

# STATE OF NEW YORK

2194

2023-2024 Regular Sessions

## IN ASSEMBLY

January 23, 2023

Introduced by 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:

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

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

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

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1 purpose of remedying conditions dangerous to life, health or safety may  
 2 be maintained in the civil court of the city of New York, the district  
 3 court of the counties of Suffolk and Nassau, the housing courts in the  
 4 cities of Buffalo and Rochester, and the county courts [~~or~~], city courts  
 5 or town courts in [~~the counties of Rockland and Westchester~~] all other  
 6 counties.

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

10 § 770. Grounds for the proceeding. 1. One-third or more of the tenants  
 11 occupying a dwelling [~~located in the city of New York or the commissioner~~  
 12 ~~of the department of the city of New York charged with enforcement of~~  
 13 ~~the housing maintenance code of such city, or in the counties of Nassau,~~  
 14 ~~Suffolk, Rockland and Westchester~~] and/or the housing standards depart-  
 15 ment may [~~maintain~~] commence a special proceeding as provided in this  
 16 article, upon the ground that there exists in such dwellings or in any  
 17 part thereof a lack of heat or of running water or of light or of elec-  
 18 tricity or of adequate sewage disposal facilities, or any other condi-  
 19 tion dangerous to life, health or safety, which has existed for five  
 20 days, or an infestation by rodents, or any combination of such condi-  
 21 tions; or course of conduct by the owner or the owner's agents of  
 22 harassment, illegal eviction, retaliation as defined by section two  
 23 hundred twenty-three-b of the real property law, interference with the  
 24 right of tenants to form, join or participate in tenants' groups pursu-  
 25 ant to section two hundred thirty of the real property law, continued  
 26 deprivation of services or other acts dangerous to life, health or safe-  
 27 ty, or a business practice of neglect as defined in subdivision three of  
 28 this section, or the issuance of an order to the owner of such dwelling  
 29 by the commissioner of such department of the city of New York pursuant  
 30 to the alternative enforcement program under section 27-2153 of the  
 31 administrative code of the city of New York, provided that such dwelling  
 32 has not been discharged from the program pursuant to such section and  
 33 there has not been a determination that the owner has substantially  
 34 complied with such order.

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

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

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

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

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

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

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

21 § 771. Commencement; notice of petition; time and manner of service.

22 1. A special proceeding prescribed by this article shall be commenced by  
 23 the service of a petition and notice of petition. [~~A notice of petition~~  
 24 ~~may be issued only by a judge or the clerk of the court.~~]

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

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

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

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

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

51 d. upon any non-petitioning tenants.

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

54 5. Manner of service of the notice of petition and petition. a. Upon  
 55 the owner. (1) Service [~~of the notice of petition and petition~~] shall be  
 56 made upon the owner at least five days before the time at which the

1 petition is noticed to be heard by personally delivering [~~them~~] the  
2 notice of petition and petition to the person or persons required to be  
3 served pursuant to paragraphs a and b of subdivision three of this  
4 section. [~~Service upon the city of New York shall be made by personal~~  
5 ~~delivery to the commissioner of the city department charged with~~  
6 ~~enforcement of the housing maintenance code of such city, or to an agent~~  
7 ~~duly authorized to accept such service on his behalf. If service cannot~~  
8 ~~with due diligence be made within the city upon an owner, mortgagee or~~  
9 ~~lienor of record in such manner, it shall be made:~~

