, either by personally delivering the notice of petition and petition or, in the alternative, sending a copy thereof to the address designated by the official for receipt of service or, if no such address is designated, to the headquarters of the department, by registered or certified mail, return receipt requested, and a second copy by registered or certified or regular first-class mail, no return receipt requested.

d. Upon non-petitioning tenants. Service shall be made at least five days before the time at which the petition is noticed to be heard upon non-petitioning tenants occupying the dwelling by affixing a copy of the notice of petition and petition upon a conspicuous part of the subject dwelling or, in the alternative, by mailing a copy of the notice of petition and petition to each dwelling unit not occupied by a petitioning tenant, addressed to "Current Tenant(s)", by registered or certified mail, and a second copy by registered or certified or regular first-class mail, no return receipt requested.

6. [~~Notice to non-petitioning tenants. Notice of the proceeding shall be given to the non-petitioning tenants occupying the dwelling by affixing a copy of the notice of petition and petition upon a conspicuous part of the subject dwelling~~] Contesting service. Defects in service of notice to non-parties are not jurisdictional. The court upon motion or sua sponte may adjourn the proceeding for five days, or up to ten days if requested by petitioners, within which time petitioners shall cure any defects identified by the court.

§ 4. Subdivisions 1 and 2 of section 772 of the real property actions and proceedings law, as amended by chapter 877 of the laws of 1982, are amended to read as follows:

1. Allege material facts showing that there exists in such dwelling or any part thereof one or more of the following: a lack of heat or of running water or of light or electricity or of adequate sewage disposal facilities, or any other condition dangerous to life, health or safety, which has existed for five days, or an infestation of rodents or course of conduct by the owner or his agents of harassment, illegal eviction, retaliation as defined by section two hundred twenty-three-b of the real property law, interference with the right of tenants to form, join or

participate in tenants' groups pursuant to section two hundred thirty of the real property law, continued deprivation of services or other acts dangerous to life, health or safety; or a business practice of neglect as defined in subdivision three of section seven hundred seventy of this article; or the issuance of an order to the owner of such dwelling by the commissioner of such housing standards department of the city of New York pursuant to the alternative enforcement program under section 27-2153 of the administrative code of the city of New York, provided that such dwelling has not been discharged from the program pursuant to such section and there has not been a determination that the owner has substantially complied with such order.

2. If the petitioners shall be tenants occupying the dwelling, they shall allege the number of petitioners making the petition and that they constitute one-third or more of the tenants of said dwelling in occupancy thereof, or, in the case of a single residence dwelling, that they are the occupants of such dwelling.

§ 5. Section 774 of the real property actions and proceedings law, as added by chapter 909 of the laws of 1965, is amended to read as follows:

§ 774. Trial. 1. Where triable issues of fact are raised, they shall be tried by the court without a jury at the time when issue is joined. However, the court[~~, in its discretion,~~] may grant [~~an~~] a single adjournment of such trial [~~at~~] upon request of [~~either~~] any party who appears, if [~~it determines~~] the requesting party shows that an adjournment is necessary [~~to enable either of the parties~~] to procure the necessary witnesses, or upon consent of all the parties who appear. Such adjournment shall not be for more than five days except by consent of all the parties who appear.

2. The proceeding shall not be adjourned more than once at the request of the same party except by consent of all the parties who appear, and such adjournments shall not be for more than five days except by consent of all the parties who appear.

3. The trial must take place each court day whenever the court is in session until the conclusion of the trial, and accordingly no other cases should be scheduled on the court's calendar for dates prior to the anticipated conclusion of the trial, except by consent of all the parties who appear or during adjournments pursuant to subdivision one or two of this section.

§ 6. Subdivision c of section 775 of the real property actions and proceedings law, as amended by chapter 877 of the laws of 1982, is amended and a new subdivision d is added to read as follows:

c. Any tenant or resident of the dwelling has expressly refused entry to the owner or his agent with access to a portion of the premises for the purpose of correcting such condition or conditions after the owner or their agent provided the tenant or resident with no less than one week written notice of a desire for access, except where such condition requires immediate access in order to prevent injury to persons or damage to property, in which case notice shall be provided by telephone, email, or by knocking on the tenant or occupant's door at a reasonable time when he or she would be expected to be present.

d. A tenant's request to reschedule dates of access to a time convenient for the tenant or a household member shall not be deemed an express refusal for the purposes of this section.

