STATE OF NEW YORK

2883

2023-2024 Regular Sessions

IN ASSEMBLY

January 31, 2023

Introduced by M. of A. EPSTEIN, SANTABARBARA, JACOBSON, HUNTER, SIMON, L. ROSENTHAL, SEAWRIGHT, MAGNARELLI, GLICK, COOK, REYES -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to requiring a certificate of merit in proceedings to recover possession of real property

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

Section 1. The civil practice law and rules is amended by adding a new section 403-a to read as follows:

§ 403-a. Certificate of merit in proceedings to recover possession of real property. (a) In any proceeding under article seven of the real property actions and proceedings law, the petition shall be accompanied by a certificate, signed by the attorney for petitioner, certifying that the attorney has reviewed the facts of the case and that, based on consultation with representatives of petitioner identified in the certificate and the attorney's review of pertinent documents, including the lease, rental records in an action based on non-payment of rent, and any documents that establish any grounds for eviction, to the best of such attorney's knowledge, information and belief there is a reasonable basis for the commencement of such action. If not attached to the notice of petition and petition, a copy of the lease, if any, and any other document relevant to the claims of petitioner, shall be attached to the certificate.

(b) Where a certificate is required pursuant to this section, a single certificate shall be filed for each action even if more than one respondent has been named in the petition or is subsequently named.

(c) Where the documents required under subdivision (a) of this section are not attached to the notice of petition and petition or to the certificate, the attorney for the petitioner shall attach to the certificate supplemental affidavits by such attorney or representative of

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

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petitioner attesting that such documents are lost whether by destruction, theft or otherwise. Nothing in this subdivision shall replace or abrogate petitioner's obligations as set forth in the New York uniform commercial code.

(d) If a petitioner willfully fails to provide copies of the papers and documents required by subdivision (a) of this section and the court finds, upon the motion of any party or on its own motion on notice to the parties, that such papers and documents ought to have been provided, the court may dismiss the petition or issue an order with regard to such failure as is just including but not limited to any costs, attorneys' fees and other fees, relating to the petition. Any such dismissal shall be without prejudice and shall not be on the merits.

§ 2. This act shall take effect immediately and shall apply to proceedings commenced on or after such date.