

5489

2011-2012 Regular Sessions

I N S E N A T E

May 25, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to enforcement of environmental control board judgments as tax liens

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

1 Section 1. Section 28-204.6 of the administrative code of the city of  
2 New York, as added by local law number 33 of the city of New York for  
3 the year 2007, is amended to read as follows:

4 S28-204.6 Tax lien. [Enforcement of environmental control board judg-  
5 ments against owners for certain building code violations.] Notwith-  
6 standing any provision of law to the contrary, [an] ONE OR MORE environ-  
7 mental control board [judgment] JUDGMENTS against an owner for [a  
8 building code violation with respect to a private dwelling, a wooden-  
9 framed single room occupancy multiple dwelling, or a dwelling with a  
10 legal occupancy of three or fewer dwelling units] VIOLATIONS OF THIS  
11 CODE, THE 1968 CODE, THE ZONING RESOLUTION OR OTHER LAWS OR RULES  
12 ENFORCED BY THE DEPARTMENT TOTALING TWENTY-FIVE THOUSAND DOLLARS OR  
13 MORE, INCLUDING INTEREST ON SUCH JUDGMENTS, shall constitute a tax lien  
14 on the property named in the violation with respect to which such judg-  
15 ment OR JUDGMENTS was OR WERE rendered, as hereinafter provided. Such  
16 liens shall be entered and enforced as provided in this section  
17 [28-204.6].

18 S 2. Section 28-204.6.1 of the administrative code of the city of New  
19 York, as added by local law number 33 of the city of New York for the  
20 year 2007, is amended to read as follows:

21 S28-204.6.1 Record of unpaid judgments. [There shall be filed in the  
22 office of the department a record of all such unpaid judgments.] WHEN  
23 THE AMOUNT OF UNPAID ENVIRONMENTAL CONTROL BOARD JUDGMENTS AGAINST AN  
24 OWNER OF REAL PROPERTY TOTALS TWENTY-FIVE THOUSAND DOLLARS OR MORE,

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

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1 INCLUDING INTEREST ON SUCH JUDGMENTS, THE DEPARTMENT MAY ENTER SUCH  
2 AMOUNT ON THE RECORDS OF THE DEPARTMENT. Such records shall be kept by  
3 tax lot and block number and shall be accessible to the public during  
4 business hours. UNPAID ENVIRONMENTAL CONTROL BOARD JUDGMENTS SHALL BE  
5 DEEMED TO BE ENTERED ON THE DATE THEY ARE ENTERED ON THE RECORDS OF THE  
6 DEPARTMENT. An entry of a judgment on the records of the department  
7 shall constitute notice to all parties.

8 S 3. Section 28-204.6.2 of the administrative code of the city of New  
9 York, as added by local law number 33 of the city of New York for the  
10 year 2007, is amended to read as follows:

11 S28-204.6.2 Lien. All such unpaid judgments shall constitute a lien  
12 upon the property named in the violation with respect to which such  
13 judgment was rendered when [the amount shall have been definitely  
14 computed as a statement of account by the department, and the department  
15 shall file such statement with the department of finance for entry  
16 against the property.] SUCH CHARGE IS DUE AND PAYABLE, WHICH, NOTWITH-  
17 STANDING ANY OTHER PROVISION OF LAW, SHALL BE THE DUE AND PAYABLE DATE  
18 FOR SUCH CHARGE PROVIDED ON THE SECOND NOTICE CONTAINING SUCH CHARGE  
19 MAILED BY THE DEPARTMENT OF FINANCE. SUCH NOTICE SHALL BE SENT TO OWNERS  
20 WHO NOTIFIED THE DEPARTMENT OF FINANCE OF A MAILING ADDRESS FOR STATE-  
21 MENTS OF ACCOUNT UNDER SECTION 11-129 OF THIS CODE, OR, IF NO MAILING  
22 ADDRESS HAS BEEN SO PROVIDED, TO THE OWNER OF RECORD AT THE PROPERTY  
23 ADDRESS APPEARING ON THE ASSESSMENT ROLL. Such lien shall have a priori-  
24 ty over all other liens and encumbrances except for the lien of taxes  
25 and assessments AND SHALL NOT BE DISCHARGED UNTIL THE ENTIRE AMOUNT OF  
26 THE LIEN IS PAID. However, no lien created pursuant to [this] section  
27 28-204.6 shall be enforced against a subsequent purchaser in good faith  
28 or mortgagee in good faith unless the requirements of section 28-204.6.1  
29 are satisfied; THIS LIMITATION SHALL ONLY APPLY TO TRANSACTIONS OCCUR-  
30 RING AFTER THE DATE SUCH RECORD SHOULD HAVE BEEN ENTERED PURSUANT TO  
31 SECTION 28-204.6.1 AND THE DATE SUCH ENTRY WAS MADE.

