

STATE OF NEW YORK

7464--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 23, 2023

Introduced by M. of A. WEINSTEIN, DINOWITZ, GIBBS -- read once and referred to the Committee on Judiciary -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

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 Assembly, 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 appears to be applicable to
9 the action or proceeding and contrary to the decision of the court of
10 appeals, any party aggrieved by the court of appeals' decision may file
11 a motion to renew with that court.

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

19 (c) Preservation. In ruling on a motion pursuant to subdivision (a) of
20 this section and in rendering a decision following the briefing and oral
21 argument under subdivision (b) of this section, the court of appeals
22 shall consider any questions of law that were addressed by the subse-

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

LBD11330-04-3

1 quent enactment, even if the court of appeals previously did not reach
2 that issue because it held it to be unpreserved or it was unpreserved.

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

7 § 2. This act shall take effect immediately.