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

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

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

37 (2) If such service cannot be made with due diligence within the city  
38 of New York if the dwelling is located therein or otherwise within the  
39 county where the dwelling is located, it shall be made by affixing a  
40 copy of the notice and petition upon a conspicuous part of the subject  
41 dwelling; and in addition, within two days after such affixing, by send-  
42 ing to the owner a copy thereof by registered or certified mail, return  
43 receipt requested, and a copy thereof by registered or certified or  
44 regular first-class mail, no return receipt requested. If the subject  
45 dwelling is located in the city of New York, such mailing shall be sent  
46 to the address last registered with the department of housing preserva-  
47 tion and development pursuant to article two of subchapter four of chap-  
48 ter two of title twenty-seven of the administrative code of the city of  
49 New York, or in the absence of such registration, to the address set  
50 forth in the last recorded deed for the subject dwelling. If the subject  
51 dwelling is located outside the city of New York, such mailing shall be  
52 sent to the address where local property tax bills for the subject  
53 dwelling are sent or, in the alternative if the jurisdiction in which  
54 the court sits has a rental registry requirement, at the registered  
55 address for the subject dwelling.

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

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

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

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

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

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

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

52 1. Allege material facts showing that there exists in such dwelling or  
53 any part thereof one or more of the following: a lack of heat or of  
54 running water or of light or electricity or of adequate sewage disposal  
55 facilities, or any other condition dangerous to life, health or safety,  
56 which has existed for five days, or an infestation of rodents or course

1 of conduct by the owner or his agents of harassment, illegal eviction,  
2 retaliation as defined by section two hundred twenty-three-b of the real  
3 property law, interference with the right of tenants to form, join or  
4 participate in tenants' groups pursuant to section two hundred thirty of  
5 the real property law, continued deprivation of services or other acts  
6 dangerous to life, health or safety; or a business practice of neglect  
7 as defined in subdivision three of section seven hundred seventy of this  
8 article; or the issuance of an order to the owner of such dwelling by  
9 the commissioner of such housing standards department of the city of New  
10 York pursuant to the alternative enforcement program under section  
11 27-2153 of the administrative code of the city of New York, provided  
12 that such dwelling has not been discharged from the program pursuant to  
13 such section and there has not been a determination that the owner has  
14 substantially complied with such order.

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

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

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

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

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

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

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

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

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

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

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

9 b. Directing that (1) the rents due on the date of the entry of such  
10 judgment from the petitioning tenants and the rents due on the dates of  
11 service of the judgment on all other residential and non-residential  
12 tenants occupying such dwelling from such other tenants, shall be depos-  
13 ited with the administrator appointed by the court, pursuant to section  
14 seven hundred seventy-eight of this article; (2) any rents to become due  
15 in the future from all tenants occupying such dwelling shall be deposit-  
16 ed with such administrator as they fall due; (3) such deposited rents  
17 shall be used, subject to the court's direction, to the extent necessary  
18 to remedy the condition or conditions or course of conduct alleged in  
19 the petition and (4) upon the completion of such work in accordance with  
20 such judgment, any remaining surplus shall be turned over to the owner,  
21 together with a complete accounting of the rents deposited and the costs  
22 incurred; and granting such other and further relief as to the court may  
23 seem just and proper. A certified copy of such judgment shall be served  
24 personally, by the administrator appointed by the court pursuant to  
25 section seven hundred seventy-eight of this article, upon each non-peti-  
26 tioning tenant occupying such dwelling and [~~upon the city of New York~~]  
27 the housing standards department by service as provided in subdivision  
28 five of section seven hundred seventy-one of this article. If personal  
29 service on any such non-petitioning tenant cannot be made with due dili-  
30 gence, service on such tenant shall be made by affixing a certified copy  
31 of such judgment on the entrance door of such tenant's apartment, store  
32 or other unit and, in addition, within one day after such affixing, by  
33 sending a certified copy thereof by certified or registered mail, return  
34 receipt requested, to such tenant. Any right of the owner of such dwell-  
35 ing to collect such rent moneys from any petitioning tenant of such  
36 dwelling on or after the date of entry of such judgment, and from any  
37 non-petitioning tenant of such dwelling on or after the date of service  
38 of such judgment on such non-petitioning tenant as herein provided,  
39 shall be void and unenforceable to the extent that such petitioning or  
40 non-petitioning tenant, as the case may be, has deposited such moneys  
41 with the administrator in accordance with the terms of such judgment,  
42 regardless of whether such right of the owner arises from a lease,  
43 contract, agreement or understanding heretofore or hereafter made or  
44 entered into or arises as a matter of law from the relationship of the  
45 parties or otherwise. It shall be a valid defense in any action or  
46 proceeding against any such tenant to recover possession of real proper-  
47 ty for the non-payment of rent or for use or occupation to prove that  
48 the rent alleged to be unpaid was deposited with the administrator in  
49 accordance with the terms of a judgment entered under this section.

