

5303

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the Monroe county tax act, in relation to the assessment, levy and collection of taxes in Monroe county; to amend the Monroe county tax foreclosure act, in relation to the foreclosure of tax liens in Monroe county; to repeal certain provisions of the Monroe county tax act, relating to the collection of taxes in such county; to repeal certain provisions of the Monroe county tax foreclosure act, relating to certain foreclosure actions; and to repeal certain provisions of the Monroe county in rem tax foreclosure act, relating to the filing of affidavits

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

1 Section 1. Section 14-g of chapter 441 of the laws of 1938, constitut-
2 ing the Monroe county tax act, as amended by chapter 829 of the laws of
3 1981, is amended to read as follows:

4 S 14-g. Payment of taxes in installments. Notwithstanding any of the
5 provisions of this act, the Monroe county legislature may by resolution
6 duly adopted prior to the annual tax levy of any year by two-thirds vote
7 of all members elected to the legislature, determine that, thereafter,
8 until such action be rescinded by such legislature, every tax in excess
9 of one hundred dollars levied pursuant to section seven of this act upon
10 property situate in Monroe county, may be paid in [three] FOUR separate
11 installments, as follows:

12 The first installment, representing [fifty] TWENTY-FIVE per centum of
13 the said tax on or before the tenth day of February in the year in which
14 said tax is payable, without any interest; and provided the first
15 installment shall have been so paid, the second installment of twenty-
16 five per centum of said tax on or before the last day of February in the
17 year said tax is payable with interest of one and one-half per centum of
18 the principal amount so paid; and provided the second installment shall

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

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1 have been so paid, the third installment of twenty-five per centum of
2 said tax on or before the thirty-first day of March in the year said tax
3 is payable with interest of three per centum on the principal amount so
4 paid; AND PROVIDED THE THIRD INSTALLMENT SHALL HAVE BEEN SO PAID, THE
5 FOURTH INSTALLMENT OF TWENTY-FIVE PER CENTUM OF SAID TAX ON OR BEFORE
6 THE THIRTIETH DAY OF APRIL IN THE YEAR SAID TAX IS PAYABLE WITH INTEREST
7 OF FOUR AND ONE-HALF PER CENTUM ON THE PRINCIPAL AMOUNT SO PAID. One or
8 more such installments may be paid on or before the tenth day of Febru-
9 ary without interest; and provided one or more such installments shall
10 have been paid on or before the tenth day of February, then and in that
11 event one or more of the remaining installments may be paid on or before
12 the last day of February with interest of one and one-half per cent.

13 If such resolution be adopted by the county legislature of Monroe
14 county, such taxes thereafter levied therein may be so paid and tax
15 warrants thereafter issued by such legislature to collecting officers
16 for the collection thereof shall in addition to other matters now
17 required by law, so provide. If such resolution be adopted, the notices
18 required to be given by the various collectors of taxes for the towns of
19 Monroe county and for the city of Rochester pursuant to this act and to
20 the tax law of the state of New York, shall in addition to the other
21 matters now required by law, state that payments may be made in install-
22 ments as provided herein. When the first installment of [fifty] TWENTY-
23 FIVE per centum has been paid by a taxpayer, his failure to complete
24 said installment payments by omission to make timely and appropriate
25 payments of the second [and/or], third AND/OR FOURTH installments shall
26 not subject said taxpayer to the payment of any interest upon the first
27 paid installment, and the unpaid installment or installments shall, IF
28 NOT PAID IN PARTIAL PAYMENTS PURSUANT TO SECTION 14-H OF THIS ACT, be
29 paid as one unit with such penalties, charges, interest, and fees as are
30 required by law at the time of such payment. The payment of any
31 installment of tax under the plan herein provided and the failure to
32 complete said installment payments shall not impair the rights of the
33 county of Monroe or any purchaser of a tax sale certificate, on the sale
34 or by assignment from the county of Monroe, to pursue any and all reme-
35 dies as by law now provided for the collection of the remaining unpaid
36 tax with all interest, fees, charges, and penalties on said unpaid
37 amount.

