

5521

2011-2012 Regular Sessions

I N S E N A T E

May 27, 2011

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the county law and the New York city charter, in relation to the docketing of adjudications of violations of laws enforced by the New York city department of consumer affairs

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

1 Section 1. Subdivision 4 of section 918 of the county law, as sepa-
2 rately amended by chapters 419 and 473 of the laws of 1988, is amended
3 to read as follows:
4 4. Any other laws to the contrary notwithstanding, the county clerk in
5 each of the counties within the city of New York is authorized and
6 empowered to maintain separate judgment docket volumes containing the
7 printed transcript or transcripts, in strict alphabetical order of judg-
8 ment made, entered and docketed in the civil court of the city of New
9 York against individuals, corporations, and other entities on behalf of
10 the parking violations bureau, the environmental control board, the taxi
11 and limousine commission, THE DEPARTMENT OF CONSUMER AFFAIRS and the
12 commissioner of jurors of the city of New York. These volumes may be
13 maintained in the form of computer print outs which shall contain the
14 date of judgment, the name and address of the judgment debtor or
15 debtors, the amount of the judgment and other information which the
16 county clerk may deem necessary to sufficiently describe the parties to
17 the action or proceeding or nature or the manner of the entry of the
18 judgment. Provided, however, with respect to judgments on behalf of the
19 parking violations bureau the county clerk may, in his OR HER
20 discretion, in lieu of such volumes, maintain the aforementioned data in
21 a micrographic or computer retrievable format. With respect to judg-
22 ments on behalf of the parking violations bureau such volumes or other
23 format shall be maintained pursuant to this subdivision for only those

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

LBD11260-01-1

1 individuals, corporations, and other entities having vehicles registered
2 in the counties within the city of New York.

3 S 2. Paragraph 2 of subdivision (g) of section 2203 of the New York
4 city charter, as added by section 15 of question 2 of local law number
5 60 of the city of New York for the year 2010, is amended to read as
6 follows:

7 (2) All such proceedings shall be commenced by the service of a notice
8 of violation. The commissioner shall prescribe the form and wording of
9 notices of violation. The notice of violation or copy thereof when
10 filled in and served shall constitute notice of the violation charged,
11 and, if sworn to or affirmed, shall be prima facie evidence of the facts
12 contained therein. THE NOTICE OF VIOLATION SHALL CONTAIN INFORMATION
13 ADVISING THE PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH SUCH
14 PERSON MAY EITHER ADMIT OR DENY THE VIOLATION CHARGED IN THE NOTICE.
15 SUCH NOTICE OF VIOLATION SHALL ALSO CONTAIN A WARNING TO ADVISE THE
16 PERSON CHARGED THAT FAILURE TO PLEAD IN THE MANNER AND TIME STATED IN
17 THE NOTICE MAY RESULT IN A DEFAULT DECISION AND ORDER BEING ENTERED
18 AGAINST SUCH PERSON. THE ORIGINAL OR A COPY OF THE NOTICE OF VIOLATION
19 SHALL BE FILED AND RETAINED BY THE DEPARTMENT AND SHALL BE DEEMED A
20 RECORD KEPT IN THE ORDINARY COURSE OF BUSINESS.

21 S 3. Paragraphs 3 and 4 of subdivision (g) of section 2203 of the New
22 York city charter are renumbered paragraphs 9 and 10 and six new para-
23 graphs 3, 4, 5, 6, 7 and 8 are added to read as follows:

24 (3) WHERE A RESPONDENT HAS FAILED TO PLEAD WITHIN THE TIME ALLOWED BY
25 THE RULES OF THE COMMISSIONER OR HAS FAILED TO APPEAR ON A DESIGNATED
26 HEARING DATE OR A SUBSEQUENT DATE FOLLOWING AN ADJOURNMENT, SUCH FAILURE
27 TO PLEAD OR APPEAR SHALL BE DEEMED, FOR ALL PURPOSES, TO BE AN ADMISSION
28 OF LIABILITY AND SHALL BE GROUNDS FOR RENDERING A DEFAULT DECISION AND
29 ORDER IMPOSING A PENALTY IN THE MAXIMUM AMOUNT PRESCRIBED UNDER LAW FOR
30 THE VIOLATION CHARGED.

31 (4) ANY FINAL ORDER IMPOSING A CIVIL PENALTY, WHETHER THE ADJUDICATION
32 WAS HAD BY HEARING OR UPON DEFAULT OR OTHERWISE, SHALL CONSTITUTE A
33 JUDGMENT THAT MAY BE ENTERED IN THE CIVIL COURT OF THE CITY OF NEW YORK
34 OR ANY OTHER PLACE PROVIDED FOR THE ENTRY OF CIVIL JUDGMENTS WITHIN THE
35 STATE, AND MAY BE ENFORCED WITHOUT COURT PROCEEDINGS IN THE SAME MANNER
36 AS THE ENFORCEMENT OF MONEY JUDGMENTS ENTERED IN CIVIL ACTIONS. ENTRY OF
37 A JUDGMENT IN ACCORDANCE WITH THIS PARAGRAPH SHALL NOT LIMIT THE APPLI-
38 CATION OF ANY OTHER REMEDIES OR PENALTIES PROVIDED FOR THE ENFORCEMENT
39 OF LAWS OR RULES UNDER THE JURISDICTION OF THE DEPARTMENT.