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

54 d. Neither the owner nor a court-appointed administrator shall, with-  
55 out good cause, serve a notice to quit upon any tenant or commence any  
56 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

1 counties. Such administrator, shall, upon completion of the work  
2 prescribed in such judgment, file with the court a full accounting of  
3 all receipts and expenditures for such work. Such administrator shall  
4 dispose of the rents and other monies deposited with such administrator  
5 according to the following order of priority:

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

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

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

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

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

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

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

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

40 4. Such administrator shall file a transcript of the judgment appoint-  
41 ing [~~him~~] them with the county clerk within fifteen days of [~~his~~] their  
42 appointment.

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

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

1 shall not relieve an owner of liability for injury to persons and prop-  
2 erty in such case.

3 7. No [~~city~~] municipality or county specified in section seven hundred  
4 sixty-nine of this article shall be liable to any party, including such  
5 administrator or the owner, for injury to persons or property by reason  
6 of conditions of the premises or the acts or omissions of such adminis-  
7 trator, except that when the [~~city of New York~~] municipality or county  
8 is appointed administrator, liability shall be determined in accordance  
9 with subdivision six of this section.

10 8. The commissioner of the department of the city of New York charged  
11 with the enforcement of the housing maintenance code of such city shall  
12 promulgate rules and regulations regarding criteria for the selection of  
13 administrators to be appointed pursuant to this section and shall estab-  
14 lish and maintain a list of organizations and persons approved by such  
15 department.

16 If the dwelling is located outside the city of New York,  
17 the official charged with management of the housing standards department  
18 shall promulgate rules and regulations regarding criteria for the  
19 selection of administrators to be appointed pursuant to this section and  
20 may establish and maintain a list of organizations and persons approved  
21 by such department. Unless the administrator is the [~~city of New York~~]  
22 municipality or county, any person appointed as an administrator within  
23 such city shall be selected from among the organizations and persons  
24 approved as administrators pursuant to such list, any organizations or  
25 individuals submitted to the court for consideration by the petitioning  
26 tenants pursuant to paragraph (a) of this subdivision, and the petition-  
27 ing tenants deemed to have sufficient knowledge and expertise to serve  
28 as the administrator.

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

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

42 (c) Where petitioning tenants have not submitted preferred organiza-  
43 tions or individuals or where the court declines to appoint an adminis-  
44 trator from among the petitioning tenants' preferred administrators or  
45 nominees, priority of appointment shall be given to not-for-profit  
46 corporations formed for the purpose of preserving or developing afforda-  
47 ble housing whenever there is no eligible for-profit organization or  
48 individual that is clearly more competent.

49 9. (a) Such administrator shall, within thirty days of appointment,  
50 file with the court a plan for the provision of essential services and  
51 for the correction of such other hazardous conditions as may exist at  
52 the premises, specifying dates by which such services shall be provided  
53 and such conditions corrected. If such administrator cannot provide such  
54 services and correct such conditions by the dates specified in the plan,  
55 [~~he~~] they shall be required to file with the court an amendment to the  
56 plan setting forth the reasons why such services and corrections could  
not be provided by such date and specifying new dates for such services

1 and corrections. Such plan and any amendments to such plan shall be  
2 provided to the tenants by first-class or registered or certified mail  
3 [~~ex~~] and by conspicuously posting in a common area of the building, and  
4 to the owner of record by first-class or registered or certified mail.