38 S 2. Chapter 441 of the laws of 1938, constituting the Monroe county
39 tax act, is amended by adding two new sections 14-h and 14-i to read as
40 follows:

41 S 14-H. PARTIAL PAYMENT OF TAXES. NOTWITHSTANDING ANY OF THE
42 PROVISIONS OF THIS ACT, EVERY TAX IN EXCESS OF ONE HUNDRED DOLLARS
43 LEVIED PURSUANT TO SECTION SEVEN OF THIS ACT UPON PROPERTY SITUATE IN
44 MONROE COUNTY, MAY BE PAID IN PARTIAL PAYMENTS AS FOLLOWS:

45 IF A TAXPAYER DOES NOT PAY THE FULL AMOUNT OF SUCH TAX, OR THE FIRST
46 INSTALLMENT OF SUCH TAX PURSUANT TO SECTION 14-G OF THIS ACT, ON OR
47 BEFORE THE TENTH DAY OF FEBRUARY OF THE TAX YEAR, INTEREST SHALL CONTIN-
48 UE TO ACCRUE AT THE RATE OF 1.5 PERCENT PER MONTH OR PART THEREOF ON THE
49 FULL AMOUNT OF SUCH TAX AND SUCH TAXPAYER MAY:

50 1. PAY THE BALANCE DUE IN FULL PLUS ALL ACCRUED INTEREST AT ANY TIME
51 PRIOR TO THE TWENTIETH DAY OF AUGUST; OR

52 2. MAKE TWO OR MORE PARTIAL PAYMENTS OF SUCH BALANCE DUE AT ANY TIME
53 OR TIMES PRIOR TO THE TWENTIETH DAY OF AUGUST OF THE TAX YEAR AS
54 FOLLOWS:

1 A. THE INITIAL PARTIAL PAYMENT MUST BE IN AN AMOUNT NOT LESS THAN
2 TWENTY-FIVE PER CENTUM OF SAID TAX BALANCE, INCLUDING ACCRUED INTEREST,
3 AS OF THE DATE OF SUCH PARTIAL PAYMENT; AND

4 B. ADDITIONAL PARTIAL PAYMENTS MAY BE MADE IN ANY AMOUNT NOT LESS THAN
5 ONE HUNDRED DOLLARS.

6 TOWN RECEIVERS OF TAXES SHALL HAVE THE RIGHT TO ASSESS A FEE OF FIVE
7 DOLLARS PER TRANSACTION FOR ANY PARTIAL PAYMENTS MADE PURSUANT TO THIS
8 SECTION.

9 THE PARTIAL PAYMENT OF ANY TAX AS PROVIDED IN THIS SECTION AND THE
10 FAILURE TO MAKE ADDITIONAL PARTIAL PAYMENTS SHALL NOT IMPAIR THE RIGHTS
11 OF THE COUNTY OF MONROE OR ANY PURCHASER OF A TAX SALE CERTIFICATE, ON
12 THE SALE OR BY ASSIGNMENT FROM THE COUNTY OF MONROE, TO PURSUE ANY AND
13 ALL REMEDIES AS BY LAW NOW PROVIDED FOR THE COLLECTION OF THE REMAINING
14 UNPAID TAX WITH ALL INTEREST, FEES, CHARGES, AND PENALTIES ON SAID
15 UNPAID AMOUNT.

16 S 14-I. NOTWITHSTANDING ANY OF THE PROVISIONS OF THIS ACT, WITH
17 RESPECT TO ANY TAX LIEN OR TAX SALE CERTIFICATE THAT REMAINS UNPAID AS
18 OF THE TWENTIETH DAY OF AUGUST IN EACH TAX YEAR THE COUNTY OF MONROE OR
19 ANY ASSIGNEE OR PURCHASER OF SUCH TAX LIENS OR TAX SALE CERTIFICATES
20 FROM THE COUNTY PURSUANT TO THIS ACT SHALL HAVE THE RIGHT TO ACCEPT
21 INSTALLMENT OR PARTIAL PAYMENTS OF THE TAX LIEN BALANCE AND TO ENTER
22 INTO AGREEMENTS WITH PROPERTY OWNERS OR OTHER INTERESTED PARTIES FOR THE
23 PAYMENT OF THE TAX LIEN BALANCE IN INSTALLMENT OR PARTIAL PAYMENTS,
24 WHICH AGREEMENTS SHALL INCLUDE INTEREST ON THE UNPAID TAX LIEN BALANCE
25 AT A RATE NOT TO EXCEED THAT PROVIDED IN SECTION SIX OF CHAPTER 905 OF
26 THE LAWS OF 1962, AS AMENDED.

