

2516

2009-2010 Regular Sessions

I N A S S E M B L Y

January 16, 2009

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

AN ACT to amend the real property tax law, in relation to the payment of delinquent taxes; and to repeal subdivision 2 of section 962 of the real property tax law relating to the qualifications of certain corporations or banking institutions to lend money pursuant to the provisions of title 4 of article 9 of the real property tax law and section 968 of the real property tax law relating to tax sale provisions under such title

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

1 Section 1. Legislative findings. The legislature hereby finds and  
2 declares that many taxing jurisdictions are owed millions of dollars  
3 annually in unpaid property taxes and that these taxing jurisdictions  
4 should be given the opportunity to utilize as many collection methods as  
5 possible in an effort to collect as much in unpaid taxes as possible.  
6 Such uncollected taxes adversely impact the taxing jurisdictions' ability  
7 to meet their operating expenditures and provide for the delivery of  
8 necessary and essential local governmental services, amplifying the risk  
9 of future real property tax increases and negatively impacting those  
10 taxpayers who timely remit payment. It is hereby further declared that  
11 limited means exist for taxing jurisdictions to expedite the collection  
12 of such delinquent taxes and that it is in the public interest to  
13 increase the number of methods available to taxing jurisdictions to  
14 expedite such collections and to provide their constituents as many  
15 payment methods as possible. It is further declared that many delinquen-  
16 cies often remain unpaid, thereby creating a lien against the affected  
17 real property, and that the taxpayers should have alternative methods of  
18 making payments to taxing jurisdictions for the payment of their taxes  
19 which will in turn enable taxing jurisdictions to expedite the receipt  
20 of anticipated revenues and provide a funding source, which will enable

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

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1 taxing jurisdictions more effectively to carry out their public  
2 purposes, especially at this time when many taxing jurisdictions have  
3 significant budgetary problems.

4 S 2. The title heading of title 4 of article 9 of the real property  
5 tax law is amended to read as follows:

6 ACCEPTANCE OF TAXES FROM CERTAIN [LOAN CORPORATIONS]  
7 ENTITIES

8 S 3. Section 960 of the real property tax law is amended to read as  
9 follows:

10 S 960. Payment of taxes by loan corporations. 1. Any [municipal  
11 corporation may] TAXING JURISDICTION OR ITS ASSIGNEE SHALL, as provided  
12 in this title, accept payment of taxes, including special ad valorem  
13 levies and special assessments, on real property from any [corporation  
14 organized under the laws of the state of New York for the purpose of  
15 extending loans to taxpayers for the payment of taxes] ENTITY, UPON  
16 RECEIPT OF AN AFFIDAVIT FROM A PROPERTY OWNER AUTHORIZING THE ENTITY  
17 MAKING THE LOAN TO PAY THE TAXES OR DELINQUENT TAXES AND PENALTIES,  
18 INTEREST, COURT COSTS OR OTHER FEES ON SUCH PROPERTY OWNER'S BEHALF AND  
19 CONTAINING A LEGAL DESCRIPTION OF THE PROPERTY AND THE STREET ADDRESS  
20 THEREOF, IF APPLICABLE. FOR THE PURPOSES OF THIS TITLE, "ENTITY" SHALL  
21 MEAN ANY CORPORATION, LIMITED LIABILITY COMPANY OR PARTNERSHIP REGIS-  
22 TERED TO DO BUSINESS IN THIS STATE.

