# STATE OF NEW YORK

7600

2019-2020 Regular Sessions

# IN ASSEMBLY

May 13, 2019

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:**

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

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

§ 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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