

5521

2011-2012 Regular Sessions

I N   S E N A T E

May 27, 2011

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Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the county law and the New York city charter, in relation to the docketing of adjudications of violations of laws enforced by the New York city department of consumer affairs

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

1     Section 1. Subdivision 4 of section 918 of the county law, as sepa-  
2     rately amended by chapters 419 and 473 of the laws of 1988, is amended  
3     to read as follows:  
4     4. Any other laws to the contrary notwithstanding, the county clerk in  
5     each of the counties within the city of New York is authorized and  
6     empowered to maintain separate judgment docket volumes containing the  
7     printed transcript or transcripts, in strict alphabetical order of judg-  
8     ment made, entered and docketed in the civil court of the city of New  
9     York against individuals, corporations, and other entities on behalf of  
10    the parking violations bureau, the environmental control board, the taxi  
11    and limousine commission, THE DEPARTMENT OF CONSUMER AFFAIRS and the  
12    commissioner of jurors of the city of New York. These volumes may be  
13    maintained in the form of computer print outs which shall contain the  
14    date of judgment, the name and address of the judgment debtor or  
15    debtors, the amount of the judgment and other information which the  
16    county clerk may deem necessary to sufficiently describe the parties to  
17    the action or proceeding or nature or the manner of the entry of the  
18    judgment. Provided, however, with respect to judgments on behalf of the  
19    parking violations bureau the county clerk may, in his OR HER  
20    discretion, in lieu of such volumes, maintain the aforementioned data in  
21    a micrographic or computer retrievable format. With respect to judg-  
22    ments on behalf of the parking violations bureau such volumes or other  
23    format shall be maintained pursuant to this subdivision for only those

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

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1 individuals, corporations, and other entities having vehicles registered  
2 in the counties within the city of New York.

3 S 2. Paragraph 2 of subdivision (g) of section 2203 of the New York  
4 city charter, as added by section 15 of question 2 of local law number  
5 60 of the city of New York for the year 2010, is amended to read as  
6 follows:

7 (2) All such proceedings shall be commenced by the service of a notice  
8 of violation. The commissioner shall prescribe the form and wording of  
9 notices of violation. The notice of violation or copy thereof when  
10 filled in and served shall constitute notice of the violation charged,  
11 and, if sworn to or affirmed, shall be prima facie evidence of the facts  
12 contained therein. THE NOTICE OF VIOLATION SHALL CONTAIN INFORMATION  
13 ADVISING THE PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH SUCH  
14 PERSON MAY EITHER ADMIT OR DENY THE VIOLATION CHARGED IN THE NOTICE.  
15 SUCH NOTICE OF VIOLATION SHALL ALSO CONTAIN A WARNING TO ADVISE THE  
16 PERSON CHARGED THAT FAILURE TO PLEAD IN THE MANNER AND TIME STATED IN  
17 THE NOTICE MAY RESULT IN A DEFAULT DECISION AND ORDER BEING ENTERED  
18 AGAINST SUCH PERSON. THE ORIGINAL OR A COPY OF THE NOTICE OF VIOLATION  
19 SHALL BE FILED AND RETAINED BY THE DEPARTMENT AND SHALL BE DEEMED A  
20 RECORD KEPT IN THE ORDINARY COURSE OF BUSINESS.

21 S 3. Paragraphs 3 and 4 of subdivision (g) of section 2203 of the New  
22 York city charter are renumbered paragraphs 9 and 10 and six new para-  
23 graphs 3, 4, 5, 6, 7 and 8 are added to read as follows:

24 (3) WHERE A RESPONDENT HAS FAILED TO PLEAD WITHIN THE TIME ALLOWED BY  
25 THE RULES OF THE COMMISSIONER OR HAS FAILED TO APPEAR ON A DESIGNATED  
26 HEARING DATE OR A SUBSEQUENT DATE FOLLOWING AN ADJOURNMENT, SUCH FAILURE  
27 TO PLEAD OR APPEAR SHALL BE DEEMED, FOR ALL PURPOSES, TO BE AN ADMISSION  
28 OF LIABILITY AND SHALL BE GROUNDS FOR RENDERING A DEFAULT DECISION AND  
29 ORDER IMPOSING A PENALTY IN THE MAXIMUM AMOUNT PRESCRIBED UNDER LAW FOR  
30 THE VIOLATION CHARGED.

31 (4) ANY FINAL ORDER IMPOSING A CIVIL PENALTY, WHETHER THE ADJUDICATION  
32 WAS HAD BY HEARING OR UPON DEFAULT OR OTHERWISE, SHALL CONSTITUTE A  
33 JUDGMENT THAT MAY BE ENTERED IN THE CIVIL COURT OF THE CITY OF NEW YORK  
34 OR ANY OTHER PLACE PROVIDED FOR THE ENTRY OF CIVIL JUDGMENTS WITHIN THE  
35 STATE, AND MAY BE ENFORCED WITHOUT COURT PROCEEDINGS IN THE SAME MANNER  
36 AS THE ENFORCEMENT OF MONEY JUDGMENTS ENTERED IN CIVIL ACTIONS. ENTRY OF  
37 A JUDGMENT IN ACCORDANCE WITH THIS PARAGRAPH SHALL NOT LIMIT THE APPLI-  
38 CATION OF ANY OTHER REMEDIES OR PENALTIES PROVIDED FOR THE ENFORCEMENT  
39 OF LAWS OR RULES UNDER THE JURISDICTION OF THE DEPARTMENT.