23 2. Upon such a payment, a conditional tax receipt shall be issued and  
24 the amount thereof conditionally credited by the [municipal corporation]  
25 TAXING JURISDICTION against the taxes due on the property for which  
26 payment is made, but such payment shall not extinguish the tax lien  
27 existing against such property until the conditional tax receipt is  
28 surrendered for cancellation to the [municipal corporation] TAXING  
29 JURISDICTION BY THE ENTITY LENDING THE MONEY TO THE TAXPAYER. IN ADDI-  
30 TION, THE AUTHORIZED REPRESENTATIVE OF THE TAXING JURISDICTION SHALL  
31 CERTIFY BY AFFIDAVIT THAT PAYMENT OF THE TAXES AND PENALTIES, INTEREST,  
32 COURT COSTS OR OTHER FEES ON THE DESCRIBED PROPERTY HAS BEEN MADE BY THE  
33 LENDING ENTITY AND NOT THE PROPERTY OWNER RESPONSIBLE FOR THE PAYMENT OF  
34 SUCH TAXES AND THAT THE TAXING JURISDICTION'S TAX LIEN IS TRANSFERRED TO  
35 THE LENDING ENTITY THAT PAID THE TAXES AND PENALTIES, INTEREST, COURT  
36 COSTS OR OTHER FEES. THE TAXING JURISDICTION SHALL ATTACH TO THE DOCU-  
37 MENT THE COLLECTOR'S SEAL OF OFFICE, IF THERE IS SUCH A SEAL, AND DELIV-  
38 ER THE DOCUMENT TO THE LENDING ENTITY THAT PAID THE TAXES AND PENALTIES,  
39 INTEREST, COURT COSTS OR OTHER FEES WITHIN THIRTY DAYS OF RECEIPT OF  
40 PAYMENT. THE TAXING JURISDICTION SHALL KEEP A RECORD OF ALL TAX LIENS  
41 TRANSFERRED AS PROVIDED BY THIS SECTION. A PROPERTY OWNER AUTHORIZING A  
42 LENDING ENTITY TO PAY THE TAXES IMPOSED BY A TAXING JURISDICTION ON SUCH  
43 PROPERTY OWNER'S REAL PROPERTY MUST FILE WITH THE TAXING JURISDICTION AN  
44 AFFIDAVIT CONTAINING SUCH AUTHORIZATION, THE NAME OF THE ENTITY AUTHOR-  
45 IZED TO PAY THE TAXES AND PENALTIES, INTEREST, COURT COSTS OR OTHER  
46 FEES, A LEGAL DESCRIPTION OF THE PROPERTY AND THE STREET ADDRESS THERE-  
47 OF, IF APPLICABLE.

48 3. Payments made pursuant to this section BY THE LENDING ENTITY may be  
49 used by the [municipal corporation] TAXING JURISDICTION in the same  
50 manner as if PAYMENT WERE made directly by the taxpayer.

51 S 4. Subdivision 1 of section 962 of the real property tax law is  
52 amended to read as follows:

53 1. [Municipal corporations may] TAXING JURISDICTIONS OR THEIR ASSIG-  
54 NEES SHALL accept [such] payments from [a corporation] AN ENTITY extend-

1 ing loans for [such] THE purpose[, if the loan corporation has a paid-up  
2 capital of at least one million dollars and charges not more than four  
3 per centum interest on unpaid balances on moneys loaned, nor more than  
4 two per centum of the amount of the loan as a service charge in  
5 connection therewith; provided, however, that in the event of a default  
6 in the payment of such a loan, the loan corporation may charge six per  
7 centum interest per annum on all sums in default. The loan corporation  
8 shall, within three days after receiving the same, deposit the condi-  
9 tional tax receipt with a banking institution, trust company, state  
10 bank, national bank, or federal reserve bank of the district in which  
11 the municipal corporation is located] OF PAYING TAXES AND DELINQUENT  
12 TAXES AND PENALTIES, INTEREST, COURT COSTS OR OTHER FEES. AN ENTITY  
13 MAKING A LOAN SHALL HAVE THE RIGHT TO CHARGE REASONABLE AND CUSTOMARY  
14 LOAN FEES AND INTEREST, AND SUCH INTEREST SHALL NOT EXCEED THE RATE OF  
15 ONE AND ONE-QUARTER PERCENT PER MONTH OR FRACTION THEREOF. THE LOAN  
16 DOCUMENT SHALL PROVIDE FOR THE NOTIFICATION OF PAYMENT DUE DATES AND AN  
17 ACKNOWLEDGMENT BY THE BORROWER OF THE INTEREST RATE TO BE PAID, AND SUCH  
18 ACKNOWLEDGMENT SHALL BE SWORN TO. THE INTEREST RATE, IRRESPECTIVE OF  
19 ANY STATE LAW, SHALL NOT EXCEED THE RATE OF ONE AND ONE-QUARTER PERCENT  
20 PER MONTH OR FRACTION THEREOF. IN CALCULATING THE EFFECTIVE RATE OF  
21 INTEREST, ONLY THOSE FEES IN EXCESS OF TEN PERCENT OF THE FACE AMOUNT OF  
22 THE LOAN SHALL BE INCLUDED FOR SUCH CALCULATION.

