STATE OF NEW YORK

10328

IN ASSEMBLY

April 10, 2018

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

AN ACT to amend the real property actions and proceedings law, in relation to requiring an owner or lessee who is granted a license to enter adjoining property to post a bond based on the property value of such adjoining property and requiring appropriate compensation for the adjoining property owner

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 881 of the real property actions and proceedings law, as added by chapter 220 of the laws of 1968, is amended to read as follows:

§ 881. Access to adjoining property to make improvements or repairs. When an owner or lessee seeks to make improvements or repairs to real property so situated that such improvements or repairs cannot be made by the owner or lessee without entering the premises of an adjoining owner or his lessee, and permission so to enter has been refused, the owner or lessee seeking to make such improvements or repairs may commence a special proceeding for a license so to enter pursuant to article four of the civil practice law and rules. The petition and affidavits, if any, shall state the facts making such entry necessary and the date or dates on which entry is sought. Such license shall be granted by the court in an appropriate case upon such terms as justice requires. **Such terms shall include, but not be limited to the following: (a) the posting of a bond by the licensee in an amount that shall be based on (i) the property value of the adjoining property, (ii) the extent of the proposed work, and (iii) the potential for damage to the adjoining property; (b) requiring appropriate compensation for the adjoining property owner based on the procedure and analysis provided in the eminent domain procedure law.** The licensee shall be liable to the adjoining owner or his lessee for actual damages occurring as a result of the entry.

§ 2. This act shall take effect immediately.

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

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