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

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I N A S S E M B L Y

March 23, 2012

Introduced by M. of A. GABRYSZAK -- read once and referred to the Committee on Judiciary

AN ACT to amend the uniform city court act and the civil practice law and rules, in relation to authorizing enforcement officers of city courts in the county of Erie, designated in lieu of the sheriff, to exercise the same functions, powers and duties as sheriffs with respect to the execution of money judgments of the supreme and family courts

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

Section 1. Subdivision (b) of section 105 of the uniform city court act, as amended by chapter 397 of the laws of 1988, is amended to read as follows:

(b) (1) Enforcement officers; police officers. The enforcement officer of a city court shall be the sheriff of the county in which such court is located; provided, however, in each city where, on June thirtieth, nineteen hundred eighty-eight, public officers thereof were authorized to designate the enforcement officer of the city court established therein, such public officers may continue to exercise such authority and to designate another person or officer as enforcement officer in lieu of the sheriff. The enforcement officers of the court shall perform the same duties as are performed by sheriffs in the supreme court and shall have, within their territorial jurisdiction and subject to any limitations imposed by [this act or by other provision of] law, such power to serve and execute the processes and mandates of the court as a sheriff has with regard to the processes and mandates of the supreme court. They shall also have, within their territorial jurisdiction, all of the powers in criminal matters of a constable of a town in the state of New York. It shall also be the duty of the police officers of the city to execute all criminal processes and mandates of the court. Neither an enforcement officer nor a police officer shall receive any fee or compensation for the service or execution of any criminal process or mandate issued out of the court.

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

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(2) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, IN THE COUNTY OF ERIE ALL PROVISIONS OF LAW RELATING TO THE POWERS, DUTIES AND LIABILITIES OF SHERIFFS IN LIKE CASES WITH RESPECT TO THE EXECUTION OF MONEY JUDGMENTS RENDERED BY ANY FAMILY COURT OR ANY SUPREME COURT OF THE COUNTY IN WHICH A CITY COURT IS LOCATED, SHALL APPLY TO THE ENFORCEMENT OFFICER OF SUCH CITY COURT, WHO WAS DESIGNATED IN LIEU OF THE SHERIFF.

S 2. Subdivision (s-1) of section 105 of the civil practice law and rules, as amended by chapter 80 of the laws of 1998, is amended to read as follows:

(s-1) The sheriff. The term "the sheriff", as used in this chapter, means the county sheriff as defined in subdivision (a) of section thirteen of article thirteen of the constitution and in counties in the city of New York, the city sheriff as defined in section fifteen hundred twenty-six of [chapter fifty-eight of] the New York city charter. For the purposes of article fifty-two of this chapter relating to the enforcement of money judgments and for the purposes of any provision of law which in effect applies any such provision of article fifty-two of this chapter, such term shall also mean any "city marshal" as defined in article sixteen of the New York city civil court act AND ANY ENFORCEMENT OFFICER OF A CITY COURT, DESIGNATED IN LIEU OF THE SHERIFF, PURSUANT TO SUBDIVISION (B) OF SECTION ONE HUNDRED FIVE OF THE UNIFORM CITY COURT ACT, except that city marshals AND SUCH ENFORCEMENT OFFICERS shall have no power to levy upon or sell real property and city marshals AND SUCH ENFORCEMENT OFFICERS shall have no power of arrest.

S 3. This act shall take effect immediately; provided, however, that the amendments to subdivision (s-1) of section 105 of the civil practice law and rules made by section two of this act shall not affect the repeal of such subdivision pursuant to chapter 455 of the laws of 1997, as amended, and shall be deemed repealed therewith.