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

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I N A S S E M B L Y

January 13, 2016

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The environmental conservation law is amended by adding a new section 27-1438 to read as follows:

S 27-1438. DELINQUENT TAX LIENS ON BROWNFIELDS PROPERTY.

ANY COUNTY SHALL HAVE THE RIGHT TO ENTER INTO CONTRACTS TO SELL SOME OR ALL OF ITS DELINQUENT TAX LIENS ON PROPERTY IDENTIFIED AS BROWNFIELD SITES AS DEFINED IN SECTION 27-1405 OF THIS TITLE, EXCEPT SUPERFUND SITES PLACED ON THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S NATIONAL PRIORITY LIST AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITIES ACT OF 1980 TO CLEAN UP ABANDONED HAZARDOUS WASTE SITES, HELD BY SUCH COUNTY TO ONE OR MORE PRIVATE PARTIES SUBJECT TO THE FOLLOWING CONDITIONS:

1. THE CONSIDERATION TO BE PAID MAY BE MORE OR LESS THAN THE FACE AMOUNT OF THE TAX LIENS SOLD.

2. THE COUNTY SHALL SET THE TERMS AND CONDITIONS OF THE CONTRACT OF SALE AND ALL PRIOR CONTRACTS OF SALE SHALL BE DEEMED VALID AND SHALL BE ENFORCED UNDER THIS ACT AND THAT THE COUNTY SHALL REQUIRE THE PURCHASER TO REMEDIATE THE PROPERTY IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE AND TO PROMOTE INVESTMENT IN AND DEVELOPMENT OF SUCH PARCELS.

3. THE COUNTY SHALL PROVIDE PROPERTY OWNERS WITH AT LEAST THIRTY DAYS ADVANCE NOTICE OF SUCH SALE IN THE SAME FORM AND MANNER AS IS PROVIDED BY SUBDIVISION TWO OF SECTION ELEVEN HUNDRED NINETY OF THE REAL PROPERTY TAX LAW AND SHALL BE DONE BY REGULAR MAIL TO THE LAST KNOWN ADDRESS. FAILURE TO PROVIDE SUCH NOTICE BY THE COUNTY SHALL NOT IN ANY WAY AFFECT THE VALIDITY OF ANY SUCH SALE OF A TAX LIEN OR TAX LIENS OR THE VALIDITY OF THE TAXES OR INTEREST PRESCRIBED BY LAW WITH RESPECT THERETO.

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

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

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

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

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

7. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A PUBLIC CORPORATION SHALL NOT BE LIABLE FOR THE DISCHARGE OF PETROLEUM AT A SITE IF SUCH PUBLIC CORPORATION ACQUIRED SUCH SITE INVOLUNTARILY, AND SUCH PUBLIC CORPORATION RETAINED SUCH SITE WITHOUT PARTICIPATING IN THE DEVELOPMENT OF SUCH SITE. THIS EXEMPTION SHALL NOT APPLY TO ANY PUBLIC CORPORATION THAT HAS (A) CAUSED OR CONTRIBUTED TO THE DISCHARGE OF PETROLEUM FROM OR AT THE SITE, (B) PURCHASED, SOLD, REFINED, TRANSPORTED, OR DISCHARGED PETROLEUM FROM OR AT SUCH SITE, OR (C) CAUSED THE PURCHASE, SALE, REFINEMENT, TRANSPORTATION, OR DISCHARGE OF PETROLEUM FROM OR AT SUCH SITE. THE TERMS "PARTICIPATION IN DEVELOPMENT," "PUBLIC CORPORATION" AND "INVOLUNTARY ACQUISITION OF OWNERSHIP OR CONTROL" SHALL HAVE THE SAME MEANING AS THOSE TERMS ARE DEFINED IN SUBDIVISION TWO OF SECTION 27-1323 OF THE ENVIRONMENTAL CONSERVATION LAW. HOWEVER, "PARTICIPATION IN DEVELOPMENT" SHALL NOT INCLUDE IMPROVEMENTS WHICH ARE PART OF A CLEANUP AND REMOVAL OF A DISCHARGE OF PETROLEUM PURSUANT TO THIS ARTICLE.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.