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

3026

2009-2010 Regular Sessions

I N S E N A T E

March 9, 2009

Introduced by Sen. THOMPSON -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the navigation law, in relation to the lien priority of liens of the New York environmental protection and spill compensation fund

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

Section 1. Subdivision 4 of section 181-a of the navigation law, as added by chapter 488 of the laws of 1991, is amended and a new subdivision 5 is added to read as follows:

4. An environmental lien [is subject to the rights of any other person, including an owner, purchaser, holder of a mortgage or security interest, or judgment lien creditor,] SHALL HAVE PRIORITY OVER ALL OTHER LIENS EXCEPT:

(A) MORTGAGES whose interest is perfected before a lien notice has been filed as provided in section one hundred eighty-one-c of this part; AND

(B) LIENS FOR TAXES ON THE REAL PROPERTY IN FAVOR OF ANY ASSESSING UNIT, SCHOOL DISTRICT, SPECIAL DISTRICT, COUNTY OR OTHER TAXING UNIT.

5. (A) IF EXECUTION UPON A JUDGMENT FOR THE RECOVERY OF THE EXPENSES OF ANY SUCH CLEANUP AND REMOVAL COSTS AND DAMAGE COSTS INCURRED BY THE FUND IS RETURNED WHOLLY OR PARTIALLY UNSATISFIED, SUCH JUDGMENT, IF DOCKETED IN THE PLACE AND MANNER REQUIRED BY LAW TO MAKE A JUDGMENT OF A COURT OF RECORD A LIEN UPON REAL PROPERTY, A COPY OF WHICH SHALL BE DELIVERED TO THE DEPARTMENT OF AUDIT AND CONTROL, SHALL BE A FIRST LIEN UPON SUCH PREMISES, HAVING PREFERENCE OVER ANY AND ALL OTHER LIENS AND ENCUMBRANCES.

(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, SUCH LIEN SHALL NOT HAVE PREFERENCE OVER ANY: (I) PRIOR RECORDED

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

LBD09516-04-9

MORTGAGE; OR (II) OTHER ENCUMBRANCE FOR THE BENEFIT OF THE STATE OF NEW YORK OR A PUBLIC BENEFIT CORPORATION THEREOF.

S 2. This act shall take effect immediately and shall apply to liens perfected on and after such date.