40 (5) NOTWITHSTANDING THE FOREGOING PROVISION, BEFORE A JUDGMENT BASED
41 UPON A DEFAULT MAY BE SO ENTERED THE DEPARTMENT MUST HAVE NOTIFIED THE
42 RESPONDENT BY FIRST CLASS MAIL IN SUCH FORM AS THE COMMISSIONER MAY
43 DIRECT: (I) OF THE DEFAULT DECISION AND ORDER AND THE PENALTY IMPOSED;
44 (II) THAT A JUDGMENT WILL BE ENTERED IN THE CIVIL COURT OF THE CITY OF
45 NEW YORK OR ANY OTHER PLACE PROVIDED FOR THE ENTRY OF CIVIL JUDGMENTS
46 WITHIN THE STATE OF NEW YORK; AND (III) THAT ENTRY OF SUCH JUDGMENT MAY
47 BE AVOIDED BY REQUESTING A STAY OF DEFAULT FOR GOOD CAUSE SHOWN AND
48 EITHER REQUESTING A HEARING OR ENTERING A PLEA PURSUANT TO THE RULES OF
49 THE COMMISSIONER WITHIN THIRTY DAYS OF THE MAILING OF SUCH NOTICE.

50 (6) A JUDGMENT ENTERED PURSUANT TO PARAGRAPH FOUR OF THIS SUBDIVISION
51 SHALL REMAIN IN FULL FORCE AND EFFECT FOR EIGHT YEARS.

52 (7) THE DEPARTMENT SHALL NOT ENTER ANY FINAL DECISION OR ORDER PURSU-
53 ANT TO THE PROVISIONS OF PARAGRAPH FOUR OF THIS SUBDIVISION UNLESS THE
54 NOTICE OF VIOLATION SHALL HAVE BEEN SERVED IN THE SAME MANNER AS IS
55 PRESCRIBED FOR SERVICE OF PROCESS BY ARTICLE THREE OF THE CIVIL PRACTICE

1 LAW AND RULES OR ARTICLE THREE OF THE BUSINESS CORPORATION LAW OR AS
2 PROVIDED IN PARAGRAPH EIGHT OF THIS SUBDIVISION.

3 (8)(I) SERVICE OF A NOTICE OF VIOLATION MAY BE MADE BY DELIVERING SUCH
4 NOTICE TO A PERSON EMPLOYED BY THE RESPONDENT ON OR IN CONNECTION WITH
5 THE PREMISES WHERE THE VIOLATION OCCURRED OR TO A PERSON EMPLOYED BY THE
6 RESPONDENT AT THE PREMISES AT WHICH THE RESPONDENT ACTUALLY CONDUCTS THE
7 BUSINESS THE OPERATION OF WHICH GAVE RISE TO THE VIOLATION.

8 (II) SERVICE OF A NOTICE OF VIOLATION THAT ALLEGES A VIOLATION BY A
9 LICENSEE OF ANY LAW OR RULES OF THE COMMISSIONER MAY BE MADE BY DELIVER-
10 ING SUCH NOTICE TO A PERSON EMPLOYED BY THE RESPONDENT AT THE PREMISES
11 AT WHICH THE RESPONDENT ACTUALLY CONDUCTS THE BUSINESS THE OPERATION OF
12 WHICH GAVE RISE TO THE VIOLATION.

13 (III) SUCH NOTICE MAY ONLY BE DELIVERED PURSUANT TO SUBPARAGRAPH (I)
14 OF THIS PARAGRAPH WHERE A REASONABLE ATTEMPT HAS BEEN MADE TO DELIVER
15 SUCH NOTICE TO A PERSON IN SUCH PREMISES UPON WHOM SERVICE MAY BE MADE
16 AS PROVIDED FOR BY ARTICLE THREE OF THE CIVIL PRACTICE LAW AND RULES OR
17 ARTICLE THREE OF THE BUSINESS CORPORATION LAW.

18 (IV) WHEN A COPY OF SUCH NOTICE HAS BEEN DELIVERED PURSUANT TO SUBPAR-
19 AGRAPH (I) OR (II) OF THIS PARAGRAPH, A COPY SHALL BE MAILED TO THE
20 RESPONDENT AT SUCH RESPONDENT'S LAST KNOWN RESIDENCE OR BUSINESS ADDRESS
21 OR TO AN ADDRESS CONTAINED IN THE FILES OF THE DEPARTMENT COMPILED AND
22 MAINTAINED FOR THE PURPOSE OF THE ENFORCEMENT OF THE PROVISIONS OF THE
23 CHARTER OR ADMINISTRATIVE CODE OR OTHER LAW OVER WHICH THE DEPARTMENT
24 HAS JURISDICTION.

25 (V) PROOF OF SERVICE MADE PURSUANT TO THIS PARAGRAPH SHALL BE FILED
26 WITH THE COMMISSIONER WITHIN TWENTY DAYS OF SERVICE IN THE MANNER
27 PRESCRIBED; SERVICE SHALL BE COMPLETE TEN DAYS AFTER SUCH FILING.

28 S 4. This act shall take effect immediately.