S T A T E   O F   N E W   Y O R K

5303--C

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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:

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

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any year by two-thirds vote of all members elected to the legislature, determine that, thereafter, until such action be rescinded by such legislature, every tax in excess of one hundred dollars levied pursuant to section seven of this act upon property situate in Monroe county, may be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

The first installment, representing [fifty] TWENTY-FIVE per centum of the said tax on or before the tenth day of February in the year in which

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

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

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

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

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

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

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

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

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

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

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

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

S 14-I. NOTWITHSTANDING ANY OF THE PROVISIONS OF THIS ACT, WITH RESPECT TO ANY TAX LIEN OR TAX SALE CERTIFICATE THAT REMAINS UNPAID AS OF THE TWENTIETH DAY OF AUGUST IN EACH TAX YEAR THE COUNTY OF MONROE OR ANY ASSIGNEE OR PURCHASER OF SUCH TAX LIENS OR TAX SALE CERTIFICATES FROM THE COUNTY PURSUANT TO THIS ACT SHALL HAVE THE RIGHT TO ACCEPT INSTALLMENT OR PARTIAL PAYMENTS OF THE TAX LIEN BALANCE AND TO ENTER INTO AGREEMENTS WITH PROPERTY OWNERS OR OTHER INTERESTED PARTIES FOR THE PAYMENT OF THE TAX LIEN BALANCE IN INSTALLMENT OR PARTIAL PAYMENTS, WHICH AGREEMENTS SHALL INCLUDE INTEREST ON THE UNPAID TAX LIEN BALANCE AT A RATE NOT TO EXCEED THAT PROVIDED IN SECTION 6 OF CHAPTER 905 OF THE LAWS OF 1962, AS AMENDED.

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

S 23. Lien of tax sale purchaser. The owner of any TAX LIEN OR tax sale certificate affecting land in Monroe county heretofore or hereafter sold for Monroe county taxes and any person entitled by law to such TAX LIEN OR tax sale certificate, including the state and the county of Monroe, shall have a lien on such lands affected by a TAX LIEN OR tax sale certificate sold as aforesaid until it is paid, or otherwise satisfied or cancelled as provided by law, for the amount of the purchase money paid, and all interest, fees, penalties and other charges allowed by law, which lien, SHALL BE SUPERIOR TO ANY OTHER TITLE, TAX LIEN, CERTIFICATE OF SALE OR ENCUMBRANCE, EXCEPT TAX LIENS FOR CITY TAXES AND ASSESSMENTS HELD BY THE CITY OF ROCHESTER, OR ANY SUBSEQUENT ASSIGNEES, LIENS FOR OR CERTIFICATES OF SALE REPRESENTING UNPAID VILLAGE TAXES AND ASSESSMENTS WHEN OWNED BY THE VILLAGE LEVYING THE SAME AND LIENS OF THE STATE OF NEW YORK FOR TAXES IMPOSED DIRECTLY UPON SAID LANDS AND TAX LIENS OR LIENS OF CERTIFICATES OF SALE THAT ARE PRIOR AND PARAMOUNT IN LAW, AND WHICH LIEN, when held by the county of Monroe, shall be superior and prior in law, irrespective of whether the date of the levy of the taxes referred to in said certificate of sale is prior or subsequent in point of time, to all other liens, encumbrances, tax liens, and liens of certificates of sale, upon and against such lands, regardless of whether such liens, encumbrances, tax liens, or liens of certificates of sale, are held by individuals or municipal taxing bodies, or the state of New York, excepting liens for unpaid city taxes and assessments held by the city of Rochester, OR ANY SUBSEQUENT ASSIGNEES, liens for or certificates of sale representing unpaid village taxes and assessments when held and owned by the village levying the same, and the lien of direct taxes upon the real estate imposed by the state of New York. Such liens shall cease to exist if such lands affected by the tax sale certificate be redeemed from the tax sale, or if the sale be cancelled or set aside, but if any cancellation of sale be set aside, such lien shall be revived.

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

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

S 5. Section 24 of chapter 441 of the laws of 1938, constituting the Monroe county tax act, as amended by chapter 319 of the laws of 1940, is amended to read as follows:

S 24. Priorities between Monroe county taxes. Monroe county taxes shall be deemed prior and paramount to each other in the inverse order of their respective dates of levy. The lien of such county taxes due the county of Monroe shall be superior and prior in law, irrespective of whether the dates of the levy of the taxes are prior or subsequent in point of time, to all other liens, tax liens, and liens of certificates of sale, upon and against the lands incumbered, regardless of whether such liens, tax liens, or liens of certificates of sale, are held by individuals or municipal taxing bodies, or the state of New York, excepting liens for unpaid city taxes and assessments held by the city of Rochester, OR ANY SUBSEQUENT ASSIGNEES, and liens for or certificates of sale representing unpaid village taxes and assessments when held and owned by the village levying the same, and the lien of direct taxes upon the real estate imposed by the state of New York. SUCH LIENS SHALL CEASE TO EXIST IF SUCH LANDS AFFECTED BY THE TAX SALE CERTIFICATE BE REDEEMED FROM THE TAX SALE, OR IF THE SALE BE CANCELLED OR SET ASIDE, BUT IF ANY CANCELLATION OF SALE BE SET ASIDE, SUCH LIEN SHALL BE REVIVED.