§ 7. Section 776 of the real property actions and proceedings law, as added by chapter 909 of the laws of 1965, subdivision b as amended by chapter 877 of the laws of 1982, is amended to read as follows:

§ 776. Judgment. The court shall render a final judgment either

a. Dismissing the petition for failure to affirmatively establish the allegations thereof or because of the affirmative establishment by the owner or a mortgagee or lienor of record of a defense or defenses specified in section seven hundred seventy-five of this article; or

b. Directing that (1) the rents due on the date of the entry of such judgment from the petitioning tenants and the rents due on the dates of service of the judgment on all other residential and non-residential tenants occupying such dwelling from such other tenants, shall be deposited with the administrator appointed by the court, pursuant to section seven hundred seventy-eight of this article; (2) any rents to become due in the future from all tenants occupying such dwelling shall be deposited with such administrator as they fall due; (3) such deposited rents shall be used, subject to the court's direction, to the extent necessary to remedy the condition or conditions **or course of conduct** alleged in the petition and (4) upon the completion of such work in accordance with such judgment, any remaining surplus shall be turned over to the owner, together with a complete accounting of the rents deposited and the costs incurred; and granting such other and further relief as to the court may seem just and proper. A certified copy of such judgment shall be served personally**, by the administrator appointed by the court pursuant to section seven hundred seventy-eight of this article,** upon each non-petitioning tenant occupying such dwelling and [~~upon the city of New York~~] **the housing standards department** by service as provided in subdivision five of section seven hundred seventy-one of this article. If personal service on any such non-petitioning tenant cannot be made with due diligence, service on such tenant shall be made by affixing a certified copy of such judgment on the entrance door of such tenant's apartment, store or other unit and, in addition, within one day after such affixing, by sending a certified copy thereof by **certified or** registered mail, return receipt requested, to such tenant. Any right of the owner of such dwelling to collect such rent moneys from any petitioning tenant of such dwelling on or after the date of entry of such judgment, and from any non-petitioning tenant of such dwelling on or after the date of service of such judgment on such non-petitioning tenant as herein provided, shall be void and unenforceable to the extent that such petitioning or non-petitioning tenant, as the case may be, has deposited such moneys with the administrator in accordance with the terms of such judgment, regardless of whether such right of the owner arises from a lease, contract, agreement or understanding heretofore or hereafter made or entered into or arises as a matter of law from the relationship of the parties or otherwise. It shall be a valid defense in any action or proceeding against any such tenant to recover possession of real property for the non-payment of rent or for use or occupation to prove that the rent alleged to be unpaid was deposited with the administrator in accordance with the terms of a judgment entered under this section.

c. Directing the owner to provide written notice to the court, court-appointed administrator, housing standards department, and petitioning tenants within ten days of entering into a contract of sale with a prospective purchaser of the premises.

d. Neither the owner nor a court-appointed administrator shall, without good cause, serve a notice to quit upon any tenant or commence any action to recover real property or summary proceeding to recover possession of real property, or substantially alter the terms of a tenant's lease, including, but not limited to, refusing to continue a tenancy of the tenant upon expiration of the tenant's lease, to renew the lease or offer a new lease, or offering a new lease with a rent

increase equal to or greater than five percent above the current lease, within one year of a judgment pursuant to this section; provided, however, that an owner shall not be required under this section to offer a new lease or a lease renewal for a term greater than one year.

§ 8. Section 777 of the real property actions and proceedings law is REPEALED.

