

STATE OF NEW YORK

S. 5213

A. 4935

2023-2024 Regular Sessions

SENATE - ASSEMBLY

February 27, 2023

IN SENATE -- Introduced by Sen. THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

IN ASSEMBLY -- Introduced by M. of A. WEINSTEIN -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to tax lien foreclosure

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 924-a of the real property tax law, as amended by chapter 26 of the laws of 2003, is amended to read as follows:

1. The amount of interest to be added on all taxes received after the interest free period and all delinquent taxes shall be [~~one-twelfth the rate of interest as determined pursuant to subdivision two or two-a of this section rounded to the nearest one hundredth of a percentage point~~] sixteen percent per annum, or such other amount as prescribed by section fourteen-a of the banking law, except as otherwise provided by a general or special law, or a local law adopted by a city pursuant to the municipal home rule law or any special law. Such interest shall be added for each month or fraction thereof until such taxes are paid.

§ 2. The real property tax law is amended by adding a new section 1185 to read as follows:

§ 1185. Homeowner bill of rights. Any owner of a residential property, as defined in section eleven hundred eleven of this article, who occupies such property as their primary residence (or whose heirs or distributees occupy the property as their primary residence where the homeowner is deceased) or any purchaser of a contract for a residential property (or successor in interest to such purchaser) subject to a tax

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

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1 lien on any parcel of real property, including those liens otherwise
2 exempt under this article, shall have the following rights:

3 (a) to have any foreclosure on any real property tax lien pursuant to
4 section nine hundred two of this chapter be a judicial proceeding
5 specific to each parcel;

6 (b) where the property is the primary residence of an owner entitled
7 to tax exemption based on age, disability, or veteran status, a foreclo-
8 sure may not be maintained;

9 (c) to not have exemptions removed or waived for nonpayment of proper-
10 ty taxes;

11 (d) to be informed of the amount of tax due, the number of tax years
12 for which the parcel has been in arrears, the date on which the redemp-
13 tion period ends, the accepted forms of payment, the location where
14 payments shall be made, and the contact information for the responsible
15 taxing authority, including but not limited to, the taxpayer advocate or
16 other similar office within the taxing authority working with homeowners
17 to resolve tax arrears;

18 (e) to receive pre-foreclosure notices, which shall be conditions
19 precedent to maintenance of a foreclosure on any tax lien governed by
20 the service requirements of section thirteen hundred four of the real
21 property actions and proceedings law;

22 (f) to participate in a mandatory settlement conference process equiv-
23 alent to the process required in mortgage foreclosure actions pursuant
24 to rule thirty-four hundred eight of the civil practice law and rules,
25 which shall be governed by the same good faith negotiation standard
26 governing that provision, with the goal of: (i) negotiating a mutually
27 agreeable resolution to avert foreclosure, including, but not limited
28 to, establishing an affordable repayment plan, abatement of fees, penal-
29 ties or other charges, forbearance of amounts due, or other home saving
30 resolution; or (ii) whatever other purposes the court deems appropriate.
31 A party prosecuting a tax lien foreclosure shall be prohibited from
32 charging the homeowner for any fees associated with participating in the
33 settlement conference. Explicitly incorporated into this bill of rights
34 are subdivisions (c) through (n) of rule thirty-four hundred eight of
35 the civil practice law and rules, and the office of court administration
36 shall within ninety days of the effective date of this section promul-
37 gate rules implementing this mandatory settlement conference process
38 which shall adapt the foregoing subdivisions to the needs of tax lien
39 foreclosure cases and which shall, without limitation, include a notice
40 of the scheduling of the conference that shall require the parties to
41 appear at the conference with required information for a meaningful
42 conference and with authority to engage in settlement negotiations;

43 (g) to apply any payments toward delinquent taxes in the order in
44 which the liens became due;

45 (h) in the event that a residence is foreclosed upon, to receive any
46 surplus following the sale of the property after the tax lien is satis-
47 fied ahead of unsecured creditors pursuant to section fifty-two hundred
48 six of the civil practice law and rules; and

49 (i) where there is a transfer to a municipality pursuant to section
50 eleven hundred thirty-six of this article or where there is a foreclo-
51 sure auction with no bidders and the municipality takes possession of
52 the property, any subsequent sale of the property must be an arm's
53 length transaction in which the owner has an absolute right to any
54 surplus funds.

55 § 3. The real property tax law is amended by adding a new section
56 1185-a to read as follows:

§ 1185-a. Pre-foreclosure notices. (a) The pre-foreclosure notice required in subdivision (e) of section eleven hundred eighty-five of this article shall appear as follows:

"YOU MAY BE AT RISK OF FORECLOSURE ON A PROPERTY TAX LIEN
PLEASE READ THE FOLLOWING NOTICE CAREFULLY.

