

3936

2011-2012 Regular Sessions

I N   S E N A T E

March 10, 2011

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Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to exempting certain real and personal property from certain social services enforcement of support provisions

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

1     Section 1. Subdivision 1 of section 104 of the social services law, as  
2 amended by chapter 573 of the laws of 1964, is amended to read as  
3 follows:  
4     1. (A) A public welfare official may bring action or proceeding  
5 against a person discovered to have real or personal property, or  
6 against the estate or the executors, administrators and successors in  
7 interest of a person who dies leaving real or personal property, if such  
8 person, or any one for whose support he is or was liable, received  
9 assistance and care during the preceding ten years, and shall be enti-  
10 tled to recover up to the value of such property the cost of such  
11 assistance or care. Any public assistance or care received by such  
12 person shall constitute an implied contract. No claim of a public  
13 welfare official against the estate or the executors, administrators and  
14 successors in interest of a person who dies leaving real or personal  
15 property, shall be barred or defeated, in whole or in part, by any lack  
16 of sufficiency of ability on the part of such person during the period  
17 assistance and care were received.  
18     Nor shall the claim asserted by a public welfare official against any  
19 person under this section be impaired, impeded, barred or defeated, in  
20 whole or in part, on the grounds that another person or persons may also  
21 have been liable to contribute.  
22     In all claims of the public welfare official made under this section  
23 the public welfare official shall be deemed a preferred creditor.

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

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1 (B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY  
2 OTHER PROVISION OF LAW, THE AUTHORITY TO BRING AN ACTION OR PROCEEDING  
3 AND THE IMPLIED CONTRACT ESTABLISHED BY THIS SECTION SHALL NOT APPLY TO  
4 REAL PROPERTY OF A PERSON WHO RECEIVES OR RECEIVED ASSISTANCE OR CARE  
5 (OR A RELATIVE LIABLE THEREFOR PURSUANT TO SECTION ONE HUNDRED ONE OF  
6 THIS TITLE) INSOFAR AS SUCH REAL PROPERTY IS OR WAS A ONE, TWO, OR THREE  
7 FAMILY DWELLING OR A CONDOMINIUM AND THE PRIMARY RESIDENCE OF SUCH  
8 PERSON (OR SUCH RELATIVE). NOR SHALL SUCH AUTHORITY TO BRING AN ACTION  
9 OR PROCEEDING AND THE IMPLIED CONTRACT APPLY TO ANY MANUFACTURED HOME,  
10 AS DEFINED IN PARAGRAPH FOUR OF SUBDIVISION A OF SECTION TWO HUNDRED  
11 THIRTY-THREE OF THE REAL PROPERTY LAW, OF A PERSON WHO RECEIVES OR  
12 RECEIVED ASSISTANCE OR CARE (OR A RELATIVE LIABLE THEREFOR PURSUANT TO  
13 SECTION ONE HUNDRED ONE OF THIS TITLE) INSOFAR AS SUCH MANUFACTURED HOME  
14 IS OR WAS THE PRIMARY RESIDENCE OF SUCH PERSON (OR SUCH RELATIVE).

15 S 2. Subdivision 1 of section 106 of the social services law, as  
16 amended by chapter 764 of the laws of 1972, is amended to read as  
17 follows:

18 1. (A) A social services official responsible, by or pursuant to any  
19 provision of this chapter, for the administration of assistance or care  
20 granted or applied for may accept a deed of real property and/or a mort-  
21 gage thereon on behalf of the public welfare district for the assistance  
22 and care of a person at public expense but such property shall not be  
23 considered as public property and shall remain on the tax rolls and such  
24 deed or mortgage shall be subject to redemption as provided in paragraph  
25 (a) of subdivision two [hereof] OF THIS SECTION.

26 (B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY  
27 OTHER PROVISION OF LAW, THE AUTHORIZATION GRANTED BY THIS SUBDIVISION  
28 SHALL NOT APPLY TO REAL PROPERTY OF A PERSON WHO RECEIVES OR RECEIVED  
29 ASSISTANCE OR CARE (OR A RELATIVE LIABLE THEREFOR PURSUANT TO SECTION  
30 ONE HUNDRED ONE OF THIS TITLE) INSOFAR AS SUCH REAL PROPERTY IS OR WAS A  
31 ONE, TWO, OR THREE FAMILY DWELLING OR A CONDOMINIUM AND THE PRIMARY  
32 RESIDENCE OF SUCH PERSON (OR SUCH RELATIVE). NOR SHALL SUCH AUTHORI-  
33 ZATION APPLY TO ANY MANUFACTURED HOME, AS DEFINED IN PARAGRAPH FOUR OF  
34 SUBDIVISION A OF SECTION TWO HUNDRED THIRTY-THREE OF THE REAL PROPERTY  
35 LAW, OF A PERSON WHO RECEIVES OR RECEIVED ASSISTANCE OR CARE (OR A RELA-  
36 TIVE LIABLE THEREFOR PURSUANT TO SECTION ONE HUNDRED ONE OF THIS TITLE)  
37 INSOFAR AS SUCH MANUFACTURED HOME IS OR WAS THE PRIMARY RESIDENCE OF  
38 SUCH PERSON (OR SUCH RELATIVE).

39 S 3. Subdivision 2 of section 369 of the social services law is  
40 amended by adding a new paragraph (e) to read as follows:

41 (E) THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL  
42 BE SUBJECT TO THE LIMITATIONS IMPOSED BY PARAGRAPH (B) OF SUBDIVISION  
43 ONE OF SECTION ONE HUNDRED FOUR AND PARAGRAPH (B) OF SUBDIVISION ONE OF  
44 SECTION ONE HUNDRED SIX OF THIS CHAPTER.

45 S 4. This act shall take effect immediately and shall apply to  
46 actions, proceedings, liens, and implied contracts pending or commenced  
47 on or after such effective date.