§ 9. Section 778 of the real property actions and proceedings law, as amended by chapter 963 of the laws of 1974, subdivisions 1 and 6 as amended and subdivision 11 as added by chapter 455 of the laws of 2013, the opening paragraph of subdivision 1 as amended by chapter 48 of the laws of 2015, subdivision 3 as amended by chapter 305 of the laws of 1978, subdivision 4 as added by chapter 521 of the laws of 1979, subdivision 5 as added by chapter 769 of the laws of 1981, subdivision 7 as added by chapter 737 of the laws of 1985, subdivisions 8 and 9 as added by chapter 95 of the laws of 1989, subdivision 10 as amended by chapter 40 of the laws of 2001, paragraph (a) of subdivision 10 as amended by chapter 387 of the laws of 2003 and paragraph (b) of subdivision 10 as amended by chapter 265 of the laws of 2009, is amended to read as follows:

§ 778. Appointment of administrator. 1. The court is authorized and empowered, in implementation of a judgment rendered pursuant to section seven hundred seventy-six [~~or seven hundred seventy-seven~~] of this article, to appoint a person other than the owner, a mortgagee or lienor, to receive and administer the rent moneys or security deposited with such owner, mortgagee or lienor, subject to the court's direction. The court may appoint the [~~commissioner of the department of the city of New York charged with enforcement of the housing maintenance code of such city~~] official charged with managing the housing standards department or the commissioner's designee as such administrator, provided that the commissioner or the commissioner's designee shall consent, in writing, to such appointment. Any administrator is authorized and empowered in accordance with the direction of the court, to order the necessary materials, labor and services to remove or remedy the conditions specified in the judgment, and to make disbursements in payment thereof; and to demand, collect and receive the rents from the tenants; and to institute all necessary legal proceedings including, but not limited to, summary proceedings for the removal of any tenant or tenants; and to rent or lease for terms not exceeding three years any part of said premises, however, the court may direct the administrator to rent or lease commercial parts of said premises for terms that the court may approve. In addition, such administrator is authorized and empowered in accordance with the direction of the court to accept and repay such moneys as may be received from the housing standards department [~~charged with enforcement of the housing maintenance code of the city of New York~~] for the purpose of managing the premises, replacing or substantially rehabilitating systems or making other repairs or capital improvements authorized by the court. All moneys expended by the department pursuant to the foregoing shall constitute a debt recoverable from the owner and a lien upon the building and lot, and upon the rents and other income thereof. Such lien shall be enforced in accordance with the provisions of article eight of subchapter five of the housing maintenance code of the city of New York, or in accordance with any applicable provisions for all other counties. Such administrator, shall, upon completion of the work prescribed in such judgment, file with the court a full accounting of all receipts and expenditures for such work. Such administrator shall

dispose of the rents and other monies deposited with such administrator according to the following order of priority:

(a) Payment in full for all of the work specified in the judgment, fuel bills, fire and liability insurance, and bills for ordinary repairs and maintenance, including correcting conditions in violation of the law. Until all of the work specified in the judgment has been completed and payment for such work has been made, no other disbursements shall be permitted[~~, except for fuel bills, fire and liability insurance, and bills for ordinary repairs and maintenance~~].

(b) Payment of a reasonable amount for the services of such administrator, including reimbursement of any legal fees incurred by such administrator in connection with management of the building.

(c) Payment of outstanding real property tax liens claimed by [~~the city of New York~~] any municipality or county in which the dwelling is located.

(d) Payment of outstanding emergency repair liens filed and recorded by [~~the city of New York~~] any municipality or county in which the dwelling is located and outstanding liens filed and recorded by [~~the city~~] such municipality or county pursuant to this section.

(e) Abatements for all tenants of up to twenty-five percent of rent for the period during which the administrator is appointed. Nothing in this paragraph shall prevent any tenant from prosecuting a claim in a court of competent jurisdiction for breach of warranty of habitability; however, any resulting relief from such claim will be reduced by the amount of the abatement awarded herein.

(f) Payment to the owner of any surplus remaining after payments of paragraphs (a) through [~~(d)~~] (e) of this subdivision have been made.

2. Unless the administrator is the [~~city of New York~~] municipality or county, the court may allow from the rent moneys or security on deposit a reasonable amount for services of such administrator.

3. Unless such administrator is the [~~city of New York~~] municipality or county, the administrator so appointed shall furnish a bond, the amount and form of which shall be approved by the court. In its discretion and for good cause shown, the court may dispense with the necessity for a bond. The cost of a required bond shall be paid from the moneys so deposited.

4. Such administrator shall file a transcript of the judgment appointing [~~him~~] them with the county clerk within fifteen days of [~~his~~] their appointment.

