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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. GIBSON, JEFFRIES, CASTRO, BARRON -- Multi-Sponsored by -- M. of A. GLICK, HOOPER -- read once and referred 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 entitled
10 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.

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

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1 In all claims of the public welfare official made under this section
2 the public welfare official shall be deemed a preferred creditor.

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

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

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

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

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

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

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