23 S 5. Subdivision 2 of section 962 of the real property tax law is  
24 REPEALED and two new subdivisions 2 and 3 are added to read as follows:

25 2. TO BE ENFORCEABLE, A TAX LIEN TRANSFERRED AS PROVIDED BY SECTION  
26 NINE HUNDRED SIXTY OF THIS TITLE MUST BE RECORDED IN THE OFFICE OF THE  
27 CLERK OR REGISTER OF EACH COUNTY IN WHICH THE PROPERTY ENCUMBERED BY THE  
28 LIEN IS LOCATED.

29 3. AN ENTITY HOLDING A TAX LIEN TRANSFERRED AS PROVIDED BY SECTION  
30 NINE HUNDRED SIXTY OF THIS TITLE MAY CHARGE REASONABLE AND CUSTOMARY  
31 LOAN FEES AND RECOVER THE COSTS OF CLOSING THE LOAN AND RECORDING  
32 EXPENSES PAID TO ACQUIRE AND RECORD THE LIEN BY ADDING THESE COSTS TO  
33 THE AMOUNT OF THE LIEN.

34 S 6. Section 964 of the real property tax law, subdivision 2 as  
35 amended by chapter 733 of the laws of 1959, is amended to read as  
36 follows:

37 S 964. Deposit and delivery of conditional tax receipts. 1. [Imme-  
38 diately upon] WITHIN THIRTY DAYS OF the execution of the loan contract  
39 between the [taxpayer] PROPERTY OWNER and the [loan corporation, the  
40 loan corporation] ENTITY MAKING THE LOAN, SUCH ENTITY shall pay to the  
41 [municipal corporation] TAXING JURISDICTION, OR ITS ASSIGNEE, the moneys  
42 provided for therein. The [taxpayer] PROPERTY OWNER shall make payments  
43 on the loan to the [banking institution with which the conditional tax  
44 receipt has been deposited for the account of the loan corporation]  
45 ENTITY MAKING THE LOAN OR ITS SUCCESSOR IN INTEREST DIRECTLY OR IN SUCH  
46 MANNER AS DIRECTED BY THE ENTITY. THE ENTITY MAKING THE LOAN SHALL HAVE  
47 THE RIGHT TO PAY SUBSEQUENT YEARS' DELINQUENT TAXES AND ADD THESE TAXES  
48 TO THE ORIGINAL CONDITIONAL TAX RECEIPT. ADVANCES MADE TO PAY SUBSEQUENT  
49 YEARS' DELINQUENT TAXES SHALL EARN INTEREST AT THE RATE SPECIFIED IN THE  
50 ORIGINAL CONTRACT BETWEEN THE ENTITY MAKING THE LOAN AND THE PROPERTY  
51 OWNER.

52 2. [When made, such payments shall be entered and acknowledged by the  
53 banking institution upon the conditional tax receipt, which receipt  
54 shall remain in the possession of the banking institution until either  
55 the loan is fully discharged or a default occurs thereon.] In the event  
56 the loan is fully discharged, the conditional tax receipt shall be

1 endorsed "paid" and TWO COPIES OF THE CONDITIONAL RECEIPT ENDORSED  
2 "PAID" SHALL BE delivered, ONE to the [taxpayer or person making the  
3 payment. In the event of default, the conditional tax receipt shall be  
4 returned to the loan corporation at its option] PROPERTY OWNER AND ONE  
5 TO THE TAXING JURISDICTION THAT ISSUED THE CONDITIONAL TAX RECEIPT.

