

S. 2740

A. 6251

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

February 27, 2009

IN SENATE -- Introduced by Sens. ADAMS, KRUEGER, MONSERRATE, PARKER --
read twice and ordered printed, and when printed to be committed to
the Committee on Social Services

IN ASSEMBLY -- Introduced by M. of A. GREENE, JACOBS -- 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

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

LBD04226-01-9

1 whole or in part, on the grounds that another person or persons may also
2 have been liable to contribute.

3 In all claims of the public welfare official made under this section
4 the public welfare official shall be deemed a preferred creditor.

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

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

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

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

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

45 (E) THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL
46 BE SUBJECT TO THE LIMITATIONS IMPOSED BY PARAGRAPH (B) OF SUBDIVISION
47 ONE OF SECTION ONE HUNDRED FOUR AND PARAGRAPH (B) OF SUBDIVISION ONE OF
48 SECTION ONE HUNDRED SIX OF THIS CHAPTER.

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