

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

of

Town

Year

of CAROGA  
Local Law No. 1 of the year 1994

A local law "PROVIDING FOR THE RELEASE, RETURN AND/OR LIEN OF AND/OR ON 'FIRE INSURANCE PROCEEDS' AS PROVIDED BY SECTION 22 OF THE GENERAL MUNICIPAL LAW IN THE TOWN OF CAROGA"

Be it enacted by the TOWN BOARD of the  
(Name of Legislative Body)

County

of

Town

Year

CAROGA as follows:

- SECTION 1: TITLE
- SECTION 2: DEFINITIONS
- SECTION 3: NOTICE OF INTENTION TO CLAIM
- SECTION 4: CLAIM SHALL CONSTITUTE SPECIAL LIEN
- SECTION 5: CONSTRUAL NOT TO ALTER RIGHT OF TOWN TO ENFORCE LIEN
- SECTION 6: RELEASE OF PROCEEDS
- SECTION 7: CONDITIONS OF RELEASE OF PROCEEDS
- SECTION 8: TERMINATION OF RIGHT OF INSURED TO ASSERT CLAIM
- SECTION 9: FUND FOR FIRE INSURANCE PROCEEDS
- SECTION 10: DISPOSITION OF PROCEEDS
- SECTION 11: CONTINUANCE OF LIENS IN EFFECT UNTIL PAID
- SECTION 12: PURPOSE OF AGREEMENTS; REPAIRS NOT MUNICIPAL PROJECT
- SECTION 13: POWER OF TOWN SUPERVISOR, TOWN CLERK AND/OR TOWN CODE ENFORCEMENT OFFICER TO PROMULGATE RULES & ADOPT APPROVED FORMS
- SECTION 14: SEVERABILITY
- SECTION 15: EFFECTIVE DATE

SECTION 1: TITLE

A. The title of this Local Law is "A Local Law Providing For the Release, Return and/or Lien of and/or on 'Fire Insurance Proceeds' as Provided by Section 22 of the General Municipal Law in the Town of Caroga".

SECTION 2: DEFINITIONS

A. As used in this Local Law, any inconsistent provisions of law notwithstanding, the following terms shall have the following meanings:

- 1. ENFORCEMENT OFFICER: Town Supervisor and/or Town Clerk and/or Town Code Enforcement Officer.
- 2. LIEN: Any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the Town or special District, which is an encumbrance on real property and which has remained undischarged for a period of one (1) year or more.
- 3. REAL PROPERTY: Any property upon which there is erected any residential, commercial or industrial building or structure.
- 4. SPECIAL LIEN: A lien upon fire insurance proceeds pursuant to this Local Law and Section 22 of the General Municipal Law.

SECTION 3: NOTICE OF INTENTION TO CLAIM

A. The Town Clerk shall file a notice of intention to claim against the proceeds of fire insurance policies with the State Superintendent of Insurance for entry in the Index of Tax Districts in accordance with Section 22 of the General Municipal law, the New York State Insurance law and all rules and regulations promulgated by the New York State Department of Insurance with respect to this procedure.

SECTION 4: CLAIM SHALL CONSTITUTE SPECIAL LIEN

A. Prior to payment of any proceeds of a policy of insurance for damages caused by fire to real property, which policy insures the interest of an owner and is issued on real property located within the Town and following notification to the Enforcement Officer of the filing of a claim for payment of such proceeds, the Enforcement Officer shall claim, by serving a Certificate of Lien, against such proceeds to the extent of any lien, including interest and penalties to the date of the claim, thereon, which claims when made and perfected in the matter provided for in Section 22 of the General Municipal Law and Section 331 of the proceeds and shall, as to such proceeds, be prior to all other liens and claims except the claim of a mortgagee or record named in such policy. Notice of the service of the Certificate of the Special Lien shall be given to the insured by certified mail.

SECTION 5: CONSTRUCTION NOT TO ALTER RIGHT OF TOWN TO ENFORCE LIEN

A. The provisions of this Local Law shall not be deemed or construed to alter or impair the right of the Town to acquire or enforce any lien against property but shall be in addition to any other power provided by law to acquire or enforce such right.

SECTION 6: RELEASE OF PROCEEDS

A. Whatever the proceeds of a policy of fire insurance which will be or has been paid to the Town instead of an insured, all or part of such proceeds may be paid or released to the insured if the insured satisfied the Enforcement Officer that the affected premises have been or will be repaired or restored, that such repairs or restoration are in the public interest and that the insured is issued and complies with an Agreement entered into pursuant to this Local Law. To secure such payment or release of proceeds, the insured must notify the office of the Town Clerk within forty-five (45) days after the mailing to the insured of a notice of the service of the Certificate of Special Lien pursuant to Section 3 of this Local Law of the intention to restore or repair the affected premises and must file with the Code Enforcement Officer a completed application with all required supporting documentation pursuant to Section 7 of this Local Law, within sixty (60) days thereafter, unless the Enforcement Officer grants an extension for a stated period of time.

