

4855

2013-2014 Regular Sessions

I N A S S E M B L Y

February 11, 2013

Introduced by M. of A. LAVINE -- read once and referred to the Committee
on Ways and Means

AN ACT to amend the tax law, in relation to the treatment of notices
filed of the payment of mortgage recording tax on an instrument not
entitled to be recorded

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

1 Section 1. Section 258-a of the tax law, as amended by chapter 218 of
2 the laws of 1930, is amended to read as follows:
3 S 258-a. Payment of tax on instruments not recorded. An instrument
4 taxable under this article but which is not entitled to be recorded, may
5 nevertheless be presented to the recording officer of the county in
6 which the real property or any part thereof affected by said instrument
7 is situated, and there may be paid to such officer the amount of the tax
8 which would be payable under this article on the recording of such
9 instrument if the same were entitled to be recorded. Such officer shall
10 receive such amount and such payment shall have the same force and
11 effect, so far as this article is concerned, as if such instrument had
12 been duly recorded and the tax thereon paid. It shall be the duty of the
13 recording officer to indorse upon the instrument a receipt for the
14 amount of the tax so paid. A copy of each instrument upon which the tax
15 is paid as above provided shall be filed with the recording officer and
16 preserved among his mortgage tax records.
17 Where an unrecorded instrument subject to the tax imposed by this
18 article has been lost or destroyed, the tax commission, upon presenta-
19 tion of proper proofs, may determine the taxable amount of such instru-
20 ment and by order authorize the recording officer to receive and receipt
21 for such tax as fully and with the same force and effect, so far as this
22 article is concerned, as if the instrument had been duly recorded and
23 the tax thereon paid.

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

LBD08352-01-3

1 THE FILING OR RECORDING OF A NOTICE OF THE PAYMENT OF TAX UNDER THIS
2 SECTION IS INEFFECTIVE TO GIVE NOTICE UNDER ARTICLE NINE OF THE REAL
3 PROPERTY LAW OF ANY ESTATE OR INTEREST IN THE REAL PROPERTY AFFECTED BY
4 THE INSTRUMENT ON WHICH TAX IS BEING PAID OR TO CREATE A DUTY OF INQUIRY
5 WITH REGARD THERETO.

6 S 2. This act shall take effect immediately and shall apply to all
7 notices filed prior to and on and after such effective date.