S 6. Section 2 of chapter 440 of the laws of 1938, constituting the Monroe county tax foreclosure act, as amended by chapter 312 of the laws of 1984, is amended to read as follows:

S 2. Lien of tax sale purchaser. The owner of any TAX LIEN OR tax sale certificate on lands in Monroe county heretofore or hereafter sold for Monroe county taxes and any person entitled by law to such TAX LIEN OR tax sale certificates, including the state and the county of Monroe, shall have a lien on such lands until it is paid, or otherwise satisfied, or cancelled as provided by law, for the amount of the purchase money paid, and all interest, fees, penalties and other charges allowed by law, which lien SHALL BE SUPERIOR TO ANY OTHER TITLE, TAX LIEN, CERTIFICATE OF SALE OR ENCUMBRANCE, EXCEPT TAX LIENS FOR CITY TAXES AND ASSESSMENTS HELD BY THE CITY OF ROCHESTER, OR ANY SUBSEQUENT ASSIGNEES, LIENS FOR OR CERTIFICATES OF SALE REPRESENTING UNPAID VILLAGE TAXES AND ASSESSMENTS WHEN OWNED BY THE VILLAGE LEVYING THE SAME AND LIENS OF THE

STATE OF NEW YORK FOR TAXES IMPOSED DIRECTLY UPON SAID LANDS AND TAX LIENS OR LIENS OF CERTIFICATES OF SALE THAT ARE PRIOR AND PARAMOUNT IN LAW, AND WHICH LIEN when held by the county of Monroe, shall be superior and prior in law, irrespective of whether the date of the levy of the taxes referred to in said tax sale certificate is prior or subsequent in point of time, to all other liens, encumbrances, tax liens, and liens of tax sale certificates upon and against such lands, regardless of whether such liens, encumbrances, tax liens, or liens of tax sale certificates are held by individuals or municipal taxing bodies, or the state of New York, excepting liens for unpaid city taxes and assessments held by the city of Rochester, OR ANY SUBSEQUENT ASSIGNEES, liens for or tax sale certificates representing unpaid village taxes and assessments when held and owned by the village levying the same, and the lien of direct taxes upon the real estate imposed by the state of New York. Such liens shall cease to exist if such lands AFFECTED BY THE TAX SALE CERTIFICATE be redeemed from the tax sale, or if the sale be cancelled or set aside, but if any cancellation of sale be set aside, such lien shall be revived.

S 7. Section 3 of chapter 440 of the laws of 1938, constituting the Monroe county tax foreclosure act, as amended by chapter 219 of the laws of 1940, is amended to read as follows:

S 3. Priorities between Monroe county taxes. Monroe county taxes shall be deemed prior and paramount to each other in the inverse order of their respective dates of levy. The lien of such county taxes due to county of Monroe shall be superior and prior in law, irrespective of whether the dates of the levy of the taxes are prior or subsequent in point of time, to all other liens, tax liens, and liens of certificates of sale, upon and against the lands incumbered, regardless of whether such liens, tax liens, or liens of certificates of sale, are held by individuals or municipal taxing bodies, or the state of New York, excepting liens for unpaid city taxes and assessments held by the city of Rochester OR ANY SUBSEQUENT ASSIGNEES, liens for or certificates of sale representing unpaid village taxes and assessments when held and owned by the village levying the same, and the lien of direct taxes upon the real estate imposed by the state of New York.

S 8. Section 4 of chapter 440 of the laws of 1938, constituting the Monroe county tax foreclosure act, is REPEALED and a new section 4 is added to read as follows:

S 4. UPON THE EXPIRATION OF THE REDEMPTION PERIOD PRESCRIBED BY LAW, INSTEAD OF RECEIVING A DEED PURSUANT TO SECTION 30 OF CHAPTER 441 OF THE LAWS OF 1938, THE HOLDER OF A TAX LIEN OR TAX SALE CERTIFICATE MAY FORECLOSE THE LIEN THEREOF AS IN AN ACTION TO FORECLOSE A MORTGAGE AS PROVIDED IN SECTION 1194 OF THE REAL PROPERTY TAX LAW AND ALL PROVISIONS OF SUCH SECTION 1194 OF THE REAL PROPERTY TAX LAW SHALL APPLY TO SUCH ACTION. AT ANY TIME FOLLOWING THE COMMENCEMENT OF AN ACTION TO FORECLOSE SUCH LIEN, THE AMOUNT REQUIRED TO REDEEM THE LIEN, OR THE AMOUNT DUE THE HOLDER OF SUCH LIEN UPON THE PUBLIC AUCTION OF THE SUBJECT TAX PARCEL PURSUANT TO SUCH ACTION, SHALL INCLUDE REASONABLE ATTORNEYS' FEES, COSTS, ALLOWANCES, COSTS OF RECORDING A RELEASE OF LIEN, AND DISBURSEMENTS.

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

S 10. Section 17 of chapter 905 of the laws of 1962, constituting the Monroe county in rem tax foreclosure act, is REPEALED.

S 11. This act shall take effect immediately.