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2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sens. MARTINS, BONACIC -- read twice and ordered printed,  
and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in  
relation to special proceedings to convey title to abandoned real  
property to cities, towns or villages

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

1     Section 1. The article heading of article 19-A of the real property  
2 actions and proceedings law, as amended by chapter 573 of the laws of  
3 1982, is amended to read as follows:

4                   SPECIAL PROCEEDING TO CONVEY TITLE TO  
5                   ABANDONED [DWELLING] REAL PROPERTY  
6                   TO CITY, TOWN OR VILLAGE

7     S 2. Section 1970 of the real property actions and proceedings law, as  
8 amended by chapter 593 of the laws of 1983, is amended to read as  
9 follows:

10    S 1970. Applicability. The department or agency of a city, town or  
11 village, responsible for [the enforcement of the multiple dwelling law,  
12 the multiple residence law, or any other law, code or ordinance govern-  
13 ing the occupancy and maintenance of residential property] ENFORCING THE  
14 MUNICIPALITY'S BUILDING CODE (hereinafter in this article referred to as  
15 "the department") may institute a proceeding in accordance with the  
16 provisions of this article for a judgment vesting in the city, town or  
17 village title to [a dwelling] REAL PROPERTY which has been abandoned by  
18 the owner. This article shall not apply to a one-family or two-family  
19 dwelling occupied by the owner thereof.

20    S 3. Subdivisions 1 and 2 of section 1971 of the real property actions  
21 and proceedings law, subdivision 1 as amended by chapter 529 of the laws  
22 of 2008 and subdivision 2 as amended by chapter 496 of the laws of 1983,  
23 are amended to read as follows:

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

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1 1. The department may make a finding that [a dwelling] REAL PROPERTY  
2 is abandoned if:

3 (a) In the case of an occupied dwelling, the owner has failed for a  
4 period of at least three consecutive months either to collect rent or to  
5 institute summary proceedings for nonpayment of rent, and the department  
6 finds that the dwelling has become a danger to life, health or safety as  
7 a result of the owner's failure to assume his OR HER responsibility for  
8 its condition. Such failure may be shown by such facts as an owner's  
9 failure to provide services including, but not limited to, the failure  
10 to make repairs, supply janitorial service, purchase fuel or other need-  
11 ed supplies, or pay utility bills. The appointment of an administrator  
12 pursuant to article seven-A of this chapter shall not prevent the  
13 department from making a finding that a dwelling is abandoned; or

14 (b) In the case of [a] vacant [dwelling] REAL PROPERTY, it is not  
15 sealed or continuously guarded as required by law or it was sealed or is  
16 continuously guarded by a person other than the owner, a mortgagee,  
17 lienor or agent thereof, and either of the following facts exists:

18 (i) A vacate order of the department or other governmental agency  
19 currently prohibits occupancy of the [dwelling] REAL PROPERTY; or

20 (ii) The tax on such premises has been due and unpaid for a period of  
21 at least one year; or

22 (III) THE PROPERTY HAS HAD A ZONING, HOUSING, BUILDING OR PROPERTY  
23 MAINTENANCE CODE VIOLATION WHICH HAS BEEN CONTINUOUSLY OUTSTANDING AND  
24 NOT REMEDIATED FOR A PERIOD OF AT LEAST ONE YEAR FROM THE DATE THE  
25 ORIGINAL ORDER TO CORRECT OR NOTICE OF VIOLATION WAS SERVED UPON THE  
26 PROPERTY OWNER PURSUANT TO SUBDIVISION FOUR OF SECTION THREE HUNDRED  
27 EIGHT OF THE CIVIL PRACTICE LAW AND RULES IF THE OWNER IS A NATURAL  
28 PERSON, OR PURSUANT TO SECTION THREE HUNDRED TEN, THREE HUNDRED TEN-A,  
29 THREE HUNDRED ELEVEN OR THREE HUNDRED ELEVEN-A OF THE CIVIL PRACTICE LAW  
30 AND RULES IF THE OWNER IS A PARTNERSHIP, LIMITED PARTNERSHIP, CORPO-  
31 RATION OR LIMITED LIABILITY COMPANY, RESPECTIVELY, OR

32 (c) In the case of a building for which an administrator has been  
33 appointed pursuant to article seven-A of this chapter.

34 (i) no motion for the termination of the judgment entered pursuant to  
35 article seven-A of this chapter has been granted by the appointing  
36 court;

37 (ii) no mortgagee or lienor has commenced foreclosure proceedings; and

38 (iii) at least six months have passed since the granting of a judgment  
39 appointing an administrator pursuant to article seven-A of this chapter.

