

2009-2010 Regular Sessions

I N S E N A T E

January 21, 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 real property actions and proceedings law, in relation to proceedings to deposit rents

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

1 Section 1. The real property actions and proceedings law is amended by  
2 adding a new section 773-a to read as follows:

3 S 773-A. RECEIVERSHIP NOT MATERIAL. 1. RECEIVERSHIP SHALL NOT BE A  
4 DEFENSE TO ANY SPECIAL PROCEEDING PURSUANT TO THIS ARTICLE AND NO SUCH  
5 PROCEEDING SHALL BE ADJOURNED, DELAYED OR DISMISSED EITHER BECAUSE THE  
6 PETITIONER HAS NOT OR PETITIONERS HAVE NOT REQUESTED OR RECEIVED  
7 APPROVAL OF SUCH PROCEEDING BY THE SUPREME COURT OR A LAWSUIT HAS NOT  
8 BEEN AUTHORIZED AGAINST A RECEIVER APPOINTED BY SUCH COURT OR A RECEIVER  
9 HAS NOT BEEN NAMED OR SERVED WITH PROCESS IN SUCH PROCEEDING.

10 2. THIS SECTION SHALL NOT PROHIBIT A RECEIVER IN FORECLOSURE FROM  
11 PARTICIPATION IN SUCH PROCEEDING, IF SUCH RECEIVER SO DESIRES.

12 S 2. Section 778 of the real property actions and proceedings law is  
13 amended by adding a new subdivision 11 to read as follows:

14 11. THE EXISTENCE OF A RECEIVER FOR THE DWELLING PRIOR TO THE  
15 COMMENCEMENT OF THE PROCEEDING, OR APPLICATION FOR OR APPOINTMENT OF A  
16 RECEIVER AT ANY TIME PRIOR TO JUDGMENT OR APPOINTMENT OF AN ADMINISTRA-  
17 TOR PURSUANT TO THIS ARTICLE, SHALL NOT AFFECT THE POWER OF THE COURT TO  
18 APPOINT OR CONTINUE THE APPOINTMENT OF SUCH AN ADMINISTRATOR, EXCEPT  
19 THAT THE RIGHTS OF THE OWNER, INCLUDING THE RIGHTS TO ANY SURPLUS PURSU-  
20 ANT TO PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, SHALL PASS TO  
21 THE RECEIVER. IF SUCH RECEIVER HAS BEEN APPOINTED PRIOR TO APPOINTMENT  
22 OF AN ADMINISTRATOR, THE COURT MAY APPOINT SUCH RECEIVER AS ADMINISTRA-  
23 TOR UNDER CIRCUMSTANCES WHERE IT IS CONVINCED THAT SUCH RECEIVER WILL  
24 PROPERLY UNDERTAKE RESPONSIBILITY FOR CORRECTING ALL THE VIOLATIONS AND  
25 DANGEROUS CONDITIONS, AND PROVIDE NECESSARY SERVICES TO THE DWELLING.

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

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1 S 3. Section 1325 of the real property actions and proceedings law is  
2 amended by adding three new subdivisions 4, 5 and 6 to read as follows:

3 4. ANY ORDER PURSUANT TO THIS ARTICLE WHICH DOES NOT INCLUDE THE  
4 PROVISIONS REQUIRED BY SUBDIVISION THREE OF THIS SECTION, SHALL BE VOID-  
5 ABLE.

6 5. IF ANY RECEIVER DOES NOT REGISTER WITH THE MUNICIPAL DEPARTMENT  
7 WITHIN SEVEN DAYS AFTER THE DATE OF THE ORDER APPOINTING SUCH RECEIVER,  
8 ALL ACTIONS TAKEN BY SUCH RECEIVER AFTER SAID SEVENTH DAY MAY BE VOIDED  
9 BY THE COURT; SUCH RECEIVER IS STAYED FROM COMMENCING ANY ACTIONS IN ANY  
10 COURT UNTIL HE OR SHE IS SO REGISTERED.

11 6. WHEN ANY RECEIVER IS APPOINTED PURSUANT TO THIS SECTION, NO TENANT  
12 OR MUNICIPAL AGENCY IS REQUIRED TO GET PRIOR APPROVAL FROM THE SUPREME  
13 COURT BEFORE COMMENCING ANY ACTION AGAINST SAID RECEIVER.

14 S 4. This act shall take effect on the first of October next succeed-  
15 ing the date on which it shall have become a law.