

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 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 domestic relations law and the civil practice law and rules, in relation to a notice of pendency in certain matrimonial cases

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

1 Section 1. Section 234 of the domestic relations law, as amended by
2 chapter 685 of the laws of 1963, is amended to read as follows:
3 S 234. Title to or occupancy and possession of property. In any
4 action for divorce, for a separation, for an annulment or to declare the
5 nullity of a void marriage, the court may (1) determine any question as
6 to the title to property arising between the parties, and (2) make such
7 direction, between the parties, concerning the possession of property,
8 as in the court's discretion justice requires having regard to the
9 circumstances of the case and of the respective parties. Such direction
10 may be made in the final judgment, or by one or more orders from time to
11 time before or subsequent to final judgment, or by both such order or
12 orders and final judgment. Where the title to real property is
13 affected, a copy of such judgment, order or decree, duly certified by
14 the clerk of the court wherein said [judgement] JUDGMENT was rendered,
15 shall be recorded in the office of the recording officer of the county
16 in which such property is situated, as provided by section two hundred
17 ninety-seven-b of the real property law. A NOTICE OF PENDENCY SHALL BE
18 ACCEPTED BY THE CLERK OF THE COURT WHEN OFFERED FOR FILING IN A MATRIMO-
19 NIAL ACTION WHEN THE COMPLAINT OR ANSWER ALLEGES A PRAYER FOR EQUITABLE
20 DISTRIBUTION.
21 S 2. Section 6501 of the civil practice law and rules, as amended by
22 chapter 657 of the laws of 1993, is amended to read as follows:

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

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1 S 6501. Notice of pendency; constructive notice. A notice of penden-
2 cy may be filed in any action in a court of the state or of the United
3 States in which the judgment demanded would affect the title to, or the
4 possession, use or enjoyment of, real property, except in a summary
5 proceeding brought to recover the possession of real property AND SHALL
6 BE ACCEPTED BY THE CLERK OF THE COURT WHEN OFFERED FOR FILING IN A
7 MATRIMONIAL ACTION WHEN THE COMPLAINT OR ANSWER ALLEGES A PRAYER FOR
8 EQUITABLE DISTRIBUTION. The pendency of such an action is constructive
9 notice, from the time of filing of the notice only, to a purchaser from,
10 or incumbrancer against, any defendant named in a notice of pendency
11 indexed in a block index against a block in which property affected is
12 situated or any defendant against whose name a notice of pendency is
13 indexed. A person whose conveyance or incumbrance is recorded after the
14 filing of the notice is bound by all proceedings taken in the action
15 after such filing to the same extent as a party.

16 S 3. This act shall take effect on the thirtieth day after it shall
17 have become a law.