32 S 4. Section 28-204.6.3 of the administrative code of the city of New  
33 York, as added by local law number 33 of the city of New York for the  
34 year 2007, is amended to read as follows:

35 S28-204.6.3 Notice. [A notice, stating the amount due and the nature  
36 of the charge, shall be mailed by the department of finance to the last  
37 known address of the person whose name appears on the records of the  
38 department as being the owner or agent of the property or as the person  
39 designated by the owner to receive tax bills or, where no name appears,  
40 to the property, addressed to either the "owner" or the "agent."] THE  
41 DEPARTMENT OF FINANCE SHALL SEND A NOTICE WITH THE AMOUNT OF SUCH UNPAID  
42 JUDGMENTS AND A DEMAND FOR PAYMENT THEREOF TO OWNERS WHO NOTIFIED THE  
43 DEPARTMENT OF FINANCE OF A MAILING ADDRESS FOR STATEMENTS OF ACCOUNT  
44 UNDER SECTION 11-129 OF THIS CODE, OR, IF NO MAILING ADDRESS HAS BEEN SO  
45 PROVIDED, TO THE OWNER OF RECORD AT THE PROPERTY ADDRESS APPEARING ON  
46 THE ASSESSMENT ROLL. IF THE OWNER DOES NOT NOTIFY THE DEPARTMENT OF  
47 FINANCE IN WRITING OF HIS OR HER OBJECTION TO THE FIRST NOTICE CONTAIN-  
48 ING SUCH CHARGE BEFORE THE DATE THAT SUCH CHARGE BECOMES DUE AND PAYABLE  
49 AS PROVIDED IN SECTION 28-204.6.2, SUCH OWNER MAY NOT IN ANY SUBSEQUENT  
50 JUDICIAL OR ADMINISTRATIVE PROCEEDING CONTEST THE AMOUNT OF THE CHARGE  
51 CONTAINED IN SUCH NOTICE. THE DEPARTMENT OF FINANCE SHALL ONLY REVIEW  
52 SUCH OBJECTIONS THAT ARE RECEIVED BY IT IN WRITING ON OR PRIOR TO THE  
53 DUE AND PAYABLE DATE FOR THE CHARGE PROVIDED ON THE SECOND NOTICE  
54 CONTAINING SUCH CHARGE, AND MAY REFER ANY SUCH OBJECTION TO ANOTHER CITY  
55 AGENCY OR BOARD FOR A RESPONSE. SUCH NOTICE SHALL ALSO BE MAILED TO EACH  
56 PERSON WHO HAS NOTIFIED THE COMMISSIONER OF FINANCE IN WRITING OR ELEC-

1 TRONICALLY THAT HE OR SHE HAS AN INTEREST IN REAL PROPERTY, INCLUDING  
2 THE INTEREST OF A MORTGAGEE, LIENOR OR ENCUMBRANCER, AND WHO HAS  
3 REQUESTED THE COMMISSIONER OF FINANCE TO MAIL A NOTICE TO HIM OR HER AT  
4 A DESIGNATED MAILING ADDRESS, AT THE ADDRESS SO PROVIDED.

5 S 5. Section 28-204.6.4 of the administrative code of the city of New  
6 York, as added by local law number 33 of the city of New York for the  
7 year 2007, is amended to read as follows:

8 S28-204.6.4 Mailing. Such notice mailed by the department of finance  
9 [pursuant to this section 28-204.6.4] shall have stamped or printed  
10 thereon a reference to section [204.6] 28-204.6.

11 S 6. Section 28-204.6.5 of the administrative code of the city of New  
12 York, as added by local law number 33 of the city of New York for the  
13 year 2007, is amended to read as follows:

14 S28-204.6.5 Failure to pay charge. If such charge is not paid [within  
15 30 days from the date of entry] BY THE DATE WHEN SUCH CHARGE IS DUE AND  
16 PAYABLE IN ACCORDANCE WITH SECTION 28-204.6.2, it shall be the duty of  
17 the department of finance to receive interest thereon at the same rate  
18 as unpaid real property taxes, to be calculated to the date of payment  
19 from the DUE AND PAYABLE date [of entry].

20 S 7. Section 28-204.6.9 of the administrative code of the city of New  
21 York, as added by local law number 33 of the city of New York for the  
22 year 2007, is amended to read as follows:

23 S28-204.6.9 Notice to mortgagees and lienors. Notwithstanding the  
24 foregoing provisions, no such judgment shall be entered and enforced as  
25 a tax lien against any property unless [at the time of the issuance of  
26 the notice of violation a copy of such notice was also served on all  
27 mortgagees and lienors of record of such property by mail addressed to  
28 the recorded addresses of such mortgagees and lienors] NOTICES HAVE BEEN  
29 MAILED TO EACH PERSON WHO HAS NOTIFIED THE COMMISSIONER OF FINANCE IN  
30 WRITING OR ELECTRONICALLY THAT HE OR SHE HAS AN INTEREST IN REAL PROPER-  
31 TY, INCLUDING THE INTEREST OF A MORTGAGEE, LIENOR OR ENCUMBRANCER, AND  
32 WHO HAS REQUESTED THE COMMISSIONER OF FINANCE TO MAIL A NOTICE TO HIM OR  
33 HER AT A DESIGNATED MAILING ADDRESS, AT THE ADDRESS SO PROVIDED. NO  
34 JUDGMENT SHALL BE ENTERED AND ENFORCED AS A TAX LIEN UNTIL NINETY DAYS  
35 AFTER THE MAILING OF THE FIRST NOTICE CONTAINING THE CHARGE TO SUCH  
36 PERSONS.

37 S 8. This act shall take effect on the one hundred eightieth day after  
38 it shall have become a law and shall apply to existing environmental  
39 control board judgments and to environmental control board judgments  
40 entered on and after such effective date.