6 S 7. Subdivision 1 of section 966 of the real property tax law is  
7 amended to read as follows:

8 1. Upon the surrender of the conditional tax receipt evidencing the  
9 discharge of the obligation created by the loan contract in connection  
10 with which it was issued, the [municipal corporation] TAXING JURISDIC-  
11 TION shall replace it with a receipted tax bill. Such receipted tax bill  
12 shall bear the date of the conditional tax receipt and no interest or  
13 penalty shall be charged to the [taxpayer] PROPERTY OWNER BY THE TAXING  
14 JURISDICTION for the period between the date of the issuance of the  
15 conditional tax receipt and the date of its surrender. All [penalties  
16 and interest imposed by the municipal corporation for tax default shall  
17 be added to the tax lien until the discharge of the obligation created  
18 by the loan contract in connection with which the conditional tax  
19 receipt was issued, and such penalties and interest shall be cancelled  
20 and be deemed satisfied upon the discharge of such obligation provided  
21 such obligation is discharged prior to the disposition of the tax lien  
22 as provided in section nine hundred sixty-eight of this chapter] LIENS  
23 CREATED AND TRANSFERRED SHALL STAY IN EFFECT UNTIL THE LOAN OBLIGATION  
24 IS FULLY SATISFIED AND DISCHARGED.

25 S 8. The real property tax law is amended by adding two new sections  
26 965 and 967 to read as follows:

27 S 965. DEFINITIONS; APPLICABILITY. FOR THE PURPOSES OF THIS TITLE, THE  
28 TERM "TAXING JURISDICTION" INCLUDES A MUNICIPAL CORPORATION, A SPECIAL  
29 DISTRICT AND, WHERE APPLICABLE, A COUNTY TAX COLLECTION AGENCY AS  
30 PROVIDED FOR IN TITLE FOUR-A OF THIS ARTICLE. THE PROVISIONS OF SECTION  
31 NINE HUNDRED NINETY-SIX OF THIS ARTICLE SHALL NOT BE APPLICABLE FOR THE  
32 PURPOSES OF THIS TITLE.

33 S 967. FORECLOSURE OF A CONDITIONAL TAX RECEIPT. 1. EXCEPT AS OTHER-  
34 WISE PROVIDED BY THIS SECTION, THE TRANSFEREE OF A TAX LIEN PURSUANT TO  
35 SUBDIVISION TWO OF SECTION NINE HUNDRED SIXTY OF THIS TITLE, AND ANY  
36 SUCCESSOR IN INTEREST, IS SUBROGATED TO AND IS ENTITLED TO EXERCISE ANY  
37 RIGHT OR REMEDY POSSESSED BY THE TRANSFERRING TAXING JURISDICTION AND IS  
38 ENTITLED TO FORECLOSE THE LIEN IN THE EVENT OF A DEFAULT, AS DEFAULT IS  
39 DEFINED IN THE CONTRACT BETWEEN THE PARTIES, IN THE MANNER PROVIDED FOR  
40 IN ARTICLE THIRTEEN OR FOURTEEN OF THE REAL PROPERTY ACTIONS AND  
41 PROCEEDINGS LAW FOR THE FORECLOSURE OF A MORTGAGE.

42 2. PRIOR TO THE INSTITUTION OF A SUIT TO FORECLOSE A TAX LIEN TRANS-  
43 FERRED PURSUANT TO SUBDIVISION TWO OF SECTION NINE HUNDRED SIXTY OF THIS  
44 TITLE, A LENDING ENTITY SHALL PROVIDE NOTICE, VIA CERTIFIED MAIL, TO THE  
45 PROPERTY OWNER THAT SUCH LENDING ENTITY INTENDS TO COMMENCE A FORECLO-  
46 SURE ACTION. SUCH NOTICE SHALL PROVIDE THE PROPERTY OWNER SIXTY DAYS  
47 FROM RECEIPT OF SUCH NOTICE TO CURE ANY DEFAULT, AS DEFAULT IS DEFINED  
48 IN THE LOAN AGREEMENT WITH THE LENDING ENTITY.

