

7806--A

Cal. No. 576

I N   S E N A T E

May 12, 2010

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Introduced by Sens. SCHNEIDERMAN, SAMPSON, HASSELL-THOMPSON, KLEIN, OPPENHEIMER, STEWART-COUSINS -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend chapter 367 of the laws of 1999, amending the civil practice law and rules and the judiciary law relating to authorization of pilot programs permitting use of facsimile transmission or electronic means to commence an action or special proceeding, in relation to use of electronic means to commence an action or proceeding; to amend chapter 416 of the laws of 2009, amending the civil practice law and rules relating to service of papers by electronic means, in relation to service of papers by electronic means; and to amend chapter 457 of the laws of 2005 amending the judiciary law and other laws relating to use of credit cards to pay fees, fines and surcharges, in relation to making the provisions of such chapter permanent

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision (a) of section 6 of chapter 367 of the laws of  
2     1999, amending the civil practice law and rules and the judiciary law,  
3     relating to authorization of pilot programs permitting use of facsimile  
4     transmission or electronic means to commence an action or special  
5     proceeding, as amended by chapter 416 of the laws of 2009, is amended to  
6     read as follows:  
7     (a) Notwithstanding any other provision of law, the chief administra-  
8     tor of the courts, with the approval of the administrative board of the  
9     courts, may promulgate rules authorizing a program in the use of facsim-  
10    ile transmission *ONLY IN THE COURT OF CLAIMS* and electronic means in the  
11    supreme court, the civil court of the city of New York, surrogate's  
12    courts and the court of claims, for: (i) the commencement of civil  
13    actions and proceedings, and (ii) the filing and service of papers in  
14    pending actions and proceedings. PROVIDED, HOWEVER, THE CHIEF ADMINIS-

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

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1 TRATOR SHALL CONSULT WITH THE COUNTY CLERK OF A COUNTY BEFORE THE USE OF  
2 ELECTRONIC MEANS IS TO BE AUTHORIZED IN SUCH COUNTY, AFFORD HIM OR HER  
3 THE OPPORTUNITY TO SUBMIT COMMENTS WITH RESPECT THERETO AND CONSIDER ANY  
4 SUCH COMMENTS.

5 S 2. The first unnumbered paragraph of subparagraph 1 and subparagraph  
6 3 of paragraph (B) of subdivision (b) of section 6 of chapter 367 of the  
7 laws of 1999, amending the civil practice law and rules and the judici-  
8 ary law relating to authorization of pilot programs permitting use of  
9 facsimile transmission or electronic means to commence an action or  
10 special proceeding, as amended by chapter 416 of the laws of 2009, are  
11 amended to read as follows:

12 The supreme court of New York [county] AND WESTCHESTER COUNTIES in the  
13 following classes of cases provided that the amount in controversy  
14 (exclusive of punitive damages, interest, costs, disbursements and coun-  
15 sel fees claimed) is over \$100,000:

16 3. One or more classes of cases (excluding matrimonial actions as  
17 defined by the civil practice law and rules, election law proceedings,  
18 proceedings brought pursuant to article 78 of the civil practice law and  
19 rules, and proceedings brought pursuant to the mental hygiene law) in  
20 [the] supreme court [of one county outside the city of New York] IN  
21 LIVINGSTON, MONROE, ROCKLAND AND TOMPKINS COUNTIES.

22 S 3. The closing paragraph of paragraph (B) of subdivision (b) of  
23 section 6 of chapter 367 of the laws of 1999, amending the civil prac-  
24 tice law and rules and the judiciary law relating to authorization of  
25 pilot programs permitting use of facsimile transmission or electronic  
26 means to commence an action or special proceeding, as amended by chapter  
27 416 of the laws of 2009, is amended to read as follows:

28 Notwithstanding the foregoing, the chief administrator may not elimi-  
29 nate the requirement of consent until after he or she shall have  
30 consulted with members of the organized bar AND WITH THE COUNTY CLERK in  
31 any county in which such elimination shall apply, have afforded them the  
32 opportunity to submit comments with respect thereto, [and] have consid-  
33 ered any such comments AND, IN THE INSTANCE OF THE COUNTIES SPECIFIED IN  
34 SUBPARAGRAPH THREE OF THIS PARAGRAPH, HAVE OBTAINED THE AGREEMENT THERE-  
35 TO OF THE RESPECTIVE COUNTY CLERKS THEREOF.

