ASSEMBLY, No. 448

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman GREGORY P. MCGUCKIN
District 10 (Ocean)

SYNOPSIS

Provides for court dismissal, with prejudice, of civil actions for which lis pendens notices are filed under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning civil actions for which notices of lis pendens are filed, and amending N.J.S.2A:15-10.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.2A:15-10 is amended to read as follows:

2A:15-10. a. If plaintiff in an action as to which a notice of lis pendens has been filed as herein required fails to prosecute the same diligently, the court wherein the action is pending may, for such cause or for other good cause shown, by order direct the county clerk or register of deeds and mortgages, as the case may be, to discharge the lis pendens of record.

b. After the passage of at least six months following the discharge of a notice of lis pendens pursuant to this section, due to the plaintiff's failure to prosecute, or pursuant to N.J.S.2A:15-7, due to the plaintiff's failure to establish there was a probability that final judgment would be entered in favor of the plaintiff sufficient to justify the notice, if plaintiff has failed to diligently prosecute the action for which the notice was previously discharged, the defendant may file a motion with the court to have the action dismissed with prejudice, which the court may order for such cause or for other good cause shown.

(cf: N.J.S.2A:15-10)

2. This act shall take effect immediately, and apply to any action filed on or after that date, as well as any action filed prior to that date which has not yet been finally adjudicated.

STATEMENT

This bill, concerning civil actions dealing with real estate for which notices of lis pendens are filed, would permit a defendant to move to have the action dismissed with prejudice based on the plaintiff's on-going failure to diligently prosecute the action, if the notice of lis pendens was previously discharged, at least six months prior, due to (1) the plaintiff's failure to prosecute, or (2) the plaintiff's failure to establish, at a previous hearing moved for by the defendant, that there was a probability that final judgment would be entered in favor of the plaintiff sufficient enough to justify the notice. The previous discharge of the notice of lis pendens, coupled with the on-going failure to prosecute after an additional six-month period, would serve as grounds for the dismissal, or the court could act to dismiss with prejudice for other good cause shown.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

The bill would take effect immediately, and would apply to all new civil actions filed on or after the effective date, as well as all existing actions which have not yet been finally adjudicated as of that date.

The intent of the bill is to provide property owners with further protections from meritless claims against their property by establishing a faster means by which they can have such claims dismissed.