

1170

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 8, 2015

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

AN ACT to amend the judiciary law and the civil practice law and rules,  
in relation to dismissal of residential mortgage foreclosure actions  
for repeated failure by plaintiff to appear with authority to negoti-  
ate or to negotiate in good faith or meet other deadlines

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

1     Section 1. Subdivision 2 of section 212 of the judiciary law is  
2     amended by adding a new paragraph (t) to read as follows:  
3     (T) ADOPT RULES PROVIDING FOR CONSIDERATION OF AND WAIVER OF MOTIONS  
4     TO DISMISS PURSUANT TO SUBDIVISION (I) OF RULE THREE THOUSAND FOUR  
5     HUNDRED EIGHT OF THE CIVIL PRACTICE LAW AND RULES, WHERE THE PLAINTIFF  
6     IN A RESIDENTIAL FORECLOSURE ACTION PURSUANT TO SECTION THIRTEEN HUNDRED  
7     FOUR OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW TWICE FAILS IN  
8     SUCH AN ACTION TO MAKE AN APPEARANCE WITH AUTHORITY TO NEGOTIATE AND  
9     EXECUTE A SETTLEMENT OR TO NEGOTIATE IN GOOD FAITH OR TO MEET ANY DEAD-  
10    LINE FOR THE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE REQUIRED BY LAW,  
11    BY COURT RULE, BY THE COURT OR BY STIPULATION.  
12    S 2. Rule 3408 of the civil practice law and rules is amended by  
13    adding a new subdivision (i) to read as follows:  
14    (I) WHERE A PLAINTIFF IN AN ACTION SUBJECT TO THIS SECTION TWICE FAILS  
15    IN A SETTLEMENT CONFERENCE TO MAKE AN APPEARANCE WITH AUTHORITY TO NEGOTIATE AND EXECUTE A SETTLEMENT OR TO NEGOTIATE IN GOOD FAITH OR TO MEET  
16    ANY DEADLINE FOR THE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE REQUIRED  
17    BY LAW, BY COURT RULE, BY THE COURT OR BY STIPULATION, UPON THE SECOND  
18    SUCH FAILURE THE DEFENDANT SHALL BE DEEMED TO MAKE A MOTION FOR AN ORDER  
19    DISMISSING SUCH ACTION, WITHOUT PREJUDICE, UNLESS THE DEFENDANT SHALL  
20    WAIVE THE MAKING OF SUCH MOTION ON ADVICE OF COUNSEL BY SIGNED WRITING  
21    FILED WITH THE COURT. THE COURT SHALL RESERVE DECISION ON SUCH MOTION  
22    AND UPON THE THIRD SUCH FAILURE BY THE PLAINTIFF IN SUCH ACTION, THE

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

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1 COURT SHALL GRANT SUCH MOTION, EXCEPT ON GOOD CAUSE SHOWN BY THE PLAIN-  
2 TIFF.  
3 S 3. This act shall take effect immediately; provided, however, that  
4 section two of this act shall take effect ninety days after this act  
5 shall have become a law.