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

10122

I N A S S E M B L Y

May 11, 2016

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to prerequisites and certificate of merit in an eviction proceeding

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

Section 1. The civil practice law and rules is amended by adding a new section 3012-c to read as follows:

S 3012-C. PREREQUISITES; CERTIFICATE OF MERIT IN AN EVICTION PROCEEDING OR AN ACTION TO DEREGULATE A RENT-REGULATED UNIT. (A) IN ANY EVICTION PROCEEDING PREMISED UPON ANY GROUND ESTABLISHED BY ARTICLE SEVEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW; OR, IN ANY ACTION TO DEREGULATE A UNIT THAT IS REGULATED PURSUANT TO THE EMERGENCY HOUSING RENT CONTROL LAW OF NINETEEN HUNDRED FORTY-SIX, THE LOCAL EMERGENCY HOUSING RENT CONTROL ACT OF NINETEEN HUNDRED SIXTY-TWO, THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, OR THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE COMPLAINT SHALL BE ACCOMPANIED BY A CERTIFICATE OF MERIT. SUCH CERTIFICATE SHALL BE SIGNED BY AN ATTORNEY FOR THE PLAINTIFF, OR, WHERE THE PLAINTIFF IS NOT REPRESENTED BY COUNSEL, BY THE PLAINTIFF, AND SHALL CERTIFY THAT SUCH ATTORNEY OR PLAINTIFF HAS:

1. REVIEWED THE FACTS UNDERLYING THE PROCEEDING OR ACTION BROUGHT;

2. CONSULTED WITH THE PLAINTIFF, OR A REPRESENTATIVE OF THE PLAINTIFF, CONCERNING THE PROCEEDING OR ACTION BROUGHT;

3. REVIEWED DOCUMENTS PERTINENT TO THE PROCEEDING OR ACTION BROUGHT, INCLUDING, WHERE APPLICABLE, THE ANNUAL RENT REGISTRATION STATEMENT;

4. REVIEWED PLAINTIFF'S, OR A REPRESENTATIVE OF THE PLAINTIFF'S, ATTEMPTS TO, BASED UPON AN IMPLIED OR EXPRESSED COVENANT OF FAIR DEALING IN GOOD FAITH WITH THE TENANT, CORRESPOND, NEGOTIATE, OR RESOLVE LEASE OR TENANCY ISSUES, AND/OR ACCEPT PAYMENT UNDER THE TERMS OF A LEASE; AND

5. DETERMINED THAT, TO THE BEST OF SUCH ATTORNEY'S OR PLAINTIFF'S KNOWLEDGE, BASED UPON REASONABLE INQUIRIES MADE IN DUE DILIGENCE, THERE IS A REASONABLE BASIS FOR THE COMMENCEMENT OF THE ACTION, AND THAT THE PLAINTIFF IS ENTITLED TO BRING THE PROCEEDING OR ACTION.

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

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(B) A COPY OF THE WRITTEN LEASE BETWEEN THE PLAINTIFF AND DEFENDANT; IF AN ORAL LEASE, DOCUMENTATION ESTABLISHING DEFENDANT'S TENANCY; WHERE APPLICABLE, THE ANNUAL RENT REGISTRATION STATEMENT; AND/OR ANY OTHER DOCUMENTATION SUPPORTING THE ACTION SHALL BE ATTACHED TO THE CERTIFICATE OF MERIT.

(C) IF A PLAINTIFF WILLFULLY FAILS TO PROVIDE A COPY OF THE WRITTEN LEASE BETWEEN THE PLAINTIFF AND DEFENDANT; IF AN ORAL LEASE, DOCUMENTATION ESTABLISHING DEFENDANT'S TENANCY; WHERE APPLICABLE, THE ANNUAL RENT REGISTRATION STATEMENT; AND/OR ANY OTHER DOCUMENTATION SUPPORTING THE ACTION, AS REQUIRED BY SUBDIVISION (B) OF THIS SECTION, AND THE COURT FINDS, UPON THE MOTION OF ANY PARTY OR ON ITS OWN MOTION ON NOTICE TO THE PARTIES, THAT SUCH PAPERS AND/OR DOCUMENTS WERE NOT PROVIDED, THE COURT SHALL DISMISS THE COMPLAINT OR MAKE SUCH FINAL OR CONDITIONAL ORDER WITH REGARD TO SUCH FAILURE, AS IS JUST. ANY SUCH DISMISSAL SHALL BE WITHOUT PREJUDICE AND SHALL NOT BE ON THE MERITS.

S 2. This act shall take effect immediately.