As of (date), your property taxes have not been paid for the following years and amounts each year:

The total needed to pay off all tax arrears as of the date of this notice is:

Under New York State law, we are required to send you this notice to inform you that you are at risk of losing your home.

Attached to this notice is a list of government approved housing counseling agencies in your area which provide free counseling. You can also call the NYS Office of the Attorney General's Homeowner Protection Program (HOPP) toll-free consumer hotline to be connected to free housing counseling or legal services in your area at 1-855-HOME-456 (1-855-466-3456), or visit their website at <http://www.aghomehelp.com>. A state-wide listing by county is also available at https://www.dfs.ny.gov/consumer/mortg_nys_np_counseling_agencies.html. Qualified free help is available; watch out for companies or people who charge a fee for these services.

Housing counselors from New York-based agencies listed on the website above are trained to help homeowners who are having problems making their tax payments and can help you find the best option for your situation. If you wish, you may also contact our office directly at _____ or our taxpayer advocate at _____, who is responsible for working with homeowners to resolve tax arrears, and ask to discuss possible payment plans and other options.

PLEASE NOTE THAT IF YOU ARE A SENIOR CITIZEN, PHYSICALLY DISABLED, AND/OR A VETERAN, YOU MAY BE ENTITLED TO A PARTIAL EXEMPTION FROM PROPERTY TAXES or to have tax foreclosure delayed. The following exemptions that local rules allow that could prevent foreclosure in your case are:

_____ Senior Citizen

_____ Veteran

_____ Physical Disability

We encourage you to contact our taxpayer advocate at the telephone number above if you have any questions about whether you qualify for any of these exemptions.

While we cannot assure that a mutually agreeable resolution is possible, we encourage you to take immediate steps to try to achieve a resolution. The longer you wait, the fewer options you may have.

If you have not taken any actions to resolve this matter within 90 days from the date this notice was mailed (or sooner if you cease to live in the dwelling as your primary residence), we may commence legal action or other remedies against you to foreclose the tax lien, which may eventually result in eviction from your home.

Under New York State law, you may be barred from entering into a payment plan or from being permitted to make any payment to save your home after the "Redemption Date".

In your case, the "Redemption Date" is _____.

IMPORTANT: You have the right to remain in your home until you receive a court order telling you to leave the property; however, you may lose the right to continue ownership of your home after the Redemption Date. If a foreclosure action is filed against you in court, you still have the right to remain in the home until a court orders you to leave.

1 This notice is not an eviction notice, and a foreclosure action has not
2 yet been commenced against you."

3 (b) The notice required in subdivision (e) of section eleven hundred
4 eighty-five of this article shall be sent by such taxing authority or
5 purchaser of delinquent tax liens to the homeowner (or heirs or distri-
6 butees if the homeowner is deceased), by registered or certified mail
7 and also by first-class mail to the last known address of the homeowner,
8 and to the residence subject to the tax lien. The notices required by
9 subdivision (e) of section eleven hundred eighty-five of this article
10 shall be sent by the taxing authority or purchaser of delinquent tax
11 liens in a separate envelope from any other mailing or notice. Notice
12 is considered given as of the date it is mailed. The notice required by
13 subdivision (e) of section eleven hundred eighty-five of this article
14 shall contain a current list of at least five housing counseling agen-
15 cies serving the county where the property is located from the most
16 recent listing available from the department of financial services. The
17 list shall include the counseling agencies' last known addresses and
18 telephone numbers. The department of financial services shall make
19 available on its website a listing, by county, of such agencies. The
20 taxing authority or purchaser of delinquent tax liens shall use such
21 lists to meet the requirements of this section.

22 (c) For any homeowner known to have limited English proficiency, the
23 notice required by subdivision (e) of section eleven hundred eighty-five
24 of this article shall be in the homeowner's native language (or a
25 language in which the homeowner is proficient), provided that the
26 language is one of the six most common non-English languages spoken by
27 individuals with limited English proficiency in the state of New York,
28 based on United States census data. The department of financial services
29 shall post the notices required by subdivision (e) of section eleven
30 hundred eighty-five of this article on its website in the six most
31 common non-English languages spoken by individuals with limited English
32 proficiency in the state of New York, based on the United States census
33 data.

34 § 4. Section 1104 of the real property tax law is amended by adding a
35 new subdivision 3 to read as follows:

36 3. Notwithstanding the provisions of subdivision two of this section,
37 every county, city and town shall comply with the requirements of
38 sections eleven hundred eighty-five and eleven hundred eighty-five-a of
39 this article.

40 § 5. This act shall take effect immediately.