27 S 3. Section 23 of chapter 441 of the laws of 1938, constituting the
28 Monroe county tax act, as amended by chapter 829 of the laws of 1981, is
29 amended to read as follows:

30 S 23. Lien of tax sale purchaser. The owner of any TAX LIEN OR tax
31 sale certificate affecting land in Monroe county heretofore or hereafter
32 sold for Monroe county taxes and any person entitled by law to such TAX
33 LIEN OR tax sale certificate, including the state and the county of
34 Monroe, shall have a lien on such lands affected by a TAX LIEN OR tax
35 sale certificate sold as aforesaid until it is paid, or otherwise satis-
36 fied or cancelled as provided by law, for the amount of the purchase
37 money paid, and all interest, fees, penalties and other charges allowed
38 by law, which lien, SHALL BE SUPERIOR TO ANY OTHER TITLE, TAX LIEN,
39 CERTIFICATE OF SALE OR ENCUMBRANCE, EXCEPT TAX LIENS FOR CITY TAXES AND
40 ASSESSMENTS HELD BY THE CITY OF ROCHESTER, LIENS FOR OR CERTIFICATES OF
41 SALE REPRESENTING UNPAID VILLAGE TAXES AND ASSESSMENTS WHEN OWNED BY THE
42 VILLAGE LEVYING THE SAME AND LIENS OF THE STATE OF NEW YORK FOR TAXES
43 IMPOSED DIRECTLY UPON SAID LANDS AND TAX LIENS OR LIENS OF CERTIFICATES
44 OF SALE THAT ARE PRIOR AND PARAMOUNT IN LAW, AND WHICH LIEN, when held
45 by the county of Monroe, shall be superior and prior in law, irrespec-
46 tive of whether the date of the levy of the taxes referred to in said
47 certificate of sale is prior or subsequent in point of time, to all
48 other liens, encumbrances, tax liens, and liens of certificates of sale,
49 upon and against such lands, regardless of whether such liens, encum-
50 brances, tax liens, or liens of certificates of sale, are held by indi-
51 viduals or municipal taxing bodies, or the state of New York, excepting
52 liens for unpaid city taxes and assessments held by the city of Roches-
53 ter, liens for or certificates of sale representing unpaid village taxes
54 and assessments when held and owned by the village levying the same, and
55 the lien of direct taxes upon the real estate imposed by the state of
56 New York. Such liens shall cease to exist if such lands affected by the

1 tax sale certificate be redeemed from the tax sale, or if the sale be
2 cancelled or set aside, but if any cancellation of sale be set aside,
3 such lien shall be revived.

4 S 4. Section 32 of chapter 441 of the laws of 1938, constituting the
5 Monroe county tax act, is REPEALED and a new section 32 is added to read
6 as follows:

7 S 32. UPON THE EXPIRATION OF THE REDEMPTION PERIOD PRESCRIBED BY LAW,
8 INSTEAD OF RECEIVING A DEED PURSUANT TO SECTION 30 OF THIS ACT, THE
9 HOLDER OF A TAX LIEN OR TAX SALE CERTIFICATE MAY FORECLOSE THE LIEN
10 THEREOF AS IN AN ACTION TO FORECLOSE A MORTGAGE AS PROVIDED IN SECTION
11 1194 OF THE REAL PROPERTY TAX LAW AND ALL PROVISIONS OF SUCH SECTION
12 1194 OF THE REAL PROPERTY TAX LAW SHALL APPLY TO SUCH ACTION. AT ANY
13 TIME FOLLOWING THE COMMENCEMENT OF AN ACTION TO FORECLOSE SUCH LIEN, THE
14 AMOUNT REQUIRED TO REDEEM THE LIEN, OR THE AMOUNT DUE THE HOLDER OF SUCH
15 LIEN UPON THE PUBLIC AUCTION OF THE SUBJECT TAX PARCEL PURSUANT TO SUCH
16 ACTION, SHALL INCLUDE REASONABLE ATTORNEYS' FEES, COSTS, ALLOWANCES,
17 COSTS OF RECORDING A RELEASE OF LIEN, AND DISBURSEMENTS.