5. The duties of such administrator shall not be affected by the appointment of a receiver in an action to foreclose a mortgage on the premises, except that the rights of the owner, including the right to any surplus, pursuant to paragraph (e) of subdivision one of this section, shall pass to the receiver. The court in which the action to foreclose a mortgage on the premises is pending may appoint such administrator to serve as receiver in that action in addition to [~~his~~] their duties as administrator pursuant to this article.

6. Such administrator shall be liable only in his or her official capacity for injury to persons and property by reason of conditions of the premises in a case where an owner would have been liable; he or she shall not have any liability in his or her personal capacity. Appointment of an administrator pursuant to subdivision one of this section shall not relieve an owner of liability for injury to persons and property in such case.

7. No [~~city~~] municipality or county specified in section seven hundred sixty-nine of this article shall be liable to any party, including such

administrator or the owner, for injury to persons or property by reason of conditions of the premises or the acts or omissions of such administrator, except that when the [~~city of New York~~] **municipality or county** is appointed administrator, liability shall be determined in accordance with subdivision six of this section.

8. The commissioner of the department of the city of New York charged with the enforcement of the housing maintenance code of such city shall promulgate rules and regulations regarding criteria for the selection of administrators to be appointed pursuant to this section and shall establish and maintain a list of **organizations and** persons approved by such department. **If the dwelling is located outside the city of New York, the official charged with management of the housing standards department shall promulgate rules and regulations regarding criteria for the selection of administrators to be appointed pursuant to this section and may establish and maintain a list of organizations and persons approved by such department.** Unless the administrator is the [~~city of New York~~] **municipality or county**, any person appointed as an administrator within such city shall be selected from among the **organizations and** persons approved as administrators pursuant to such list**, any organizations or individuals submitted to the court for consideration by the petitioning tenants pursuant to paragraph (a) of this subdivision, and the petitioning tenants deemed to have sufficient knowledge and expertise to serve as the administrator.**

(a) Where an article seven-A proceeding is initiated by tenants, the petitioning tenants shall have the right to submit to the court a list of three preferred organizations and/or individuals selected from the approved list of administrators provided that, if the tenants find no organization or individual on the list to be suitable, the tenants may nominate organizations or individuals outside of the list, including from among the petitioning tenants, along with a summary of each nominee's experience and credentials, for consideration by the court.

(b) Where petitioning tenants have submitted preferred organizations and/or individuals selected from the approved list of administrators, the court must appoint an administrator from among the petitioning tenants' preferred approved administrators absent good cause to the contrary.

(c) Where petitioning tenants have not submitted preferred organizations or individuals or where the court declines to appoint an administrator from among the petitioning tenants' preferred administrators or nominees, priority of appointment shall be given to not-for-profit corporations formed for the purpose of preserving or developing affordable housing whenever there is no eligible for-profit organization or individual that is clearly more competent.

9. **(a)** Such administrator shall, within thirty days of appointment, file with the court a plan for the provision of essential services and for the correction of such other hazardous conditions as may exist at the premises, specifying dates by which such services shall be provided and such conditions corrected. If such administrator cannot provide such services and correct such conditions by the dates specified in the plan, [~~he~~] **they** shall be required to file with the court an amendment to the plan setting forth the reasons why such services and corrections could not be provided by such date and specifying new dates for such services and corrections. Such plan and any amendments to such plan shall be provided to the tenants by **first-class or registered or certified** mail [~~or~~] **and** by **conspicuously** posting in a common area of the building**,** and to the owner of record by **first-class or registered or certified** mail.

(b) Where an organization has been appointed as the administrator, such administrator shall promptly delegate the responsibilities to a single individual and inform the court of such designation within thirty days. Such person shall remain accountable to the court as the administrator's representative until the administrator's discharge.

