

STATE OF NEW YORK

4594

2021-2022 Regular Sessions

IN SENATE

February 5, 2021

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed 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:

Section 1. The real property actions and proceedings law is amended by adding a new article 7-C to read as follows:

ARTICLE 7-C

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

Section 797. Jurisdiction; courts; venue.

797-a. Person who may maintain proceeding.

797-b. Respondent.

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

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

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

797-f. Contents of the petition.

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

797-h. Answer.

797-i. Trial.

797-j. Judgment.

§ 797. Jurisdiction; courts; venue. 1. A special proceeding for judgment directing repairs of conditions and other relief in residential

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

LBD05317-01-1

1 real property constituting violation of applicable local and state hous-
2 ing standards or section two hundred thirty-five-b of the real property
3 law may be maintained in a county court, justice court, district court,
4 or city court.

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

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

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

14 § 797-b. Respondent. The following may be named as a respondent:

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

18 2. The person or organization listed on any state or local residential
19 registration statement.

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

22 4. A public housing authority or a governmental body that owns or
23 manages the property.

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

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

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

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

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

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

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

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

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

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

55 5. In the alternative, personal service may be completed by the court
56 clerk on any natural person, partnership, corporation, or limited

1 liability company by mailing the notice of petition and petition by
2 certified and first-class mail to an address where local property tax
3 bills are sent. If the jurisdiction in which the court sits has a rental
4 registry requirement, service may be completed by mailing to the address
5 for the real property in the registry.

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

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

16 2. Every petition shall:

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

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

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

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

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

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

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

46 § 797-j. Judgment. 1. The court shall direct that final judgment be
47 entered determining the rights of the parties.

48 2. The judgment may include:

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

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

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

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

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

9 § 204. Summary proceedings.

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

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

19 § 204. Summary proceedings.

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

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

30 § 204. Summary proceedings.

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

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