STATE OF NEW YORK

7464

2023-2024 Regular Sessions

IN ASSEMBLY

May 23, 2023

Introduced by M. of A. WEINSTEIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to renewals based on a subsequent change in law

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 5616 to read as follows:

§ 5616. Renewal based on subsequent change in law. (a) Grounds for motion. When the court of appeals has decided an issue of law and 1. the action or proceeding in which the court of appeals has rendered the decision has not been finally determined in an order or judgment not subject to appellate review or remains sub judice, and 2. a subsequent enactment by the legislature of the state or by the congress of the United States or a subsequent decision of the supreme court of the United States appears to be applicable to the action or proceeding and contrary to the decision of the court of appeals, any party aggrieved by the court of appeals' decision may file a motion to renew with that court.

(b) Briefing and oral argument. Upon the filing of a motion pursuant to subdivision (a) of this section, unless the court of appeals determines that there is no substantial basis for the motion, it shall grant the motion to the extent of permitting full briefing and oral argument, limited to the question of whether the court of appeals should change its decision in light of the subsequent change or clarification of the intent of the law, by the legislature of the state, by the congress of the United States, or by a subsequent decision of the supreme court of the United States.

(c) Preservation. In ruling on a motion pursuant to subdivision (a) of this section and in rendering a decision following the briefing and oral argument under subdivision (b) of this section, the court of appeals

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

LBD11330-03-3

shall consider any questions of law that were addressed by the subsequent enactment or decision, even if the court of appeals previously did not reach that issue because it held it to be unpreserved or it was unpreserved.

(d) Time. A motion pursuant to subdivision (a) of this section shall be filed not later than ninety days after 1. the enactment or decision that is the basis of the motion, or 2. the effective date of this section, whichever is later.

§ 2. This act shall take effect immediately.