

8883

2009-2010 Regular Sessions

I N A S S E M B L Y

June 12, 2009

Introduced by M. of A. GIBSON -- read once and referred to the Committee
on Social Services

AN ACT to amend the social services law, in relation to exempting
certain real and personal property from certain social services
enforcement of support provisions

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

1 Section 1. Subdivision 1 of section 104 of the social services law, as
2 amended by chapter 573 of the laws of 1964, is amended to read as
3 follows:
4 1. (A) A public welfare official may bring action or proceeding
5 against a person discovered to have real or personal property, or
6 against the estate or the executors, administrators and successors in
7 interest of a person who dies leaving real or personal property, if such
8 person, or any one for whose support he is or was liable, received
9 assistance and care during the preceding ten years, and shall be enti-
10 tled to recover up to the value of such property the cost of such
11 assistance or care. Any public assistance or care received by such
12 person shall constitute an implied contract. No claim of a public
13 welfare official against the estate or the executors, administrators and
14 successors in interest of a person who dies leaving real or personal
15 property, shall be barred or defeated, in whole or in part, by any lack
16 of sufficiency of ability on the part of such person during the period
17 assistance and care were received.
18 Nor shall the claim asserted by a public welfare official against any
19 person under this section be impaired, impeded, barred or defeated, in
20 whole or in part, on the grounds that another person or persons may also
21 have been liable to contribute.
22 In all claims of the public welfare official made under this section
23 the public welfare official shall be deemed a preferred creditor.

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

LBD04226-01-9

1 (B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY
2 OTHER PROVISION OF LAW, THE AUTHORITY TO BRING AN ACTION OR PROCEEDING
3 AND THE IMPLIED CONTRACT ESTABLISHED BY THIS SECTION SHALL NOT APPLY TO
4 REAL PROPERTY OF A PERSON WHO RECEIVES OR RECEIVED ASSISTANCE OR CARE
5 (OR A RELATIVE LIABLE THEREFOR PURSUANT TO SECTION ONE HUNDRED ONE OF
6 THIS TITLE) INSOFAR AS SUCH REAL PROPERTY IS OR WAS A ONE, TWO, OR THREE
7 FAMILY DWELLING OR A CONDOMINIUM AND THE PRIMARY RESIDENCE OF SUCH
8 PERSON (OR SUCH RELATIVE). NOR SHALL SUCH AUTHORITY TO BRING AN ACTION
9 OR PROCEEDING AND THE IMPLIED CONTRACT APPLY TO ANY MANUFACTURED HOME,
10 AS DEFINED IN PARAGRAPH FOUR OF SUBDIVISION A OF SECTION TWO HUNDRED
11 THIRTY-THREE OF THE REAL PROPERTY LAW, OF A PERSON WHO RECEIVES OR
12 RECEIVED ASSISTANCE OR CARE (OR A RELATIVE LIABLE THEREFOR PURSUANT TO
13 SECTION ONE HUNDRED ONE OF THIS TITLE) INSOFAR AS SUCH MANUFACTURED HOME
14 IS OR WAS THE PRIMARY RESIDENCE OF SUCH PERSON (OR SUCH RELATIVE).

15 S 2. Subdivision 1 of section 106 of the social services law, as
16 amended by chapter 764 of the laws of 1972, is amended to read as
17 follows:

18 1. (A) A social services official responsible, by or pursuant to any
19 provision of this chapter, for the administration of assistance or care
20 granted or applied for may accept a deed of real property and/or a mort-
21 gage thereon on behalf of the public welfare district for the assistance
22 and care of a person at public expense but such property shall not be
23 considered as public property and shall remain on the tax rolls and such
24 deed or mortgage shall be subject to redemption as provided in paragraph
25 (a) of subdivision two [hereof] OF THIS SECTION.

26 (B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY
27 OTHER PROVISION OF LAW, THE AUTHORIZATION GRANTED BY THIS SUBDIVISION
28 SHALL NOT APPLY TO REAL PROPERTY OF A PERSON WHO RECEIVES OR RECEIVED
29 ASSISTANCE OR CARE (OR A RELATIVE LIABLE THEREFOR PURSUANT TO SECTION
30 ONE HUNDRED ONE OF THIS TITLE) INSOFAR AS SUCH REAL PROPERTY IS OR WAS A
31 ONE, TWO, OR THREE FAMILY DWELLING OR A CONDOMINIUM AND THE PRIMARY
32 RESIDENCE OF SUCH PERSON (OR SUCH RELATIVE). NOR SHALL SUCH AUTHORI-
33 ZATION APPLY TO ANY MANUFACTURED HOME, AS DEFINED IN PARAGRAPH FOUR OF
34 SUBDIVISION A OF SECTION TWO HUNDRED THIRTY-THREE OF THE REAL PROPERTY
35 LAW, OF A PERSON WHO RECEIVES OR RECEIVED ASSISTANCE OR CARE (OR A RELA-
36 TIVE LIABLE THEREFOR PURSUANT TO SECTION ONE HUNDRED ONE OF THIS TITLE)
37 INSOFAR AS SUCH MANUFACTURED HOME IS OR WAS THE PRIMARY RESIDENCE OF
38 SUCH PERSON (OR SUCH RELATIVE).

39 S 3. Subdivision 2 of section 369 of the social services law is
40 amended by adding a new paragraph (e) to read as follows:

41 (E) THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL
42 BE SUBJECT TO THE LIMITATIONS IMPOSED BY PARAGRAPH (B) OF SUBDIVISION
43 ONE OF SECTION ONE HUNDRED FOUR AND PARAGRAPH (B) OF SUBDIVISION ONE OF
44 SECTION ONE HUNDRED SIX OF THIS CHAPTER.

45 S 4. This act shall take effect immediately and shall apply to
46 actions, proceedings, liens, and implied contracts pending or commenced
47 on or after such effective date.