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

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

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

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

55 (b) A detailed plan for the continued maintenance of the operations of  
56 the dwelling shall include sufficient submissions for the court to eval-

1 uate the owner's willingness and ability to make repairs, including  
2 specifying the repairs they will undertake, an estimated budget, a time-  
3 table for doing so, identifying the source of funds for those expendi-  
4 tures, and balance sheets or income statements.

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

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

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

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

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

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

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

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

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

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

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

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

37 § 784. Sale of premises; court review. Prior to entering into any  
38 contract of sale of the premises subject to judgment, an owner, adminis-  
39 trator, mortgagor, or lienor shall submit the proposed contract of sale  
40 for review before the court.

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

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

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

50 (5) Actions and proceedings under article seven-A of the real property  
51 actions and proceedings law, and all summary proceedings to recover  
52 possession of residential premises to remove tenants therefrom, and to  
53 render judgment for rent due, including without limitation those cases  
54 in which a tenant alleges a defense under section seven hundred fifty-  
55 five of the real property actions and proceedings law, relating to stay  
56 or proceedings or action for rent upon failure to make repairs, section

1 three hundred two-a of the multiple dwelling law, relating to the abate-  
2 ment of rent in case of certain violations of section D26-41.21 of such  
3 housing maintenance code. Where one or multiple parts within the housing  
4 part have been designated to hear trials, actions and proceedings under  
5 article seven-A of the real property actions and proceedings law, such  
6 proceedings shall be held before those trial parts and not before the  
7 part within the housing part.

8 § 16. Subdivision (e) of section 202 of chapter 570 of the laws of  
9 1909, relating to the establishment of the city court of Buffalo, as  
10 added by chapter 516 of the laws of 1978, is amended to read as follows:

11 (e) [~~All~~] Actions and proceedings under article seven-A of the real  
12 property actions and proceedings law, and all summary proceedings to  
13 recover possession of residential premises to remove tenants therefrom,  
14 and to render judgment for rent due, in which a tenant alleges a defense  
15 under section seven hundred fifty-five of the real property actions and  
16 proceedings law, relating to stay or proceedings or action for rent upon  
17 failure to make repairs, section three hundred two-a of the multiple  
18 dwelling law, relating to the abatement of rent in case of certain  
19 violations of any housing codes, and section two hundred thirty-five-b  
20 of the real property law, relating to a landlord's duty to maintain  
21 habitable premises, or any other law involving housing code enforcement.  
22 The administrative judge of Buffalo city court may, in [~~his~~] their  
23 discretion, empower the housing part to hear all summary proceedings to  
24 recover possession of residential premises, regardless of whether a  
25 tenant alleges a defense, at any time when [~~he~~] the administrative judge  
26 feels that housing part is capable of handling all such summary  
27 proceedings.

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

31 (e) [~~All~~] Actions and proceedings under article seven-A of the real  
32 property actions and proceedings law, and all summary proceedings to  
33 recover possession of residential premises to remove tenants therefrom,  
34 and to render judgment for rent due, in which a tenant alleges a defense  
35 under section seven hundred fifty-five of the real property actions and  
36 proceedings law, relating to stay or proceedings or action for rent upon  
37 failure to make repairs, section three hundred five-a of the multiple  
38 residence law, relating to the abatement of rent in case of certain  
39 violations of any housing codes, and section two hundred thirty-five-b  
40 of the real property law, relating to a landlord's duty to maintain  
41 habitable premises, or any other law involving housing code enforcement.  
42 The administrative judge of Rochester city court may, in his or her  
43 discretion, empower the housing part to hear all summary proceedings to  
44 recover possession of residential premises, regardless of whether a  
45 tenant alleges a defense, at any time when he or she feels that housing  
46 part is capable of handling all such summary proceedings.

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