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

973

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GANTT -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to default judgments in cases of failure to answer

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

Section 1. Subdivisions 1 and 2 of section 1806-a of the vehicle and traffic law, as added by chapter 841 of the laws of 1984, are amended to read as follows:

1. In the event a person charged with a traffic infraction does not answer within the time specified, the court having jurisdiction, other than a court in a city over one million population may, in addition to any other action authorized by law, enter a plea of guilty on behalf of the defendant and render a default judgment of a fine determined by the court within the amount authorized by law. Any judgment entered pursuant to default shall be civil in nature, but shall be treated as a conviction for the purposes of this section. However, at least thirty days after the expiration of the original date prescribed for entering a plea and before a plea of guilty and a default judgment may be rendered, the traffic violations bureau or, if there be none, the clerk of the court, shall notify the defendant by [certified] FIRST CLASS mail: (a) of the violation charged; (b) of the impending plea of guilty and default judgment; (c) that such judgment [will] MAY be filed with the county clerk of the county in which the operator or registrant is located [,]; and (d) that a default or plea of guilty may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. Pleas entered within that period shall be in a manner prescribed in the notice. In no case shall a default judgment and plea of guilty be rendered more than two years after the expiration of the time prescribed for originally entering a plea. When a person has

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

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entered a plea of not guilty and has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing which shall be scheduled by the court of such city, village or town within thirty days of such demand.

2. The COURT IN WHICH A DEFAULT JUDGMENT IS ENTERED MAY FILE SUCH JUDGMENT AND THE filing of the default judgment with the county clerk shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record and such judgment shall remain in full force and effect for eight years notwithstanding any other provision of law.

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