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

906

2009-2010 Regular Sessions

I N S E N A T E

January 21, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to proceedings to deposit rents

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

Section 1. The real property actions and proceedings law is amended by adding a new section 773-a to read as follows:

S 773-A. RECEIVERSHIP NOT MATERIAL. 1. RECEIVERSHIP SHALL NOT BE A DEFENSE TO ANY SPECIAL PROCEEDING PURSUANT TO THIS ARTICLE AND NO SUCH PROCEEDING SHALL BE ADJOURNED, DELAYED OR DISMISSED EITHER BECAUSE THE PETITIONER HAS NOT OR PETITIONERS HAVE NOT REQUESTED OR RECEIVED APPROVAL OF SUCH PROCEEDING BY THE SUPREME COURT OR A LAWSUIT HAS NOT BEEN AUTHORIZED AGAINST A RECEIVER APPOINTED BY SUCH COURT OR A RECEIVER HAS NOT BEEN NAMED OR SERVED WITH PROCESS IN SUCH PROCEEDING.

2. THIS SECTION SHALL NOT PROHIBIT A RECEIVER IN FORECLOSURE FROM PARTICIPATION IN SUCH PROCEEDING, IF SUCH RECEIVER SO DESIRES.

S 2. Section 778 of the real property actions and proceedings law is amended by adding a new subdivision 11 to read as follows:

11. THE EXISTENCE OF A RECEIVER FOR THE DWELLING PRIOR TO THE COMMENCEMENT OF THE PROCEEDING, OR APPLICATION FOR OR APPOINTMENT OF A RECEIVER AT ANY TIME PRIOR TO JUDGMENT OR APPOINTMENT OF AN ADMINISTRATOR PURSUANT TO THIS ARTICLE, SHALL NOT AFFECT THE POWER OF THE COURT TO APPOINT OR CONTINUE THE APPOINTMENT OF SUCH AN ADMINISTRATOR, EXCEPT THAT THE RIGHTS OF THE OWNER, INCLUDING THE RIGHTS TO ANY SURPLUS PURSUANT TO PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, SHALL PASS TO THE RECEIVER. IF SUCH RECEIVER HAS BEEN APPOINTED PRIOR TO APPOINTMENT OF AN ADMINISTRATOR, THE COURT MAY APPOINT SUCH RECEIVER AS ADMINISTRATOR UNDER CIRCUMSTANCES WHERE IT IS CONVINCED THAT SUCH RECEIVER WILL PROPERLY UNDERTAKE RESPONSIBILITY FOR CORRECTING ALL THE VIOLATIONS AND DANGEROUS CONDITIONS, AND PROVIDE NECESSARY SERVICES TO THE DWELLING.

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

LBD06439-01-9

S 3. Section 1325 of the real property actions and proceedings law is amended by adding three new subdivisions 4, 5 and 6 to read as follows:

4. ANY ORDER PURSUANT TO THIS ARTICLE WHICH DOES NOT INCLUDE THE PROVISIONS REQUIRED BY SUBDIVISION THREE OF THIS SECTION, SHALL BE VOIDABLE.

5. IF ANY RECEIVER DOES NOT REGISTER WITH THE MUNICIPAL DEPARTMENT WITHIN SEVEN DAYS AFTER THE DATE OF THE ORDER APPOINTING SUCH RECEIVER, ALL ACTIONS TAKEN BY SUCH RECEIVER AFTER SAID SEVENTH DAY MAY BE VOIDED BY THE COURT; SUCH RECEIVER IS STAYED FROM COMMENCING ANY ACTIONS IN ANY COURT UNTIL HE OR SHE IS SO REGISTERED.

6. WHEN ANY RECEIVER IS APPOINTED PURSUANT TO THIS SECTION, NO TENANT OR MUNICIPAL AGENCY IS REQUIRED TO GET PRIOR APPROVAL FROM THE SUPREME COURT BEFORE COMMENCING ANY ACTION AGAINST SAID RECEIVER.

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