STATE OF NEW YORK

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7600

2019-2020 Regular Sessions

IN ASSEMBLY

May 13, 2019
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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.