

# STATE OF NEW YORK

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4638

2019-2020 Regular Sessions

## IN SENATE

March 19, 2019

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Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to compelling the delivery of real property subject to a fraudulent transfer to the person entitled thereto and provides for the recording of judgments and orders relating to a fraudulent conveyance of title to property

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

1 Section 1. Section 221 of the real property actions and proceedings  
2 law, as amended by chapter 507 of the laws of 2009, is amended to read  
3 as follows:

4 § 221. Compelling delivery of possession of real property. 1. (a)  
5 Where a judgment affecting the title to, or the possession, enjoyment or  
6 use of, real property allots to any person a distinct parcel of real  
7 property, or contains a direction for the sale of real property, or  
8 confirms such an allotment or sale, it also may direct the delivery of  
9 the possession of the property to the person entitled thereto, subject  
10 to the rights and obligations set forth in section thirteen hundred five  
11 of this chapter.

12 (b) Upon a finding by a civil or criminal court of competent jurisdic-  
13 tion that a transfer of title to real property was effected in whole or  
14 in part by fraud, the court in its written judgment shall direct the  
15 delivery of the possession of the property to the person who or entity  
16 that the court finds to be the last bona fide owner of the property  
17 prior to the fraudulent transfer and shall direct that title to such  
18 property be restored to such person or entity. The court shall arrange  
19 for the judgment and order to be provided to the offices of the record-  
20 ing clerk for the county or city in which the property is located. The  
21 recording clerk shall promptly record the judgment and order and place a  
22 notation on any documents deemed fraudulent by the court and on any

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

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1 documents relating to subsequent conveyances of title that were depend-  
2 ent upon the fraudulent conveyance and documents. Such notation shall  
3 reference the judgment and order and indicate the name of the person or  
4 entity legally entitled to possession of and title to the property.

5 (c) At the time of issuance of a judgment and order nullifying a frau-  
6 dulent transfer of title to property and directing delivery of  
7 possession of the property to the person entitled thereto, as described  
8 in paragraph (b) of this subdivision, the court issuing such judgment  
9 and order shall provide notice of the judgment and order to any person  
10 or entity not a party to the proceedings who or that asserts an interest  
11 of record in and to the fraudulently transferred property based upon  
12 subsequent conveyances of title that were dependent upon the fraudulent  
13 conveyance and documents. Such person or entity shall be provided with  
14 an opportunity to be heard before the court within sixty days of being  
15 served with the notice of order for the purpose of preserving his or her  
16 interests in the property.

17 2. If a party, or his representative or successor, who is bound by the  
18 judgment, withholds possession from the person thus declared to be enti-  
19 tled thereto, the court, by order, in its discretion, besides punishing  
20 the disobedience as a contempt, may require the sheriff to put that  
21 person into possession. Such an order shall be executed as if it were an  
22 execution for the delivery of the possession of the property.

23 § 2. This act shall take effect immediately.