

STATE OF NEW YORK

7464

2023-2024 Regular Sessions

IN ASSEMBLY

May 23, 2023

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

AN ACT to amend the civil practice law and rules, in relation to
renewals based on a subsequent change in law

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

1 Section 1. The civil practice law and rules is amended by adding a new
2 section 5616 to read as follows:

3 § 5616. Renewal based on subsequent change in law. (a) Grounds for
4 motion. When the court of appeals has decided an issue of law and 1. the
5 action or proceeding in which the court of appeals has rendered the
6 decision has not been finally determined in an order or judgment not
7 subject to appellate review or remains sub judice, and 2. a subsequent
8 enactment by the legislature of the state or by the congress of the
9 United States or a subsequent decision of the supreme court of the
10 United States appears to be applicable to the action or proceeding and
11 contrary to the decision of the court of appeals, any party aggrieved by
12 the court of appeals' decision may file a motion to renew with that
13 court.

14 (b) Briefing and oral argument. Upon the filing of a motion pursuant
15 to subdivision (a) of this section, unless the court of appeals deter-
16 mines that there is no substantial basis for the motion, it shall grant
17 the motion to the extent of permitting full briefing and oral argument,
18 limited to the question of whether the court of appeals should change
19 its decision in light of the subsequent change or clarification of the
20 intent of the law, by the legislature of the state, by the congress of
21 the United States, or by a subsequent decision of the supreme court of
22 the United States.

23 (c) Preservation. In ruling on a motion pursuant to subdivision (a) of
24 this section and in rendering a decision following the briefing and oral
25 argument under subdivision (b) of this section, the court of appeals

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

LBD11330-03-3

1 shall consider any questions of law that were addressed by the subse-
2 quent enactment or decision, even if the court of appeals previously did
3 not reach that issue because it held it to be unpreserved or it was
4 unpreserved.

5 (d) Time. A motion pursuant to subdivision (a) of this section shall
6 be filed not later than ninety days after 1. the enactment or decision
7 that is the basis of the motion, or 2. the effective date of this
8 section, whichever is later.

9 § 2. This act shall take effect immediately.