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

4532

2013-2014 Regular Sessions

I N S E N A T E

April 8, 2013

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 258-a of the tax law, as amended by chapter 218 of the laws of 1930, is amended to read as follows:

S 258-a. Payment of tax on instruments not recorded. An instrument taxable under this article but which is not entitled to be recorded, may nevertheless be presented to the recording officer of the county in which the real property or any part thereof affected by said instrument is situated, and there may be paid to such officer the amount of the tax which would be payable under this article on the recording of such instrument if the same were entitled to be recorded. Such officer shall receive such amount and such payment shall have the same force and effect, so far as this article is concerned, as if such instrument had been duly recorded and the tax thereon paid. It shall be the duty of the recording officer to indorse upon the instrument a receipt for the amount of the tax so paid. A copy of each instrument upon which the tax is paid as above provided shall be filed with the recording officer and preserved among his mortgage tax records.

Where an unrecorded instrument subject to the tax imposed by this article has been lost or destroyed, the tax commission, upon presentation of proper proofs, may determine the taxable amount of such instrument and by order authorize the recording officer to receive and receipt for such tax as fully and with the same force and effect, so far as this article is concerned, as if the instrument had been duly recorded and the tax thereon paid.

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

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

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