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2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. MAGNARELLI -- read once and referred to the
Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to authorizing municipalities to treat unpaid building code, property maintenance and nuisance fines as delinquent taxes and impose tax liens upon the real property which is the subject of such fines

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The real property tax law is amended by adding a new
2 section 901 to read as follows:
3 S 901. AUTHORIZING INCLUSION IN THE TAX LEVY OF CERTAIN FINES IMPOSED
4 BY MUNICIPAL CORPORATIONS. 1. NOTWITHSTANDING ANY PROVISION OF LAW TO
5 THE CONTRARY, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS GOVERN-
6 ING BODY, MAY ENACT A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THAT
7 FINALLY ADJUDICATED FINES IMPOSED UPON REAL PROPERTY FOR BUILDING CODE,
8 PROPERTY MAINTENANCE AND NUISANCE VIOLATIONS SHALL BE DEEMED TO BE
9 DELINQUENT TAXES IN ACCORDANCE WITH THE PROVISION OF THIS SECTION. NO
10 SUCH LAW, ORDINANCE OR RESOLUTION SHALL BE DEEMED TO TAKE EFFECT UNTIL
11 IT SHALL HAVE BEEN FILED WITH THE CLERK OF THE MUNICIPAL CORPORATION AND
12 THE APPROPRIATE COLLECTING OFFICER.
13 2. EVERY SUCH LOCAL LAW, ORDINANCE AND RESOLUTION SHALL ESTABLISH A
14 PROCEDURE FOR THE JUDICIAL DETERMINATION AND ADJUDICATION OF THE UNDER-
15 LYING CIRCUMSTANCES RELATING TO THE BUILDING CODE, PROPERTY MAINTENANCE
16 OR NUISANCE VIOLATION, AND THE FINE TO BE IMPOSED IF THE COURT FINDS
17 THAT SUCH A VIOLATION OCCURRED. FURTHERMORE, A REAL PROPERTY OWNER WHO
18 AFTER BEING ADJUDGED TO HAVE COMMITTED A VIOLATION SHALL HAVE THE RIGHT
19 TO APPEAL SUCH JUDGEMENT.
20 3. EVERY LOCAL LAW, ORDINANCE AND RESOLUTION ENACTED PURSUANT TO THIS
21 SECTION SHALL PROVIDE THAT EACH AFFECTED PROPERTY OWNER SHALL BE
22 PROVIDED, BY THE MUNICIPAL CORPORATION, WITH NOT LESS THAN TEN DAYS

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

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1 WRITTEN NOTICE PRIOR TO THE OCCURRENCE OF ANY ACTION BY THE MUNICIPAL
2 CORPORATION PURSUANT TO THE PROVISIONS OF THIS SECTION. EVERY SUCH
3 NOTICE SHALL INFORM THE REAL PROPERTY OWNER THAT A REAL PROPERTY TAX
4 LIEN MAY BE IMPOSED IF THE FINE REMAINS UNPAID.

5 4. A MUNICIPAL CORPORATION MAY, NOT LESS THAN ONE YEAR AFTER THE FINAL
6 ADJUDICATION AND EXHAUSTION OF ALL APPEALS RELATING TO THE IMPOSITION OF
7 A FINE FOR A BUILDING CODE, PROPERTY MAINTENANCE OR NUISANCE VIOLATION,
8 DECLARE SUCH FINE AND ANY EXPENSES INCURRED IN ADJUDICATING SUCH FINE TO
9 BE UNPAID REAL PROPERTY TAXES ON THE SUBJECT PROPERTY, AND INCLUDE SUCH
10 FINE ON THE TAX ROLL OF UNPAID TAXES DELIVERED TO THE COLLECTING OFFI-
11 CER.

12 S 2. Section 936 of the real property tax law, as amended by chapter
13 237 of the laws of 1995, subdivision 1 as amended by chapter 355 of the
14 laws of 1997, is amended to read as follows:

15 S 936. Return of unpaid delinquent taxes. 1. Upon the expiration of
16 his OR HER warrant, each collecting officer shall make and deliver to
17 the county treasurer an account, subscribed and affirmed by him OR HER
18 as true under the penalties of perjury, of all taxes listed on the tax
19 roll which remain unpaid INCLUDING ANY FINES DEEMED TO BE UNPAID TAXES
20 PURSUANT TO SECTION NINE HUNDRED ONE OF THIS ARTICLE, except that such
21 collecting officer shall not include in such account the amount of the
22 installments of taxes returned unpaid pursuant to [section nine hundred
23 twenty-eight-b or] subdivision one of section nine hundred seventy-six
24 of this chapter. The county treasurer shall, if satisfied that such
25 account is correct, credit him with the amount of such unpaid delinquent
26 taxes. Such return shall be endorsed upon or attached to the tax roll.

27 2. In making the return of unpaid taxes AND FINE DEEMED TO BE UNPAID
28 TAXES, the collecting officer shall add five per centum to the amount of
29 each tax as levied. In the event that the collecting officer fails to do
30 so, the county treasurer shall make such addition. In a county in which
31 there is a local law in effect pursuant to [section nine hundred twen-
32 ty-eight-b or] section nine hundred seventy-two of this chapter provid-
33 ing for the collection of taxes in installments, the five per centum
34 provided by this subdivision shall not be added to the taxes which a
35 real property owner has elected to pay in installments pursuant to
36 [section nine hundred twenty-eight-b or] section nine hundred seventy-
37 five of this chapter. Such five per centum shall be added by the county
38 treasurer to the amount of such taxes as shall have remained unpaid
39 after the date upon which the last installment was due as provided in
40 such local law. The amount of such added per centum shall thereafter be
41 deemed part of the amount of the unpaid tax.

42 S 3. Subdivision 2 of section 1102 of the real property tax law, as
43 amended by chapter 532 of the laws of 1994, is amended to read as
44 follows:

45 2. "Delinquent tax" means an unpaid tax, UNPAID FINES THAT ARE DEEMED
46 TO BE UNPAID TAXES PURSUANT TO SECTION NINE HUNDRED ONE OF THIS CHAPTER,
47 special ad valorem levy, special assessment or other charge imposed upon
48 real property by or on behalf of a municipal corporation or special
49 district, plus all applicable charges, relating to any parcel which is
50 included in the return of unpaid delinquent taxes prepared pursuant to
51 section nine hundred thirty-six of this chapter or such other general,
52 special, or local law as may be applicable. In no event, however, shall
53 "delinquent tax" include any unpaid tax or other charge against lands
54 owned by the state.

55 S 4. This act shall take effect immediately.