

2946

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. GLICK, V. LOPEZ, JACOBS -- Multi-Sponsored by --
M. of A. ABBATE, BRENNAN, CLARK, COLTON, CYMBROWITZ, DINOWITZ, HOOPER,
MILLMAN, ORTIZ, PERRY, PHEFFER, WEISENBERG -- read once and referred
to the Committee on Housing

AN ACT to amend the real property actions and proceedings law, in
relation to establishing protection for senior citizens against unwar-
ranted eviction

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

1 Section 1. Section 111 of the real property actions and proceedings
2 law is amended by adding a new subdivision 6 to read as follows:
3 6. AS USED IN THIS CHAPTER, THE TERM "SENIOR CITIZEN" MEANS A PERSON
4 WHO IS SIXTY-TWO YEARS OF AGE OR OLDER OR A PERSON WHO RESIDES WITH A
5 SPOUSE WHO IS SIXTY-TWO YEARS OF AGE OR OLDER.
6 S 2. Subdivision 2 of section 741 of the real property actions and
7 proceedings law, as added by chapter 312 of the laws of 1962, is amended
8 to read as follows:
9 2. State the respondent's interest in the premises [and], his OR HER
10 relationship to petitioner with regard thereto AND WHETHER HE OR SHE IS
11 A SENIOR CITIZEN.
12 S 3. Article 7 of the real property actions and proceedings law is
13 amended by adding a new section 768 to read as follows:
14 S 768. DEFAULT EVICTION AGAINST SENIOR CITIZEN. 1. IN ANY CIVIL ACTION
15 OR PROCEEDING FOR EVICTION FROM ANY PREMISES OCCUPIED CHIEFLY FOR DWELL-
16 ING PURPOSES, IF THERE SHALL BE A DEFAULT OF AN APPEARANCE BY THE
17 RESPONDENT, THE PETITIONER, WITHIN TWENTY DAYS BEFORE THE ENTRY OF JUDG-
18 MENT OR FINAL ORDER SHALL FILE IN THE COURT AN AFFIDAVIT SETTING FORTH
19 FACTS SHOWING THAT THE RESPONDENT IS NOT A SENIOR CITIZEN.
20 2. IF UNABLE TO FILE SUCH AFFIDAVIT THE PETITIONER SHALL IN LIEU THER-
21 EOF FILE AN AFFIDAVIT SETTING FORTH EITHER THAT THE RESPONDENT IS A
22 SENIOR CITIZEN OR THAT THE PETITIONER IS NOT ABLE TO DETERMINE WHETHER

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

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1 OR NOT RESPONDENT IS A SENIOR CITIZEN. IF AN AFFIDAVIT IS NOT FILED
2 SHOWING THAT THE RESPONDENT IS NOT A SENIOR CITIZEN NO JUDGMENT OR FINAL
3 ORDER SHALL BE ENTERED WITHOUT FIRST SECURING AN ORDER OF THE COURT
4 DIRECTING SUCH ENTRY AND NO SUCH ORDER SHALL BE MADE IF THE RESPONDENT
5 IS A SENIOR CITIZEN UNTIL AFTER THE COURT SHALL HAVE APPOINTED AN ATTOR-
6 NEY TO REPRESENT THE RESPONDENT AND PROTECT HIS OR HER INTEREST, AND THE
7 COURT SHALL, ON APPLICATION MAKE SUCH APPOINTMENT.

8 3. UNLESS IT APPEARS THAT THE RESPONDENT IS NOT A SENIOR CITIZEN, THE
9 COURT MAY ENTER SUCH JUDGMENT AS IN ITS OPINION MAY BE NECESSARY TO
10 PROTECT THE RIGHTS OF THE RESPONDENT UNDER THIS PROVISION.

11 4. ANY PERSON WHO SHALL MAKE OR USE AN AFFIDAVIT REQUIRED UNDER THIS
12 SECTION KNOWING IT TO BE FALSE OR WHO SHALL KNOWINGLY TAKE PART IN ANY
13 EVICTION OF A SENIOR CITIZEN OTHERWISE THAN AS PROVIDED FOR IN THIS
14 SECTION OR ATTEMPTS TO DO SO SHALL BE GUILTY OF A MISDEMEANOR AND SHALL
15 BE PUNISHABLE BY IMPRISONMENT NOT TO EXCEED ONE YEAR OR BY A FINE NOT TO
16 EXCEED TEN THOUSAND DOLLARS OR BOTH.

17 5. IN ANY SUCH ACTION OR PROCEEDING IN WHICH A SENIOR CITIZEN IS A
18 PARTY, IF SUCH PARTY DOES NOT PERSONALLY APPEAR THEREIN OR IS NOT
19 REPRESENTED BY AN AUTHORIZED ATTORNEY THE COURT MAY APPOINT AN ATTORNEY
20 TO REPRESENT HIM OR HER; AND IN SUCH A CASE AN ORDER MAY BE MADE TO
21 PROTECT THE RIGHTS OF SUCH PERSON.

22 6. IN ANY SUCH PROCEEDING, THE COURT MAY IN ITS DISCRETION ON ITS OWN
23 MOTION STAY THE PROCEEDINGS FOR NOT LONGER THAN THREE MONTHS OR MAY MAKE
24 SUCH OTHER ORDERS AS MAY BE JUST.

25 S 4. This act shall take effect on the first of November next succeed-
26 ing the date on which it shall have become a law.