10. (a) Where a building for which an administrator has been appointed pursuant to this section is transferred to a new owner at any time following the appointment of such administrator, whether or not such building remains subject to such administrator, the **housing standards** department [~~charged with enforcement of the housing maintenance code of the city of New York~~] may enter into a regulatory agreement with such new owner. Such regulatory agreement may impose such terms and conditions upon the operation and repair of such building as such department may determine. Notwithstanding any general, special or local law to the contrary, such regulatory agreement may provide that, upon transfer of such building to the new owner, any outstanding liens filed with and recorded by the city pursuant to this section or pursuant to section three hundred nine of the multiple dwelling law shall immediately be reduced to zero, provided that such regulatory agreement shall require, in consideration for such reduction to zero, the provision of adequate, safe and sanitary housing accommodations for persons of low income for a period of not less than [~~thirty~~] **ninety-nine** years. Any regulatory agreement pursuant to this subdivision shall include a certification by the new owner of the real property that (i) the prior owner has no direct or indirect interest in such real property, and (ii) the prior owner has no direct or indirect interest in such new owner.

(b) On or about June thirtieth, two thousand [~~nine~~] **twenty-two** and for every three years thereafter for as long as the program continues to be in effect, the [~~city~~] **municipality or county** shall submit a report to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly. Each report following the initial report shall describe the program activities carried out during the three prior calendar years pursuant to this subdivision.

11. **(a)** The court may only discharge an administrator if the owner **makes a prima facie showing that the conditions and course of conduct which required the appointment of the article seven-A administrator have been cured and that the owner has a detailed plan for the continued maintenance and operation of the dwelling, the owner** has paid in full or entered into a payment agreement to pay in full all outstanding real property tax liens claimed by [~~the city of New York~~] **any municipality or county in which the dwelling is located**, all outstanding emergency repair liens filed and recorded by [~~the city of New York~~] **any municipality or county in which the dwelling is located**, all outstanding charges and liens assessed in connection to the alternative enforcement program authorized by section 27-2153 of the administrative code of the city of New York, and outstanding liens filed and recorded by [~~the city~~] **such municipality or county** pursuant to this section. The provisions of this subdivision shall not apply to buildings transferred pursuant to subdivision ten of this section.

(b) A detailed plan for the continued maintenance of the operations of the dwelling shall include sufficient submissions for the court to evaluate the owner's willingness and ability to make repairs, including specifying the repairs they will undertake, an estimated budget, a timetable for doing so, identifying the source of funds for those expenditures, and balance sheets or income statements.

(c) In assessing an owner's fitness for the continued maintenance and operation of the dwelling, the court shall consider the conditions of other properties owned or managed by the owner and shall not discharge the article seven-A administrator where it is found that the owner operates a separate property or separate properties at a standard which is contrary to public health and safety. The court may rely on the visually displayed or the printed computerized violation files of the department responsible for maintaining such files and all other computerized data as shall be relevant to the enforcement of state and local laws for the establishment and maintenance of housing standards.

12. (a) Where a judgment has been entered pursuant to section seven hundred seventy-eight of this article, the municipality must, within six months of such a judgment, certify a finding pursuant to paragraph (c) of subdivision one of section nineteen hundred seventy-one of this chapter.

(b) Where a finding of abandonment has been certified, the municipality may commence a proceeding pursuant to section nineteen hundred seventy-three of this chapter, or, in the alternative, authorize the court-appointed administrator to sell the property to a purchaser approved by the court pursuant to section seven hundred eighty-four of this article.

(c) Notice of such authorization must be issued to all owners, mortgagors, lienors and lessees of record pursuant to section nineteen hundred seventy-two of this chapter, as well as to all tenants of the subject building.

(d) Any owner, mortgagor, lienor or lessee may challenge the authorization of sale, provided that the burden of proof is on the challenging party to demonstrate its capacity to resume control of the premises pursuant to subdivision eleven of this section.

§ 10. Section 779 of the real property actions and proceedings law, as amended by chapter 95 of the laws of 1989, is amended to read as follows:

§ 779. Presentation or settlement of accounts. The court shall require the keeping of written accounts itemizing the receipts and expenditures under an order issued pursuant to section seven hundred seventy-six [~~or seven hundred seventy-seven~~] of this article, which shall be open to inspection by the owner, any mortgagee or lienor or any other person having an interest in such receipts or expenditures provided, however, notwithstanding any other provision of law to the contrary, such information as may be in the possession of the [~~city of New York with the department charged with the enforcement of the housing maintenance code of such city~~] housing standards department shall be available from such department for inspection only by the owner, tenant of such property, or person having a recorded interest in the property. Upon motion of the court or the administrator or of the owner, any mortgagee or lienor of record or of any person having an interest, or the petitioning tenants, the court may require a presentation or settlement of the accounts with respect thereto. Notice of a motion for presentation or settlement of such accounts shall be served on the owner, any mortgagee or other lienor of record who appeared in the proceeding and [~~any person having an interest in such receipts or expenditures~~] the petitioning tenants.

