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

5416

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to dismissal of pleadings for unreasonable neglect to prosecute

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

Section 1. Paragraph 3 of subdivision (b) of rule 3216 of the civil practice law and rules, as amended by chapter 4 of the laws of 1978, is amended to read as follows:

(3) The court or party seeking such relief, as the case may be, shall have served a written demand by registered or certified mail requiring the party against whom such relief is sought to resume prosecution of the action and to serve and file a note of issue within ninety days after receipt of such demand, and further stating that the default by the party upon whom such notice is served in complying with such demand within said ninety day period will serve as a basis for a motion by the party serving said demand for dismissal as against him for unreasonably neglecting to proceed. WHERE THE WRITTEN DEMAND IS SERVED BY THE COURT, THE DEMAND SHALL SET FORTH THE SPECIFIC CONDUCT CONSTITUTING THE NEGLECT, WHICH CONDUCT SHALL DEMONSTRATE A GENERAL PATTERN OF DELAY IN PROCEEDING WITH THE LITIGATION.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.

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

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