

4466

2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. BRODSKY, BRADLEY, WRIGHT, GALEF -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to providing for the imposition of a civil penalty for the failure of a cooperative apartment corporation to credit the STAR exemption to the tenant-stockholders thereof and for the recoupment by such tenant-stockholders of amounts due them

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

1 Section 1. Subparagraph (iii) of paragraph (k) of subdivision 2 of
2 section 425 of the real property tax law is amended by adding a new
3 clause (C) to read as follows:
4 (C)(I) THE FAILURE OF ANY COOPERATIVE APARTMENT CORPORATION TO COMPLY
5 WITH THE PROVISIONS OF THIS SUBPARAGRAPH SHALL BE PUNISHABLE BY A CIVIL
6 PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH VIOLATION. SUCH
7 CIVIL PENALTY MAY BE RECOVERED IN A COURT OF COMPETENT JURISDICTION BY
8 THE COUNTY ATTORNEY OF THE COUNTY IN WHICH THE SUBJECT REAL PROPERTY IS
9 LOCATED; PROVIDED THAT SUCH PENALTY MAY BE RECOVERED BY THE CORPORATION
10 COUNSEL OF A CITY IF THE SUBJECT REAL PROPERTY IS LOCATED IN A COUNTY
11 WHOLLY CONTAINED WITHIN A CITY.
12 (II) COMMENCING SIXTY DAYS AFTER A COOPERATIVE APARTMENT CORPORATION'S
13 RECEIPT OF A TAX BILL AND, UPON SUCH FAILURE, EACH TENANT-STOCKHOLDER
14 DENIED SUCH CREDIT OR PAYMENT MAY WITHHOLD FROM THE COOPERATIVE APART-
15 MENT CORPORATION ANY PAYMENTS DUE FROM SUCH TENANT-STOCKHOLDER TO SUCH
16 COOPERATIVE APARTMENT CORPORATION FOR THE FOLLOWING MONTH OR MONTHS
17 UNTIL SUCH CREDIT OR PAYMENT HAS BEEN FULLY RECOUPED BY SUCH
18 TENANT-STOCKHOLDER.
19 (III) THE REMEDIES AFFORDED BY SUBCLAUSES (I) AND (II) OF THIS CLAUSE
20 SHALL NOT LIE IF ANY SUCH FAILURE IS ATTRIBUTABLE TO AN ERROR ON THE
21 PART OF AN ASSESSOR OR A TAXING AUTHORITY.

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

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1 (1) IN ANY ACTION OR PROCEEDING BROUGHT PURSUANT TO SUBCLAUSE (I) OF
2 THIS CLAUSE, IT SHALL BE AN AFFIRMATIVE DEFENSE THAT SUCH FAILURE IS SO
3 ATTRIBUTABLE. IF A COOPERATIVE APARTMENT CORPORATION BRINGS A PROCEEDING
4 PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES OR
5 AN ACTION FOR DECLARATORY OR INJUNCTIVE RELIEF OR BOTH FORMS OF RELIEF
6 CONTESTING SUCH TAX BILL, ANY ACTION OR PROCEEDING BROUGHT PURSUANT TO
7 SUBCLAUSE (I) OF THIS CLAUSE SHALL BE STAYED BY THE COURT PENDING THE
8 DETERMINATION OF SUCH ACTION OR PROCEEDING BROUGHT BY SUCH COOPERATIVE
9 APARTMENT CORPORATION. IF SUCH PROCEEDING OR ACTION BROUGHT BY SUCH
10 COOPERATIVE APARTMENT CORPORATION BE DETERMINED IN FAVOR OF SUCH COOPER-
11 ATIVE APARTMENT CORPORATION, SUCH ACTION OR PROCEEDING BROUGHT PURSUANT
12 TO SUBCLAUSE (I) OF THIS CLAUSE SHALL THEREUPON BE DISMISSED. IF SUCH
13 PROCEEDING OR ACTION BROUGHT BY SUCH COOPERATIVE APARTMENT CORPORATION
14 BE OTHERWISE DETERMINED OR CONCLUDED, SUCH STAY OF SUCH ACTION OR
15 PROCEEDING BROUGHT PURSUANT TO SUBCLAUSE (I) OF THIS CLAUSE SHALL BE
16 LIFTED BY THE COURT AND THE REMEDY AFFORDED UNDER SUBCLAUSE (II) OF THIS
17 CLAUSE SHALL THEREUPON LIE.

18 (2) THE REMEDY AFFORDED BY SUBCLAUSE (II) OF THIS CLAUSE SHALL NOT LIE
19 PENDING THE OUTCOME OF SUCH PROCEEDING OR ACTIONS IF, WITHIN SIXTY DAYS
20 OF RECEIPT OF THE TAX BILL, THE COOPERATIVE APARTMENT CORPORATION BRINGS
21 A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW
22 AND RULES OR AN ACTION FOR DECLARATORY OR INJUNCTIVE RELIEF OR BOTH
23 FORMS OF RELIEF CONTESTING SUCH TAX BILL, GIVES NOTICE OF THE INSTITU-
24 TION OF SUCH PROCEEDING OR ACTION TO ALL AFFECTED TENANT-STOCKHOLDERS,
25 AND GIVES NOTICE OF THE OUTCOME OF SUCH ACTION OR PROCEEDING WITHIN
26 THIRTY DAYS OF THE DETERMINATION THEREOF TO ALL AFFECTED TENANT-STOCK-
27 HOLDERS. IF THE PROCEEDING OR ACTION BE DETERMINED IN FAVOR OF THE COOP-
28 ERATIVE APARTMENT CORPORATION, NO REMEDY SHALL LIE UNDER SUBCLAUSE (II)
29 OF THIS CLAUSE. IF THE PROCEEDING OR ACTION BE OTHERWISE DETERMINED OR
30 CONCLUDED, THE REMEDY AFFORDED UNDER SUBCLAUSE (II) OF THIS CLAUSE SHALL
31 THEREUPON LIE.

32 S 2. This act shall take effect immediately and shall apply to the
33 administration of the school tax relief (STAR) exemption authorized by
34 section 425 of the real property tax law beginning with the 2008-2009
35 school year.