36 S 4. Section 6 of chapter 416 of the laws of 2009, amending the civil  
37 practice law and rules relating to service of papers by electronic  
38 means, is amended to read as follows:

39 S 6. (A) Not later than April [1, 2012] FIRST IN EACH CALENDAR YEAR,  
40 COMMENCING IN THE YEAR 2011, the chief administrator of the courts shall  
41 submit to the legislature, the governor and the chief judge of the state  
42 a report evaluating the state's experience with the program in the use  
43 of electronic means for the commencement of civil actions and  
44 proceedings and the service of papers therein as authorized by this act  
45 and containing such recommendations for further legislation as he or she  
46 shall deem appropriate, INCLUDING, IN PARTICULAR, LEGISLATION TO ENABLE  
47 BROADER USE OF THE PROGRAM WITHOUT THE REQUIREMENT OF CONSENT TO PARTIC-  
48 IPATION IN THE COUNTIES SPECIFIED IN SUBPARAGRAPHS 1 AND 2 OF PARAGRAPH  
49 (B) OF SUBDIVISION (B) OF SECTION 6 OF CHAPTER 367 OF THE LAWS OF 1999,  
50 AMENDING THE CIVIL PRACTICE LAW AND RULES AND THE JUDICIARY LAW, RELAT-  
51 ING TO THE AUTHORIZATION OF PILOT PROGRAMS PERMITTING THE USE OF FACSIM-  
52 ILE TRANSMISSION OR ELECTRONIC MEANS TO COMMENCE AN ACTION OR SPECIAL  
53 PROCEEDING, AS AMENDED, AND IN COUNTIES NOT NOW SPECIFIED IN SUBPARA-  
54 GRAPH 3 OF SUCH PARAGRAPH (B). IN THE PREPARATION OF SUCH REPORT, THE  
55 CHIEF ADMINISTRATOR SHALL CONSULT WITH EACH COUNTY CLERK IN WHOSE COUNTY  
56 THE PROGRAM HAS BEEN IMPLEMENTED, AFFORD HIM OR HER AN OPPORTUNITY TO

1 SUBMIT COMMENTS WITH RESPECT TO SUCH IMPLEMENTATION FOR INCLUSION IN THE  
2 REPORT AND CONSIDER ANY SUCH COMMENTS.

3 (B) THE CHIEF ADMINISTRATOR OF THE COURTS SHALL CREATE AN ADVISORY  
4 COMMITTEE TO CONSULT WITH HIM OR HER IN THE IMPLEMENTATION OF THIS ACT  
5 IN THE SUPREME COURT. THIS COMMITTEE SHALL CONSIST OF SUCH NUMBER OF  
6 MEMBERS AS THE CHIEF ADMINISTRATOR SHALL DESIGNATE, NO FEWER THAN HALF  
7 TO BE UPON THE RECOMMENDATION OF THE NEW YORK STATE ASSOCIATION OF COUN-  
8 TY CLERKS.

9 S 5. Section 7 of chapter 457 of the laws of 2005 amending the judici-  
10 ary law and other laws relating to use of credit cards to pay fees,  
11 fines and surcharges is amended to read as follows:

12 S 7. This act shall take effect immediately [and shall expire and be  
13 deemed repealed 5 years after such date]; provided that section four of  
14 this act shall take effect on the first of January next succeeding the  
15 date on which it shall have become a law.

16 S 6. This act shall take effect immediately and shall be deemed to  
17 have been in full force and effect on and after September 1, 2009,  
18 provided, however, that the amendments to paragraph (B) of subdivision  
19 (b) of section 6 of chapter 367 of the laws of 1999 made by sections two  
20 and three of this act shall not affect the expiration and repeal of such  
21 paragraph and shall be deemed repealed therewith.