§ 11. Section 782 of the real property actions and proceedings law, as amended by chapter 877 of the laws of 1982, is amended to read as follows:

§ 782. "Dwelling" defined. As used in this article, the term "dwelling" shall mean any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings and is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of [~~three~~] **one** or more families [~~living independently of each other~~]; or is a garden-type maisonette dwelling project as defined in the multiple dwelling law or other similar dwellings which in their aggregate are arranged or designed to provide three or more apartments, have common facilities such as but not limited to a sewer line, water main, or heating plant and are operated as a unit under common ownership, notwithstanding that certificates of occupancy were issued for portions thereof as one or two family dwellings or that the dwellings are not a multiple dwelling as defined in the multiple dwelling law. **"Dwelling" shall also include premises zoned for mixed residential and commercial use, provided that a portion of such premises are, in fact, occupied by one or more tenants for residential purposes.**

§ 12. Section 783 of the real property actions and proceedings law, as added by chapter 95 of the laws of 1989, is amended to read as follows:

§ 783. Defense of warranty of habitability inapplicable. Notwithstanding any other provision of law, in any proceeding for the payment of rent commenced by an administrator appointed pursuant to this article, the provisions of section two hundred thirty-five-b of the real property law pertaining to the warranty of habitability shall not be a defense to such a proceeding for rent which accrues during the period of time that a judgment or an order pursuant to this article is in effect, unless the court determines that the conditions upon which such defense is based were caused by the failure of such administrator to perform his duties in a reasonable manner. **The burden of showing performance of duties in a reasonable manner shall be made by the administrator in such summary proceeding.**

§ 13. The real property actions and proceedings law is amended by adding a new section 784 to read as follows:

§ 784. Sale of premises; court review. Prior to entering into any contract of sale of the premises subject to judgment, an owner, administrator, mortgagor, or lienor shall submit the proposed contract of sale for review before the court.

§ 14. The real property actions and proceedings law is amended by adding a new section 785 to read as follows:

§ 785. Waiver void. Any provision of a lease or other agreement whereby any provision of this article for the benefit of a tenant, resident or occupant of a dwelling is waived, shall be deemed against public policy and shall be void.

§ 15. Paragraph 5 of subdivision (a) of section 110 of the New York city civil court act, as amended by chapter 849 of the laws of 1977, is amended to read as follows:

(5) Actions and proceedings under article seven-A of the real property actions and proceedings law, and all summary proceedings to recover possession of residential premises to remove tenants therefrom, and to render judgment for rent due, including without limitation those cases 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 section D26-41.21 of such housing maintenance code. **Where one or multiple parts within the housing**

part have been designated to hear trials, actions and proceedings under article seven-A of the real property actions and proceedings law, such proceedings shall be held before those trial parts and not before the part within the housing part.

§ 16. Subdivision (e) of section 202 of chapter 570 of the laws of 1909, relating to the establishment of the city court of Buffalo, as added by chapter 516 of the laws of 1978, is amended to read as follows:

(e) [~~All~~] Actions and proceedings under article seven-A of the real property actions and proceedings law, and 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~~] their 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~~] the administrative judge feels that housing part is capable of handling all such summary proceedings.

§ 17. Subdivision (e) of section 3 of chapter 464 of the laws of 2021 relating to enacting the Rochester housing court act, is amended to read as follows:

(e) [~~All~~] Actions and proceedings under article seven-A of the real property actions and proceedings law, and 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 five-a of the multiple residence 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 Rochester city court may, in his or her 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 or she feels that housing part is capable of handling all such summary proceedings.

§ 18. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to subdivision 10 of section 778 of the real property actions and proceedings law made by section nine of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.