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

3936

2011-2012 Regular Sessions

I N S E N A T E

March 10, 2011

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:

Section 1. Subdivision 1 of section 104 of the social services law, as amended by chapter 573 of the laws of 1964, is amended to read as follows:

1. (A) A public welfare official may bring action or proceeding against a person discovered to have real or personal property, or against the estate or the executors, administrators and successors in interest of a person who dies leaving real or personal property, if such person, or any one for whose support he is or was liable, received assistance and care during the preceding ten years, and shall be entitled to recover up to the value of such property the cost of such assistance or care. Any public assistance or care received by such person shall constitute an implied contract. No claim of a public welfare official against the estate or the executors, administrators and successors in interest of a person who dies leaving real or personal property, shall be barred or defeated, in whole or in part, by any lack of sufficiency of ability on the part of such person during the period assistance and care were received.

Nor shall the claim asserted by a public welfare official against any person under this section be impaired, impeded, barred or defeated, in whole or in part, on the grounds that another person or persons may also have been liable to contribute.

In all claims of the public welfare official made under this section 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.

LBD00225-01-1

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

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

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

(B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY OTHER PROVISION OF LAW, THE AUTHORIZATION GRANTED BY THIS SUBDIVISION SHALL NOT APPLY TO REAL PROPERTY OF A PERSON WHO RECEIVES OR RECEIVED ASSISTANCE OR CARE (OR A RELATIVE LIABLE THEREFOR PURSUANT TO SECTION ONE HUNDRED ONE OF THIS TITLE) INSOFAR AS SUCH REAL PROPERTY IS OR WAS A ONE, TWO, OR THREE FAMILY DWELLING OR A CONDOMINIUM AND THE PRIMARY RESIDENCE OF SUCH PERSON (OR SUCH RELATIVE). NOR SHALL SUCH AUTHORIZATION APPLY TO ANY MANUFACTURED HOME, AS DEFINED IN PARAGRAPH FOUR OF SUBDIVISION A OF SECTION TWO HUNDRED THIRTY-THREE OF THE REAL PROPERTY LAW, OF A PERSON WHO RECEIVES OR RECEIVED ASSISTANCE OR CARE (OR A RELATIVE LIABLE THEREFOR PURSUANT TO SECTION ONE HUNDRED ONE OF THIS TITLE) INSOFAR AS SUCH MANUFACTURED HOME IS OR WAS THE PRIMARY RESIDENCE OF SUCH PERSON (OR SUCH RELATIVE).

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

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

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