40 2. When the department finds that [a dwelling] REAL PROPERTY is aban-  
41 doned within the meaning of this article, it shall make and file among  
42 its records a certification containing such finding and the facts on  
43 which it is based. Further, it shall immediately affix to the [dwelling]  
44 REAL PROPERTY in a prominent and conspicuous location, a notice that the  
45 [building] PROPERTY has been found to be [an] abandoned [building] and  
46 that it is a crime to take, remove or otherwise damage any fixture or  
47 part of the PROPERTY OR ANY building OR structure LOCATED THEREON.

48 S 4. Section 1971-a of the real property actions and proceedings law,  
49 as added by chapter 496 of the laws of 1983, is amended to read as  
50 follows:

51 S 1971-a. Destruction of abandoned [dwellings] REAL PROPERTY.  
52 "Destruction of [an] abandoned [dwelling] REAL PROPERTY" occurs when a  
53 person, having no right to do so or permission of the department or the  
54 owner to take, remove or otherwise damage the fixtures or the structure  
55 of the building, nor any reasonable ground to believe that he OR SHE has  
56 such right or permission, intentionally removes or damages any fixture

1 or part of the structure of a building which has been certified as aban-  
2 doned in accordance with the provisions of section nineteen hundred  
3 seventy-one of this chapter.

4 S 5. Subdivision 2 of section 1972 of the real property actions and  
5 proceedings law, as amended by chapter 573 of the laws of 1982, is  
6 amended to read as follows:

7 2. The department shall serve upon the owner of the [dwelling] PROPER-  
8 TY, a copy of the certification. Service shall be made personally or by  
9 posting in a conspicuous place upon the [dwelling] PROPERTY and mailing  
10 a copy by registered or certified mail to the last known owner at such  
11 owner's last known address. In the case of a dwelling subject to the  
12 provisions of section three hundred twenty-five of the multiple dwelling  
13 law, such mailing may be made to the last registered owner at his OR HER  
14 last registered address. The copy of the certification shall be accompa-  
15 nied by a notice stating that proceedings pursuant to this title may be  
16 instituted unless the owner notifies the department that the property  
17 has not been abandoned. Such notification shall be made by a showing  
18 that the conditions upon which the findings in such certification are  
19 based do not exist or have been corrected. Such showing shall be made  
20 not later than thirty days after the date of such notice.

21 S 6. Subdivision 1 of section 1973 of the real property actions and  
22 proceedings law, as amended by chapter 593 of the laws of 1983, is  
23 amended to read as follows:

24 1. After all provisions of section nineteen hundred seventy-two of  
25 this article have been complied with, the department may commence a  
26 proceeding in a court of competent jurisdiction in the county in which  
27 the [dwelling] PROPERTY is located, to vest title to the property in the  
28 city, town or village.

29 S 7. Subdivisions 1 and 3 of section 1974 of the real property actions  
30 and proceedings law, subdivision 1 as amended by chapter 573 of the laws  
31 of 1982 and subdivision 3 as amended by chapter 593 of the laws of 1983,  
32 are amended to read as follows:

33 1. If any party to the proceeding contests the issue of abandonment,  
34 the burden of proving that the [dwelling] PROPERTY is abandoned shall be  
35 upon the department, and the court shall make a finding based on the  
36 facts before it.

37 3. Upon a finding by the court that the [dwelling] PROPERTY is aban-  
38 doned, the court shall enter a final judgment in favor of the petition-  
39 er. The fact that an administrator has been appointed pursuant to arti-  
40 cle seven-A of this chapter shall not prevent the court from entering a  
41 final judgment in favor of the petitioner upon a finding by the court  
42 that the [dwelling] PROPERTY is abandoned. The final judgment shall  
43 direct such officer of the city, town or village in which the [dwelling]  
44 PROPERTY is located as may be designated in the judgment to execute and  
45 record a deed conveying title of the premises to the city, town or  
46 village thirty days after entry of judgment. Upon the entry of such  
47 judgment the city, town or village shall be seized of an estate in fee  
48 simple absolute in such land and all persons, including the state of New  
49 York, infants, incompetents, absentees and non-residents who may have  
50 had any right, title, interest, claim, lien or equity of redemption in  
51 or upon such lands shall be barred and forever foreclosed of all such  
52 right, title, interest, claim, lien or equity of redemption.

53 S 8. This act shall take effect immediately.