S T A T E  O F  N E W  Y O R K

2562

2009-2010 Regular Sessions

I N  A S S E M B L Y

January 20, 2009

Introduced by M. of A. GLICK, V. LOPEZ, EDDINGTON, GIANARIS, JACOBS -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, CLARK, COLTON, CYMBROWITZ, DIAZ, DINOWITZ, HOOPER, ORTIZ, PERRY, PHEFFER, WEISENBERG -- read once and referred to the Committee on Housing

AN ACT to amend the real property actions and proceedings law, in relation to establishing protection for senior citizens against unwarranted eviction

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

Section 1. Section 111 of the real property actions and proceedings law is amended by adding a new subdivision 6 to read as follows:

6. AS USED IN THIS CHAPTER, THE TERM "SENIOR CITIZEN" MEANS A PERSON WHO IS SIXTY-TWO YEARS OF AGE OR OLDER OR A PERSON WHO RESIDES WITH A SPOUSE WHO IS SIXTY-TWO YEARS OF AGE OR OLDER.

S 2. Subdivision 2 of section 741 of the real property actions and proceedings law, as added by chapter 312 of the laws of 1962, is amended to read as follows:

2. State the respondent's interest in the premises [and], his OR HER relationship to petitioner with regard thereto AND WHETHER HE OR SHE IS A SENIOR CITIZEN.

S 3. Article 7 of the real property actions and proceedings law is amended by adding a new section 768 to read as follows:

S 768. DEFAULT EVICTION AGAINST SENIOR CITIZEN. 1. IN ANY CIVIL ACTION OR PROCEEDING FOR EVICTION FROM ANY PREMISES OCCUPIED CHIEFLY FOR DWELLING PURPOSES, IF THERE SHALL BE A DEFAULT OF AN APPEARANCE BY THE RESPONDENT, THE PETITIONER, WITHIN TWENTY DAYS BEFORE THE ENTRY OF JUDGMENT OR FINAL ORDER SHALL FILE IN THE COURT AN AFFIDAVIT SETTING FORTH FACTS SHOWING THAT THE RESPONDENT IS NOT A SENIOR CITIZEN.

2. IF UNABLE TO FILE SUCH AFFIDAVIT THE PETITIONER SHALL IN LIEU THEREOF FILE AN AFFIDAVIT SETTING FORTH EITHER THAT THE RESPONDENT IS A SENIOR CITIZEN OR THAT THE PETITIONER IS NOT ABLE TO DETERMINE WHETHER

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

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OR NOT RESPONDENT IS A SENIOR CITIZEN. IF AN AFFIDAVIT IS NOT FILED SHOWING THAT THE RESPONDENT IS NOT A SENIOR CITIZEN NO JUDGMENT OR FINAL ORDER SHALL BE ENTERED WITHOUT FIRST SECURING AN ORDER OF THE COURT DIRECTING SUCH ENTRY AND NO SUCH ORDER SHALL BE MADE IF THE RESPONDENT IS A SENIOR CITIZEN UNTIL AFTER THE COURT SHALL HAVE APPOINTED AN ATTORNEY TO REPRESENT THE RESPONDENT AND PROTECT HIS OR HER INTEREST, AND THE COURT SHALL, ON APPLICATION MAKE SUCH APPOINTMENT.

3. UNLESS IT APPEARS THAT THE RESPONDENT IS NOT A SENIOR CITIZEN, THE COURT MAY ENTER SUCH JUDGMENT AS IN ITS OPINION MAY BE NECESSARY TO PROTECT THE RIGHTS OF THE RESPONDENT UNDER THIS PROVISION.

4. ANY PERSON WHO SHALL MAKE OR USE AN AFFIDAVIT REQUIRED UNDER THIS SECTION KNOWING IT TO BE FALSE OR WHO SHALL KNOWINGLY TAKE PART IN ANY EVICTION OF A SENIOR CITIZEN OTHERWISE THAN AS PROVIDED FOR IN THIS SECTION OR ATTEMPTS TO DO SO SHALL BE GUILTY OF A MISDEMEANOR AND SHALL BE PUNISHABLE BY IMPRISONMENT NOT TO EXCEED ONE YEAR OR BY A FINE NOT TO EXCEED TEN THOUSAND DOLLARS OR BOTH.

5. IN ANY SUCH ACTION OR PROCEEDING IN WHICH A SENIOR CITIZEN IS A PARTY, IF SUCH PARTY DOES NOT PERSONALLY APPEAR THEREIN OR IS NOT REPRESENTED BY AN AUTHORIZED ATTORNEY THE COURT MAY APPOINT AN ATTORNEY TO REPRESENT HIM OR HER; AND IN SUCH A CASE AN ORDER MAY BE MADE TO PROTECT THE RIGHTS OF SUCH PERSON.

6. IN ANY SUCH PROCEEDING, THE COURT MAY IN ITS DISCRETION ON ITS OWN MOTION STAY THE PROCEEDINGS FOR NOT LONGER THAN THREE MONTHS OR MAY MAKE SUCH OTHER ORDERS AS MAY BE JUST.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.