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

4585--A

2011-2012 Regular Sessions

I N S E N A T E

April 13, 2011

Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to the judgment lien on real property in an action upon a money judgment and to repeal certain provisions of such law relating to levy upon real property

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

Section 1. Section 5014 of the civil practice law and rules, the section heading and the opening paragraph, as amended by chapter 115 of the laws of 1965, subdivision 2 as amended by chapter 485 of the laws of 1964 and the closing paragraph as added by chapter 123 of the laws of 1986, is amended to read as follows:

S 5014. Action upon judgment. Except as permitted by section 15-102 of the general obligations law, an action upon a money judgment entered in a court of the state may only be maintained between the original parties to the judgment where:

1. [ten years have elapsed since the first docketing of the judgment; or

2.] the judgment was entered against the defendant by default for want of appearance and the summons was served other than by personal delivery to [him] THE DEFENDANT or to his OR HER agent for service designated under rule 318, either within or without the state; or

[3.] 2. the court in which the action is sought to be brought so orders on motion with such notice to such other persons as the court may direct.

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

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[An action may be commenced under subdivision one of this section during the year prior to the expiration of ten years since the first docketing of the judgment. The judgment in such action shall be designated a renewal judgment and shall be so docketed by the clerk. The lien of a renewal judgment shall take effect upon the expiration of ten years from the first docketing of the original judgment.]

S 2. Subdivisions (a) and (b) of section 5203 of the civil practice law and rules, subdivision (a) as amended by chapter 968 of the laws of 1972 and subdivision (b) as amended by chapter 388 of the laws of 1964, are amended to read as follows:

(a) Priority and lien on docketing judgment. No transfer of an interest of the judgment debtor in real property, against which property a money judgment may be enforced, is effective against the judgment creditor either from the time of the docketing of the judgment with the clerk of the county in which the property is located until [ten] TWENTY years after filing of the judgment-roll, or from the time of the filing with such clerk of a notice of levy pursuant to an execution until the execution is returned, except:

1. a transfer or the payment of the proceeds of a judicial sale, which shall include an execution sale, in satisfaction either of a judgment previously so docketed or of a judgment where a notice of levy pursuant to an execution thereon was previously so filed; or

2. a transfer in satisfaction of a mortgage given to secure the payment of the purchase price of the judgment debtor's interest in the property; or

3. a transfer to a purchaser for value at a judicial sale, which shall include an execution sale; or

4. when the judgment was entered after the death of the judgment debtor; or

5. when the judgment debtor is the state, an officer, department, board or commission of the state, or a municipal corporation; or

6. when the judgment debtor is the personal representative of a decedent and the judgment was awarded in an action against [him] SUCH JUDGMENT DEBTOR in his OR HER representative capacity.

(b) Extension of lien. Upon motion of the judgment creditor, upon notice to the judgment debtor, served personally or by registered or certified mail, return receipt requested, to the last known address of the judgment debtor, the court may order that the lien of a money judgment upon real property be effective after the expiration of [ten] TWENTY years from the filing of the judgment-roll, for a period no longer than the time during which the judgment creditor was stayed from enforcing the judgment, or the time necessary to complete advertisement and sale of real property in accordance with section 5236, pursuant to an execution delivered to a sheriff prior to the expiration of [ten] TWENTY years from the filing of the judgment-roll. The order shall be effective from the time it is filed with the clerk of the county in which the property is located and an appropriate entry is made upon the docket of the judgment.

S 3. Section 5235 of the civil practice law and rules is REPEALED.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become law; except that section three of this act shall take effect 10 years after such effective date provided that any execution issued pursuant to section 5235 of the civil practice law and rules before such effective date shall remain in effect.