

# STATE OF NEW YORK

10363

## IN ASSEMBLY

April 17, 2018

Introduced by M. of A. ABINANTI, DINOWITZ -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to the permitted submissions in a default judgment

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

1 Section 1. Subdivision (b) of section 3215 of the civil practice law  
2 and rules, as amended by chapter 749 of the laws of 1965, is amended to  
3 read as follows:

4 (b) Procedure before court. The court, with or without a jury, may  
5 make an assessment or take an account or proof, or may direct a refer-  
6 ence. The party entitled to judgment may be permitted to submit, in  
7 addition to the proof required by subdivision (f) of this section, prop-  
8 erly executed affidavits or affirmations as proof of damages, provided  
9 that if the defaulting party gives reasonable notice that it will appear  
10 at the inquest, the party seeking damages may submit any such proof by  
11 oral testimony of the witnesses in open court or, after giving reason-  
12 able notice that it will do so, by written sworn statements of the  
13 witnesses, but shall make all such witnesses available for cross-exami-  
14 nation. When a reference is directed, the court may direct that the  
15 report be returned to it for further action or, except where otherwise  
16 prescribed by law, that judgment be entered by the clerk in accordance  
17 with the report without any further application. Except in a matrimonial  
18 action, no finding of fact in writing shall be necessary to the entry of  
19 a judgment on default. The judgment shall not exceed in amount or differ  
20 in type from that demanded in the complaint or stated in the notice  
21 served pursuant to subdivision (b) of rule 305 of this chapter.

22 § 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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