

STATE OF NEW YORK

354

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

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 Assem-
bly, 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:

3 ARTICLE 7-C

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

8 Section 797. Jurisdiction; courts; venue.

9 797-a. Person who may maintain proceeding.

10 797-b. Respondent.

11 797-c. Commencement; notice of petition; petition.

12 797-d. Time of service; order to show cause.

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

15 797-f. Contents of the petition.

16 797-g. Notice to local housing standard enforcement agency.

17 797-h. Answer.

18 797-i. Trial.

19 797-j. Judgment.

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

LBD05317-01-1

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

6
7 2. The place of trial of the special proceeding shall be within the
8 jurisdictional area of the court in which the residential real property
9 or a portion thereof is situated.

10 § 797-a. Person who may maintain proceeding. 1. The proceeding may be
11 maintained by any party, known herein as a tenant, who is an occupant of
12 residential real property for thirty consecutive days or longer under an
13 agreement not created by deed.

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

16 § 797-b. Respondent. The following may be named as a respondent:

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

20 2. The person or organization listed on any state or local residential
21 registration statement.

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

24 4. A public housing authority or a governmental body that owns or
25 manages the property.

26 § 797-c. Commencement; notice of petition; petition. 1. The proceeding
27 shall be commenced by the filing of a notice of petition and petition
28 with the clerk of the court. A notice of petition may be issued by an
29 attorney, judge, or clerk of the court.

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

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

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

39 § 797-d. Time of service; order to show cause. 1. The notice of peti-
40 tion and petition shall be served at least ten and not more than seven-
41 teen days before the time at which the petition is to be heard.

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

44 § 797-e. Manner of service of notice of petition and petition; when
45 service complete. 1. Personal service upon a natural person may be
46 completed in the manner in which a summons is served under section three
47 hundred eight of the civil practice law and rules.

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

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

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

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

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

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

18 2. Every petition shall:

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

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

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

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

30 § 797-g. Notice to local housing standard enforcement agency. The
31 clerk of the court shall mail a copy of the filed notice of petition and
32 petition to the appropriate government agency charged with enforcing
33 local or state housing standards within the court's jurisdiction.

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

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

48 § 797-j. Judgment. 1. The court shall direct that final judgment be
49 entered determining the rights of the parties.

50 2. The judgment may include:

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

54 b. A monetary judgment in favor of the petitioner for the diminished
55 value of the real property resulting from violation of applicable local

1 and state housing standards or section two hundred thirty-five-b of the
2 real property law;

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

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

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

11 § 204. Summary proceedings.

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

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

21 § 204. Summary proceedings.

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

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

32 § 204. Summary proceedings.

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

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