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

4418

2009-2010 Regular Sessions

I N S E N A T E

April 23, 2009

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

AN ACT to amend the real property law, in relation to requiring registrars of title to real property to provide written notice to the assessor of the local assessing unit upon the death of the registered owner of real property

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

Section 1. Section 423 of the real property law, as amended by chapter 780 of the laws of 1951, the opening paragraph as added by chapter 640 of the laws of 1991, the second undesignated paragraph as amended by chapter 115 of the laws of 1981, is amended to read as follows:

S 423. Death of owner of registered property; transfer of property. Upon the death of an owner of registered real property, it shall be incumbent upon the surviving spouse or the joint tenant with right of survivorship to present to the registrar a petition on the annexed form, for the transfer of the title into the name of the survivor. The registrar shall upon payment of the required fees, memorialize said petition showing the change of ownership, delete the name of the deceased, and recertify title to the new owner on the existing certificate of title. UPON THE DEATH OF AN OWNER OF REGISTERED REAL PROPERTY, WHO HELD A LIFE ESTATE IN SUCH PROPERTY, IT SHALL BE INCUMBENT UPON THE REMAINDERMAN TO PRESENT TO THE REGISTRAR A PETITION, FOR THE TRANSFER OF THE TITLE INTO THE NAME OF THE REMAINDERMAN. THE REGISTRAR SHALL UPON PAYMENT OF THE REQUIRED FEES, MEMORIALIZE SAID PETITION SHOWING THE CHANGE OF OWNERSHIP, DELETE THE NAME OF THE DECEASED, AND RECERTIFY TITLE TO THE NEW OWNER ON THE EXISTING CERTIFICATE OF TITLE. Upon the death of an owner of registered real property, it shall be incumbent upon the executor or administrator of the estate of the deceased, to present to the registrar a petition on the annexed form, for the transfer of title into the name of the executor or administrator, or upon filing of a deed executed by

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

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the said executor or administrator, in the name of the grantee therein. The registrar shall upon payment of the required fees, memorialize said petition showing the change of ownership, and issue a new certificate of title to the executor or administrator. Upon the death of an owner of registered real property, having died intestate, it shall be incumbent upon the heirs-at-law to obtain a verified petition and order, consented to by the registrar, the state attorney general and signed by a justice of the supreme court. Sufficient and conclusive evidence as to the heirs-at-law must be made part of the proceeding. Upon filing of said completed proceeding with the registrar, together with filing fees, the registrar shall issue a certificate of title as directed by the order.

Upon the coming to age, or freedom from disability of a person whose guardian, committee or conservator is a registered owner as above described, or upon a transfer of the powers and duties of an executor, trustee or other person acting in a representative capacity, or upon any other transfer of registered ownership or nominal change of ownership by death or process of law or otherwise in a case not otherwise provided for by this article, a petition may be made to the court for an order directing the registrar as to the persons in whose name or names and in what manner the title shall be registered and a new certificate issued; and the court, on such petition and on due notice to the persons who in the opinion of the court shall be parties in interest and after a hearing, if deemed necessary or proper, shall enter an order prescribing the name or names and the manner in which the title shall be registered.

Any petition permitted under this section shall, in addition to any other proper allegations, set forth the names and known places of residence of the petitioner and the persons having or claiming any interest in the registered premises under a certificate of title, or a registered instrument, or by operation of law; and the people of the state of New York, with reference to which latter party a further allegation shall be made in substantial conformity with the statement pertaining to the state of New York provided for under subdivision (d) of section three hundred seventy-nine of this article. Such petition shall be filed with the clerk of the county in which the original registration was had, and a copy thereof shall be filed with the registrar of such county, who shall memorialize said copy of petition upon the last original certificate to which it relates, which memorial shall also have the same effect as a notice of pendency of an action under [the civil practice act] ARTICLE SIXTY-FIVE OF THE CIVIL PRACTICE LAW AND RULES. Immediately upon the filing of such petition and a copy thereof as aforesaid, the court shall provide for due notice to be given to the parties in interest by entering an order, either directing the registrar to give notice of the hearing upon the petition to the parties named therein, and to any additional parties named in the order who in the opinion of the court shall be parties in interest, by publishing and mailing such notice at the expense of the petitioner, in the manner prescribed in section three hundred eighty-five of this article for the publication and mailing of the notice of hearing in an original registration proceeding; or in the alternative, directing that service of the notice be made personally in the manner provided for the personal service of a summons under article [twenty-five] THREE of the civil practice [act] LAW AND RULES, respecting which latter procedure involving personal service the court, in its proper discretion, may provide that the notice be made returnable at any time not less than eight days after completion of service thereof and may fix the time when service thereof will be deemed complete. The form of the notice of hearing contemplated herein

shall be substantially the same as that provided for under section three hundred eighty-six of this article, except that it may be entitled "Transfer of Registration of Land Title," and that the object of the proceeding may be stated therein to be to obtain registration of title in, and the issuance of a new certificate of title to, the petitioner or any persons entitled thereto, any appropriate language being sufficient. The notice may be subscribed by either the registrar, or the attorney for the petitioner, as the case may require. The certificate of the registrar that he has served the notice as directed by the court, by publishing and mailing, shall be filed in the case, with any necessary affidavits in support of the same, on or before the return day, and shall be proof of such service. The court in a proper case may dispense with the mailing of the notice of hearing, in substantial conformity with the practice prescribed in rule fifty of the rules of civil practice, and may also cause other or further notice of the petition to be given.

WITHIN TEN BUSINESS DAYS OF NOTICE TO THE REGISTRAR OF THE CHANGE OF OWNERSHIP OF REAL PROPERTY PURSUANT TO THIS SECTION, SUCH REGISTRAR SHALL PROVIDE WRITTEN NOTICE OF SUCH CHANGE OF OWNERSHIP TO THE ASSESSOR OF THE LOCAL ASSESSING UNIT IN WHICH THE REAL PROPERTY IS SITUATE. SUCH WRITTEN NOTICE SHALL INCLUDE THE NAME AND ADDRESS OF THE NEW OWNER, AND SHALL BE PROVIDED ON A FORM ESTABLISHED BY THE OFFICE OF REAL PROPERTY SERVICES.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.