SECTION 7: CONDITIONS OF RELEASE OF PROCEEDS

A. The release or return to the insured of any amounts to which he or it would otherwise be entitled to claim shall be subject to the following conditions:

i. Such release or return shall be subject to the repair or restoration of the affected premises in accordance with applicable building laws to the condition it was in prior to the time the lien of the Town arose or to an improved condition.

ii. The insured shall file with the Enforcement Officer an application in affidavit form, with such supporting documentation as the Enforcement Officer shall require containing the following:

- A. A complete description of the nature and extent of the damages to the insured premises and of the condition of the premises prior to the time of the lien of the Town arose.
- B. A complete description of the nature of the repairs or restoration to be undertaken and cost thereof.
- C. A statement as to the source of funds needed to complete such repairs or restoration if the insurance proceeds are not sufficient therefor.
- D. The name and address of each contractor who will effect such repairs or restoration.
- E. An estimated time schedule showing how long the repairs or restoration and each phase thereof, will take.
- F. Such other information as may be required by the Enforcement Officer to enable him to determine whether the repairs or restoration are in the public interest and will be made or have been timely and properly made.

iii. Upon preliminary approval of an application by the Town Clerk, Town Supervisor and/or Town Code Enforcement Officer may enter into a written Agreement with the insured, which shall set forth the terms and conditions for the release and return of all or part of the proceeds, and the Enforcement Officer is hereby authorized to enter into such Agreement on behalf of the Town.

iv. The repairs or restoration required by the Town shall be completed in compliance with the terms and conditions of the Agreement prior to the release or return of any part of the insurance proceeds; provided, however, that the Town may, upon the written request of the insured and in his sole discretion, approve an release of such proceeds or a portion thereof in a lump sum or installments, where the insured certified and demonstrates that such release is required to permit such repairs or restoration to go forward. Any such insurance proceeds released or returned prior to the completion of the repairs or restoration required by the Town may be paid directly to the contractor or contractors responsible for making such repairs or restoration. Such payment shall, to the extent thereof, release the Town from further liability to the insured.

v. Whenever the Town releases the entire amount of the proceeds prior to compliance with the terms and conditions of the Agreement, the insured shall post a bond in an amount sufficient to assume the restoration or improvement of the property.

SECTION 8: TERMINATION OF RIGHT OF INSURED TO ASSERT CLAIM

A. If the insured fails to notify the Town of its intention to repair or restore the affected premises as required in Section 6 of this Local Law or fails to file a completed application pursuant to this Local Law or fails to enter an Agreement with the Town or comply therewith within the time set forth, the right of the insured to assert a claim against the insurance proceeds, except to the extent they exceed the amount of the lien, shall terminate.

SECTION 9: FUND FOR FIRE INSURANCE PROCEEDS

A. There shall be established in the office of the Town Clerk a fund for the deposit of fire insurance proceeds to be held and applied in accordance with this Local Law. Such funds shall not be held together with the general tax levies in the general fund.

SECTION 10: DISPOSITION OF PROCEEDS

A. Until such termination, any insurance proceeds received by the Town shall be deposited in a special fund and shall be retained therein. Upon termination of the insured's right to claim against the proceeds, the proceeds and any interest accrued thereon shall be applied to the liens affecting the premises in such a manner to be determined by the Town and may be transferred to the general fund.

SECTION 11: CONTINUANCE OF LIENS IN EFFECTS UNTIL PAID

A. The lien or liens against the affected premises upon which the Special Lien against proceeds is based shall continue in full force and effect, except as to the extent that such lien or liens are or have been paid.

SECTION 12: PURPOSE OF AGREEMENTS; REPAIRS NOT MUNICIPAL PROJECT

A. Any Agreement entered into by the Town pursuant to this Local Law shall be for the purpose of preserving and evidencing the right of release of the Special Lien created by this Local Law and shall be subject solely to the provisions of this Local Law.

SECTION 13: POWER OF TOWN SUPERVISOR, TOWN CLERK AND/OR TOWN CODE ENFORCEMENT OFFICER TO PROMULGATE RULES AND ADOPT APPROVED FORMS.

A. The Town Supervisor, Town Clerk and/or Town Code Enforcement Officer shall be empowered to promulgate rules and regulation and to adopt approved forms to be used by applicants.

SECTION 14: SEVERABILITY

A. If any clause, sentence, paragraph, subdivision, section or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof.

SECTION 15: EFFECTIVE DATE

A. This Local Law shall become effective immediately upon its filing with the New York Department of State.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 19\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

DIANE L. MACGREGOR

Date: \_\_\_\_\_, 1994

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF Fulton

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_  
Signature CHARLES P. CAPUTO

Town Attorney

\_\_\_\_\_  
Title

~~County~~  
~~City~~ of Caroga  
~~Town~~  
~~Village~~

Date: \_\_\_\_\_, 1994

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1994 of the ~~(County)(City)(Town)(Village)~~ of Caroga was duly passed by the Town Board on 1994, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.