40 (5) NOTWITHSTANDING THE FOREGOING PROVISION, BEFORE A JUDGMENT BASED  
41 UPON A DEFAULT MAY BE SO ENTERED THE DEPARTMENT MUST HAVE NOTIFIED THE  
42 RESPONDENT BY FIRST CLASS MAIL IN SUCH FORM AS THE COMMISSIONER MAY  
43 DIRECT: (I) OF THE DEFAULT DECISION AND ORDER AND THE PENALTY IMPOSED;  
44 (II) THAT A JUDGMENT WILL BE ENTERED IN THE CIVIL COURT OF THE CITY OF  
45 NEW YORK OR ANY OTHER PLACE PROVIDED FOR THE ENTRY OF CIVIL JUDGMENTS  
46 WITHIN THE STATE OF NEW YORK; AND (III) THAT ENTRY OF SUCH JUDGMENT MAY  
47 BE AVOIDED BY REQUESTING A STAY OF DEFAULT FOR GOOD CAUSE SHOWN AND  
48 EITHER REQUESTING A HEARING OR ENTERING A PLEA PURSUANT TO THE RULES OF  
49 THE COMMISSIONER WITHIN THIRTY DAYS OF THE MAILING OF SUCH NOTICE.

50 (6) A JUDGMENT ENTERED PURSUANT TO PARAGRAPH FOUR OF THIS SUBDIVISION  
51 SHALL REMAIN IN FULL FORCE AND EFFECT FOR EIGHT YEARS.

52 (7) THE DEPARTMENT SHALL NOT ENTER ANY FINAL DECISION OR ORDER PURSU-  
53 ANT TO THE PROVISIONS OF PARAGRAPH FOUR OF THIS SUBDIVISION UNLESS THE  
54 NOTICE OF VIOLATION SHALL HAVE BEEN SERVED IN THE SAME MANNER AS IS  
55 PRESCRIBED FOR SERVICE OF PROCESS BY ARTICLE THREE OF THE CIVIL PRACTICE

1 LAW AND RULES OR ARTICLE THREE OF THE BUSINESS CORPORATION LAW OR AS  
2 PROVIDED IN PARAGRAPH EIGHT OF THIS SUBDIVISION.

3 (8)(I) SERVICE OF A NOTICE OF VIOLATION MAY BE MADE BY DELIVERING SUCH  
4 NOTICE TO A PERSON EMPLOYED BY THE RESPONDENT ON OR IN CONNECTION WITH  
5 THE PREMISES WHERE THE VIOLATION OCCURRED OR TO A PERSON EMPLOYED BY THE  
6 RESPONDENT AT THE PREMISES AT WHICH THE RESPONDENT ACTUALLY CONDUCTS THE  
7 BUSINESS THE OPERATION OF WHICH GAVE RISE TO THE VIOLATION.

8 (II) SERVICE OF A NOTICE OF VIOLATION THAT ALLEGES A VIOLATION BY A  
9 LICENSEE OF ANY LAW OR RULES OF THE COMMISSIONER MAY BE MADE BY DELIVER-  
10 ING SUCH NOTICE TO A PERSON EMPLOYED BY THE RESPONDENT AT THE PREMISES  
11 AT WHICH THE RESPONDENT ACTUALLY CONDUCTS THE BUSINESS THE OPERATION OF  
12 WHICH GAVE RISE TO THE VIOLATION.

13 (III) SUCH NOTICE MAY ONLY BE DELIVERED PURSUANT TO SUBPARAGRAPH (I)  
14 OF THIS PARAGRAPH WHERE A REASONABLE ATTEMPT HAS BEEN MADE TO DELIVER  
15 SUCH NOTICE TO A PERSON IN SUCH PREMISES UPON WHOM SERVICE MAY BE MADE  
16 AS PROVIDED FOR BY ARTICLE THREE OF THE CIVIL PRACTICE LAW AND RULES OR  
17 ARTICLE THREE OF THE BUSINESS CORPORATION LAW.

18 (IV) WHEN A COPY OF SUCH NOTICE HAS BEEN DELIVERED PURSUANT TO SUBPAR-  
19 AGRAPH (I) OR (II) OF THIS PARAGRAPH, A COPY SHALL BE MAILED TO THE  
20 RESPONDENT AT SUCH RESPONDENT'S LAST KNOWN RESIDENCE OR BUSINESS ADDRESS  
21 OR TO AN ADDRESS CONTAINED IN THE FILES OF THE DEPARTMENT COMPILED AND  
22 MAINTAINED FOR THE PURPOSE OF THE ENFORCEMENT OF THE PROVISIONS OF THE  
23 CHARTER OR ADMINISTRATIVE CODE OR OTHER LAW OVER WHICH THE DEPARTMENT  
24 HAS JURISDICTION.

25 (V) PROOF OF SERVICE MADE PURSUANT TO THIS PARAGRAPH SHALL BE FILED  
26 WITH THE COMMISSIONER WITHIN TWENTY DAYS OF SERVICE IN THE MANNER  
27 PRESCRIBED; SERVICE SHALL BE COMPLETE TEN DAYS AFTER SUCH FILING.

28 S 4. This act shall take effect immediately.