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

3406--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 25, 2011

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Real Property Taxation -- recommitted to the Committee on Real Property Taxation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subparagraph (iii) of paragraph (k) of subdivision 2 of section 425 of the real property tax law is amended by adding a new clause (C) to read as follows:

(C)(I) THE FAILURE OF ANY COOPERATIVE APARTMENT CORPORATION TO COMPLY WITH THE PROVISIONS OF THIS SUBPARAGRAPH SHALL BE PUNISHABLE BY A CIVIL PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH VIOLATION. SUCH CIVIL PENALTY MAY BE RECOVERED IN A COURT OF COMPETENT JURISDICTION BY THE COUNTY ATTORNEY OF THE COUNTY IN WHICH THE SUBJECT REAL PROPERTY IS LOCATED; PROVIDED THAT SUCH PENALTY MAY BE RECOVERED BY THE CORPORATION COUNSEL OF A CITY IF THE SUBJECT REAL PROPERTY IS LOCATED IN A COUNTY WHOLLY CONTAINED WITHIN A CITY.

(II) COMMENCING SIXTY DAYS AFTER A COOPERATIVE APARTMENT CORPORATION'S RECEIPT OF A TAX BILL AND, UPON SUCH FAILURE, EACH TENANT-STOCKHOLDER DENIED SUCH CREDIT OR PAYMENT MAY WITHHOLD FROM THE COOPERATIVE APARTMENT CORPORATION ANY PAYMENTS DUE FROM SUCH TENANT-STOCKHOLDER TO SUCH COOPERATIVE APARTMENT CORPORATION FOR THE FOLLOWING MONTH OR MONTHS UNTIL SUCH CREDIT OR PAYMENT HAS BEEN FULLY RECOUPED BY SUCH TENANT-STOCKHOLDER.

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

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(III) THE REMEDIES AFFORDED BY SUBCLAUSES (I) AND (II) OF THIS CLAUSE SHALL NOT LIE IF ANY SUCH FAILURE IS ATTRIBUTABLE TO AN ERROR ON THE PART OF AN ASSESSOR OR A TAXING AUTHORITY.

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

(2) THE REMEDY AFFORDED BY SUBCLAUSE (II) OF THIS CLAUSE SHALL NOT LIE PENDING THE OUTCOME OF SUCH PROCEEDING OR ACTIONS IF, WITHIN SIXTY DAYS OF RECEIPT OF THE TAX BILL, THE COOPERATIVE APARTMENT CORPORATION BRINGS A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES OR AN ACTION FOR DECLARATORY OR INJUNCTIVE RELIEF OR BOTH FORMS OF RELIEF CONTESTING SUCH TAX BILL, GIVES NOTICE OF THE INSTITUTION OF SUCH PROCEEDING OR ACTION TO ALL AFFECTED TENANT-STOCKHOLDERS, AND GIVES NOTICE OF THE OUTCOME OF SUCH ACTION OR PROCEEDING WITHIN THIRTY DAYS OF THE DETERMINATION THEREOF TO ALL AFFECTED TENANT-STOCKHOLDERS. IF THE PROCEEDING OR ACTION BE DETERMINED IN FAVOR OF THE COOPERATIVE APARTMENT CORPORATION, NO REMEDY SHALL LIE UNDER SUBCLAUSE (II) OF THIS CLAUSE. IF THE PROCEEDING OR ACTION BE OTHERWISE DETERMINED OR CONCLUDED, THE REMEDY AFFORDED UNDER SUBCLAUSE (II) OF THIS CLAUSE SHALL THEREUPON LIE.

S 2. This act shall take effect immediately and shall apply to the administration of the school tax relief (STAR) exemption authorized by section 425 of the real property tax law beginning with the 2012-2013 school year.