

5311

2015-2016 Regular Sessions

I N S E N A T E

May 13, 2015

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Environmental Conser-
vation

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 27-1438 to read as follows:
3 S 27-1438. 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.

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

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1 FAILURE TO PROVIDE SUCH NOTICE BY THE COUNTY SHALL NOT IN ANY WAY AFFECT
2 THE VALIDITY OF ANY SUCH SALE OF A TAX LIEN OR TAX LIENS OR THE VALIDITY
3 OF THE TAXES OR INTEREST PRESCRIBED BY LAW WITH RESPECT THERETO.

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

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

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

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

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

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