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

11109

I N A S S E M B L Y

May 17, 2010

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 payment of money and delivery of property of a judgment debtor when held by a third party

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

Section 1. Subdivision (b) of section 5225 of the civil practice law and rules, as amended by chapter 388 of the laws of 1964, is amended to read as follows:

(b) Property not in the possession of judgment debtor. Upon a special proceeding commenced by the judgment creditor, against a person in possession or custody of money or other personal property in which the judgment debtor has an interest, or against a person who is a transferee of money or other personal property from the judgment debtor, where it is shown that the judgment debtor is entitled to the possession of such property or that the judgment creditor's rights to the property are superior to those of the transferee, the court shall require such person to pay the money, or so much of it as is sufficient to satisfy the judgment, to the judgment creditor and, if the amount to be so paid is insufficient to satisfy the judgment, to deliver any other personal property, or so much of it as is of sufficient value to satisfy the judgment, to a designated sheriff. Costs of the proceeding shall not be awarded against a person who did not dispute the judgment debtor's interest or right to possession. Notice of the proceeding shall also be served upon the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. The court may permit the judgment debtor to intervene in the proceeding. The court may permit any adverse claimant to intervene in the proceeding and may determine his rights in accordance with section 5239 OF THIS ARTICLE. SUCH PROCEEDING MAY REACH PROPERTY LOCATED WITHOUT THE STATE ONLY IF, IN ADDITION TO A SHOWING THAT THE PERSON OR TRANSFEREE AGAINST WHOM THE PROCEEDING IS COMMENCED HAS POSSESSION OR CUSTODY OF THE JUDGMENT DEBTOR'S PROPERTY, (I) THE JUDGMENT DEBTOR IS SUBJECT TO PERSONAL JURIS-

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

LBD17212-02-0

DICTION WITHIN THE STATE AT THE TIME OF COMMENCEMENT OF THE PROCEEDING, OR (II) THERE EXISTS A SUFFICIENT NEXUS BETWEEN THE STATE AND SUCH PROPERTY, OR THE CONTROVERSY UPON WHICH THE JUDGMENT IS BASED, TO SATISFY THE REQUIREMENTS OF DUE PROCESS UNDER THE UNITED STATES CONSTITUTION.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.