

STATE OF NEW YORK

6985--A

2019-2020 Regular Sessions

IN ASSEMBLY

April 3, 2019

Introduced by M. of A. EPSTEIN, ORTIZ, SANTABARBARA, JACOBSON, D'URSO, HUNTER, BLAKE, BARRON -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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) If the petitioner has initiated the proceeding pro se, the peti-
19 tion shall be accompanied by an affidavit, signed by the petitioner. The
20 affidavit shall include but not be limited to the facts of the case and
21 the grounds for eviction.

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

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

4 (d) Where the documents required under subdivision (a) of this section
5 are not attached to the notice of petition and petition or to the
6 certificate, the attorney for the petitioner shall attach to the certif-
7 icate supplemental affidavits by such attorney or representative of
8 petitioner attesting that such documents are lost whether by
9 destruction, theft or otherwise. Nothing in this subdivision shall
10 replace or abrogate petitioner's obligations as set forth in the New
11 York uniform commercial code.

12 (e) If a petitioner willfully fails to provide copies of the papers
13 and documents required by subdivision (a) of this section and the court
14 finds, upon the motion of any party or on its own motion on notice to
15 the parties, that such papers and documents ought to have been provided,
16 the court may dismiss the petition or issue an order with regard to such
17 failure as is just including but not limited to denial of the accrual of
18 any interest, costs, attorneys' fees and other fees, relating to the
19 petition. Any such dismissal shall be without prejudice and shall not be
20 on the merits.

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