

LEGAL MEMORANDUM

Subject: Article 7-C
To: Tenant Advocates
From: Mike Furlano – Empire Justice Center
Date: 6/4/2022

EXECUTIVE SUMMARY

The New York State Legislature passed the Tenant Dignity and Safe Housing Act on 6/3/2022. The Act adds a new tenant right of action to the Real Property Actions and Proceedings Law to sue landlords in a summary proceeding to compel repairs and obtain past and future rental abatements. The new article, Article 7-C provides essentially the same legal mechanisms to tenant seeking repairs as Article 7 provides landlords seeking evictions. It will be effective 180 days after the Governor signs the law.

OVERVIEW OF NEW ACT

The act creates a special proceeding for tenants to sue landlords to compel repairs and seek monetary relief if their rental property violates local and state housing standards or the warranty of habitability codified in Real Property Law § 235-b.¹ A tenant may bring this action in the county, justice, district or city court in which the property is situated.²

¹ Two things: (1) this does not necessarily mean official code violations, just conditions that would violate state and local property codes, and (2) adding the warranty of habitability helps tenants in municipalities with lackluster code enforcement.

² Notably, Nassau and Suffolk County are excluded from this right of action

One or more tenant or legal occupant residing in the property for more than 30 consecutive days may bring this action. The act does not explicitly exclude those who do not have a landlord-tenant relationship.

The act authorizes the tenant to sue the owner, the public housing authority, and ostensibly the property manager or anybody acting as agent for the owner by collecting rent, making repairs, signing leases, or other landlord indicia.

A tenant commences the action by filing a notice of petition and petition—common for special proceedings in New York. The Office of Court Administration is directed to issue simple forms for a tenant to fill out, and court clerks must assist tenants to complete and serve the notice of petition and petition.

The act mimics the eviction summary proceeding by requiring service of the notice of petition and petition between 10–17 days before the petition return date and requires the tenant to file proof of service within three days of service. Unlike the eviction summary proceeding, however, the act defers to the CPLR for service requirements. Intriguingly, the court clerk may serve the documents by first class and certified mail to the property’s local tax address.^{3 4}

The petition must be verified by the tenant, tenant’s agent, or legal representative under CPLR § 320. It must include who the tenant is and what relationship they have with the property, the property address itself, the conditions that violate the local and state code or the warrant of habitability, and the relief

³ This would be useful for those landlords who only maintain a P.O. Box.

⁴ The act allows the court clerk to serve the papers but does not mandate it. This allows a court clerk to refuse to serve the papers.

sought. The non-exhaustive list of relief includes an order to repair, a rental abatement, and an order reducing future rent until violations are cured. This act does not seem to foreclose the ability of the tenant to seek to put the property into receivership.

The respondent may answer the petition orally or in writing at or prior to the return date. The parties are entitled to a trial adjournment of at least 14 days once the issues are joined. Any subsequent adjournments are at the court's discretion.

The court must also send a copy of the notice of petition and petition to the government agency responsible for enforcing housing standards within the court's jurisdiction.

CONCLUSION

Overall, this act provides a clear right of action for tenants to compel repairs and to seek monetary relief for living with hazardous and unsafe conditions—without risking eviction. It may have been possible under current laws, but now Article 7-C explicitly provides that right.

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