

7470

2013-2014 Regular Sessions

I N   A S S E M B L Y

May 21, 2013

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

AN ACT to amend the environmental conservation law, in relation to the  
sale of delinquent tax liens on brownfields property; and to amend the  
navigation law, in relation to the liability of a public corporation  
for the discharge of petroleum

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

1     Section 1. The environmental conservation law is amended by adding a  
2 new section 27-1437 to read as follows:  
3     S 27-1437. DELINQUENT TAX LIENS ON BROWNFIELDS PROPERTY.  
4     ANY COUNTY SHALL HAVE THE RIGHT TO ENTER INTO CONTRACTS TO SELL SOME  
5 OR ALL OF ITS DELINQUENT TAX LIENS ON PROPERTY IDENTIFIED AS BROWNFIELD  
6 SITES AS DEFINED IN SECTION 27-1405 OF THIS TITLE, EXCEPT SUPERFUND  
7 SITES PLACED ON THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S  
8 NATIONAL PRIORITY LIST AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL  
9 RESPONSE, COMPENSATION, AND LIABILITIES ACT OF 1980 TO CLEAN UP ABAN-  
10 DONED HAZARDOUS WASTE SITES, HELD BY SUCH COUNTY TO ONE OR MORE PRIVATE  
11 PARTIES SUBJECT TO THE FOLLOWING CONDITIONS:  
12     1. THE CONSIDERATION TO BE PAID MAY BE MORE OR LESS THAN THE FACE  
13 AMOUNT OF THE TAX LIENS SOLD.  
14     2. THE COUNTY SHALL SET THE TERMS AND CONDITIONS OF THE CONTRACT OF  
15 SALE AND ALL PRIOR CONTRACTS OF SALE SHALL BE DEEMED VALID AND SHALL BE  
16 ENFORCED UNDER THIS ACT AND THAT THE COUNTY SHALL REQUIRE THE PURCHASER  
17 TO REMEDIATE THE PROPERTY IN ACCORDANCE WITH THE PROVISIONS OF THIS  
18 TITLE AND TO PROMOTE INVESTMENT IN AND DEVELOPMENT OF SUCH PARCELS.  
19     3. THE COUNTY SHALL PROVIDE PROPERTY OWNERS WITH AT LEAST THIRTY DAYS  
20 ADVANCE NOTICE OF SUCH SALE IN THE SAME FORM AND MANNER AS IS PROVIDED  
21 BY SUBDIVISION TWO OF SECTION ELEVEN HUNDRED NINETY OF THE REAL PROPERTY  
22 TAX LAW AND SHALL BE DONE BY REGULAR MAIL TO THE LAST KNOWN ADDRESS.  
23 FAILURE TO PROVIDE SUCH NOTICE BY THE COUNTY SHALL NOT IN ANY WAY AFFECT

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

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1 THE VALIDITY OF ANY SUCH SALE OF A TAX LIEN OR TAX LIENS OR THE VALIDITY  
2 OF THE TAXES OR INTEREST PRESCRIBED BY LAW WITH RESPECT THERETO.

3 4. THE SALE OF A TAX LIEN PURSUANT TO THIS SECTION SHALL NOT OPERATE  
4 TO SHORTEN THE OTHERWISE APPLICABLE REDEMPTION PERIOD OR CHANGE THE  
5 OTHERWISE APPLICABLE INTEREST RATE.

6 5. UPON THE EXPIRATION OF THE REDEMPTION PERIOD PRESCRIBED BY LAW, THE  
7 PURCHASER OF A DELINQUENT TAX LIEN, OR ITS SUCCESSORS OR ASSIGNS, MAY  
8 FORECLOSE THE LIEN AS IN AN ACTION TO FORECLOSE A MORTGAGE AS PROVIDED  
9 IN SECTION ELEVEN HUNDRED NINETY-FOUR OF THE REAL PROPERTY TAX LAW. THE  
10 PROCEDURE IN SUCH ACTION SHALL BE THE PROCEDURE PRESCRIBED BY ARTICLE  
11 THIRTEEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW FOR THE FORE-  
12 CLOSURE OF MORTGAGES. AT ANY TIME FOLLOWING THE COMMENCEMENT OF AN  
13 ACTION TO FORECLOSE A LIEN, THE AMOUNT REQUIRED TO REDEEM THE LIEN, OR  
14 THE AMOUNT RECEIVED UPON SALE OF A PROPERTY, SHALL INCLUDE ATTORNEY'S  
15 FEES, COURT COSTS, TITLE FEES, SERVICE OF PROCESS FEES, AND OTHER  
16 DISBURSEMENTS ALLOWED BY A COURT OF COMPETENT JURISDICTION UPON THE  
17 FILING OF SAID COURT WITH PROOF OF SAID EXPENSES.

18 6. THE PROVISIONS OF TITLE FIVE OF ARTICLE ELEVEN OF THE REAL PROPERTY  
19 TAX LAW SHALL APPLY SO FAR AS IS PRACTICABLE TO A CONTRACT FOR THE SALE  
20 OF TAX LIENS PURSUANT TO THIS SECTION.

21 S 2. Section 181 of the navigation law is amended by adding a new  
22 subdivision 7 to read as follows:

23 7. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A PUBLIC  
24 CORPORATION SHALL NOT BE LIABLE FOR THE DISCHARGE OF PETROLEUM AT A SITE  
25 IF SUCH PUBLIC CORPORATION ACQUIRED SUCH SITE INVOLUNTARILY, AND SUCH  
26 PUBLIC CORPORATION RETAINED SUCH SITE WITHOUT PARTICIPATING IN THE  
27 DEVELOPMENT OF SUCH SITE. THIS EXEMPTION SHALL NOT APPLY TO ANY PUBLIC  
28 CORPORATION THAT HAS (A) CAUSED OR CONTRIBUTED TO THE DISCHARGE OF  
29 PETROLEUM FROM OR AT THE SITE, (B) PURCHASED, SOLD, REFINED, TRANS-  
30 PORTED, OR DISCHARGED PETROLEUM FROM OR AT SUCH SITE, OR (C) CAUSED THE  
31 PURCHASE, SALE, REFINEMENT, TRANSPORTATION, OR DISCHARGE OF PETROLEUM  
32 FROM OR AT SUCH SITE. THE TERMS "PARTICIPATION IN DEVELOPMENT," "PUBLIC  
33 CORPORATION" AND "INVOLUNTARY ACQUISITION OF OWNERSHIP OR CONTROL" SHALL  
34 HAVE THE SAME MEANING AS THOSE TERMS ARE DEFINED IN SUBDIVISION TWO OF  
35 SECTION 27-1323 OF THE ENVIRONMENTAL CONSERVATION LAW. HOWEVER, "PARTIC-  
36 IPATION IN DEVELOPMENT" SHALL NOT INCLUDE IMPROVEMENTS WHICH ARE PART OF  
37 A CLEANUP AND REMOVAL OF A DISCHARGE OF PETROLEUM PURSUANT TO THIS ARTI-  
38 CLE.

39 S 3. This act shall take effect on the one hundred twentieth day after  
40 it shall have become a law. Effective immediately, the addition, amend-  
41 ment and/or repeal of any rule or regulation necessary for the implemen-  
42 tation of this act on its effective date is authorized to be made on or  
43 before such date.