49 3. IF A SUIT TO FORECLOSE A TAX LIEN SO TRANSFERRED RESULTS IN THE  
50 FORECLOSURE OF SUCH LIEN, THE ENTITY FILING SUIT IS ENTITLED TO RECOVER  
51 ALL COSTS, DISBURSEMENTS, EXPENSES AND FEES AS PROVIDED FOR IN ARTICLE  
52 THIRTEEN OR FOURTEEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW  
53 FOR THE FORECLOSURE OF A MORTGAGE, THE SAME AS PROVIDED FOR IN THE CIVIL  
54 PRACTICE LAW AND RULES INSOFAR AS NOT COVERED BY THE REAL PROPERTY  
55 ACTIONS AND PROCEEDINGS LAW, AND ANY ADDITIONAL ALLOWANCES AUTHORIZED BY  
56 SECTIONS EIGHTY-THREE HUNDRED TWO AND EIGHTY-THREE HUNDRED THREE OF THE

1 CIVIL PRACTICE LAW AND RULES. ANY SURPLUS MONIES REMAINING SHALL BE  
2 PAYABLE TO THE PROPERTY OWNER.

3 4. SUBSEQUENT TO THE SALE OF THE PROPERTY AS PROVIDED IN THIS SECTION,  
4 THE PROPERTY OWNER IS ENTITLED TO REDEEM THE PROPERTY ON OR BEFORE THE  
5 (A) FIRST ANNIVERSARY OF THE DATE OF THE FORECLOSURE SALE BY PAYING THE  
6 PURCHASER OF THE FORECLOSED PROPERTY THE PURCHASE PRICE, PLUS COSTS AND  
7 INTEREST AT THE RATE OF EIGHTEEN PERCENT PER ANNUM, TO THE DATE OF  
8 REDEMPTION, OR ONE HUNDRED TWENTY-FIVE PERCENT OF THE PURCHASE PRICE,  
9 WHICHEVER IS LESS; OR (B) SECOND ANNIVERSARY OF THE DATE OF THE FORECLO-  
10 SURE SALE BY PAYING THE PURCHASER THE PURCHASE PRICE, PLUS COSTS AND  
11 INTEREST AT THE RATE OF EIGHTEEN PERCENT PER ANNUM, TO THE DATE OF  
12 REDEMPTION, OR ONE HUNDRED FIFTY PERCENT OF THE PURCHASE PRICE, WHICHEV-  
13 ER IS LESS.

14 S 9. Section 968 of the real property tax law is REPEALED.

15 S 10. Section 970 of the real property tax law is amended to read as  
16 follows:

17 S 970. Examination of books of [loan corporations] LENDING ENTITIES.  
18 1. Any [municipal corporation] TAXING JURISDICTION issuing conditional  
19 tax receipts shall keep a complete record thereof. Any [municipal corpo-  
20 ration] TAXING JURISDICTION shall have the right to examine from time to  
21 time the [books] DOCUMENTS RELATING TO ANY OF THE LOANS of any [loan  
22 corporation] ENTITY to which it has issued conditional tax receipts  
23 [and]. ANY COUNTY IN WHICH CONDITIONAL TAX RECEIPTS ARE RECORDED may  
24 [make], IN ITS DISCRETION, PROMULGATE regulations not inconsistent with  
25 the provisions of this title for the better accomplishment of the  
26 purpose thereof and for the protection of the borrowing [taxpayer] PROP-  
27 ERTY OWNER.

28 2. Upon [proof to the municipal corporation of] A DETERMINATION OF,  
29 AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, any willful AND PERSISTENT  
30 violation of this title, or of the regulations [made] PROMULGATED pursu-  
31 ant thereto, by any [loan corporation] LENDING ENTITY to which [it] A  
32 TAXING JURISDICTION has issued conditional tax receipts, it shall cease  
33 the issuance of conditional tax receipts to such [loan corporation]  
34 LENDING ENTITY.

35 S 11. This act shall take effect on the one hundred eightieth day  
36 after it shall have become a law; provided that any and all rules and  
37 regulations and any other measures necessary to implement any provision  
38 of this act on its effective date may be promulgated and taken, respec-  
39 tively, on or before the effective date of such provision.