18 S 5. Section 2 of chapter 440 of the laws of 1938, constituting the
19 Monroe county tax foreclosure act, as amended by chapter 312 of the laws
20 of 1984, is amended to read as follows:

21 S 2. Lien of tax sale purchaser. The owner of any TAX LIEN OR tax sale
22 certificate on lands in Monroe county heretofore or hereafter sold for
23 Monroe county taxes and any person entitled by law to such TAX LIEN OR
24 tax sale certificates, including the state and the county of Monroe,
25 shall have a lien on such lands until it is paid, or otherwise satis-
26 fied, or cancelled as provided by law, for the amount of the purchase
27 money paid, and all interest, fees, penalties and other charges allowed
28 by law, which lien SHALL BE SUPERIOR TO ANY OTHER TITLE, TAX LIEN,
29 CERTIFICATE OF SALE OR ENCUMBRANCE, EXCEPT TAX LIENS FOR CITY TAXES AND
30 ASSESSMENTS HELD BY THE CITY OF ROCHESTER, LIENS FOR OR CERTIFICATES OF
31 SALE REPRESENTING UNPAID VILLAGE TAXES AND ASSESSMENTS WHEN OWNED BY THE
32 VILLAGE LEVYING THE SAME AND LIENS OF THE STATE OF NEW YORK FOR TAXES
33 IMPOSED DIRECTLY UPON SAID LANDS AND TAX LIENS OR LIENS OF CERTIFICATES
34 OF SALE THAT ARE PRIOR AND PARAMOUNT IN LAW, AND WHICH LIEN when held by
35 the county of Monroe, shall be superior and prior in law, irrespective
36 of whether the date of the levy of the taxes referred to in said tax
37 sale certificate is prior or subsequent in point of time, to all other
38 liens, encumbrances, tax liens, and liens of tax sale certificates upon
39 and against such lands, regardless of whether such liens, encumbrances,
40 tax liens, or liens of tax sale certificates are held by individuals or
41 municipal taxing bodies, or the state of New York, excepting liens for
42 unpaid city taxes and assessments held by the city of Rochester, liens
43 for or tax sale certificates representing unpaid village taxes and
44 assessments when held and owned by the village levying the same, and the
45 lien of direct taxes upon the real estate imposed by the state of New
46 York. Such liens shall cease to exist if such lands AFFECTED BY THE TAX
47 SALE CERTIFICATE be redeemed from the tax sale, or if the sale be
48 cancelled or set aside, but if any cancellation of sale be set aside,
49 such lien shall be revived.

50 S 6. Section 4 of chapter 440 of the laws of 1938, constituting the
51 Monroe county tax foreclosure act, is REPEALED and a new section 4 is
52 added to read as follows:

53 S 4. UPON THE EXPIRATION OF THE REDEMPTION PERIOD PRESCRIBED BY LAW,
54 INSTEAD OF RECEIVING A DEED PURSUANT TO SECTION 30 OF CHAPTER 441 OF THE
55 LAWS OF 1938, THE HOLDER OF A TAX LIEN OR TAX SALE CERTIFICATE MAY FORE-
56 CLOSE THE LIEN THEREOF AS IN AN ACTION TO FORECLOSE A MORTGAGE AS

1 PROVIDED IN SECTION 1194 OF THE REAL PROPERTY TAX LAW AND ALL PROVISIONS
2 OF SUCH SECTION 1194 OF THE REAL PROPERTY TAX LAW SHALL APPLY TO SUCH
3 ACTION. AT ANY TIME FOLLOWING THE COMMENCEMENT OF AN ACTION TO FORECLOSE
4 SUCH LIEN, THE AMOUNT REQUIRED TO REDEEM THE LIEN, OR THE AMOUNT DUE THE
5 HOLDER OF SUCH LIEN UPON THE PUBLIC AUCTION OF THE SUBJECT TAX PARCEL
6 PURSUANT TO SUCH ACTION, SHALL INCLUDE REASONABLE ATTORNEYS' FEES,
7 COSTS, ALLOWANCES, COSTS OF RECORDING A RELEASE OF LIEN, AND DISBURSE-
8 MENTS.

9 S 7. Section 7 of chapter 440 of the laws of 1938, constituting the
10 Monroe county tax foreclosure act, is REPEALED.

11 S 8. Section 17 of chapter 905 of the laws of 1962, constituting the
12 Monroe county in rem tax foreclosure act, is REPEALED.

13 S 9. This act shall take effect immediately.