

STATE OF NEW YORK

6985

2019-2020 Regular Sessions

IN ASSEMBLY

April 3, 2019

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to requiring a certificate of merit in proceedings to recover possession of real property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The civil practice law and rules is amended by adding a new
2 section 403-a to read as follows:

3 § 403-a. Certificate of merit in proceedings to recover possession of
4 real property. (a) In any proceeding under article seven of the real
5 property actions and proceedings law, the petition shall be accompanied
6 by a certificate, signed by the attorney for petitioner, certifying that
7 the attorney has reviewed the facts of the case and that, based on
8 consultation with representatives of petitioner identified in the
9 certificate and the attorney's review of pertinent documents, including
10 the lease, rental records in an action based on non-payment of rent, and
11 any documents that establish any grounds for eviction, to the best of
12 such attorney's knowledge, information and belief there is a reasonable
13 basis for the commencement of such action. If not attached to the notice
14 of petition and petition, a copy of the lease, if any, and any other
15 document relevant to the claims of petitioner, and which petitioner
16 intends to use as evidence at trial, shall be attached to the certifi-
17 cate.

18 (b) Where a certificate is required pursuant to this section, a single
19 certificate shall be filed for each action even if more than one
20 respondent has been named in the petition or is subsequently named.

21 (c) Where the documents required under subdivision (a) of this section
22 are not attached to the notice of petition and petition or to the
23 certificate, the attorney for the petitioner shall attach to the certifi-
24 cate supplemental affidavits by such attorney or representative of

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

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1 petitioner attesting that such documents are lost whether by
2 destruction, theft or otherwise. Nothing in this subdivision shall
3 replace or abrogate petitioner's obligations as set forth in the New
4 York uniform commercial code.

5 (d) If a petitioner willfully fails to provide copies of the papers
6 and documents required by subdivision (a) of this section and the court
7 finds, upon the motion of any party or on its own motion on notice to
8 the parties, that such papers and documents ought to have been provided,
9 the court may dismiss the petition or make such final or conditional
10 order with regard to such failure as is just including but not limited
11 to denial of the accrual of any interest, costs, attorneys' fees and
12 other fees, relating to the petition. Any such dismissal shall be with-
13 out prejudice and shall not be on the merits.

14 § 2. This act shall take effect immediately and shall apply to
15 proceedings commenced on or after such date.