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

8641--C

2009-2010 Regular Sessions

I N A S S E M B L Y

June 1, 2009

Introduced by M. of A. ESPAILLAT, SPANO, JAFFEE, SWEENEY, MENG, LUPARDO, COOK, DenDEKKER, SCHROEDER, KOON, MAGNARELLI, CUSICK, TITONE, CASTRO, PERRY, ROBINSON, HOOPER, GUNTHER, CASTELLI -- Multi-Sponsored by -- M. of A. BARRON, GABRYSZAK, GORDON, MAISEL, McENENY, PHEFFER, REILLY, SKARTADOS -- read once and referred to the Committee on Veterans' Affairs -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to redemption of certain property owned by persons deployed by the United States military

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

Section 1. This act shall be known and may be cited as the "veteran home redemption relief act".

S 2. The real property tax law is amended by adding a new section 1113 to read as follows:

S 1113. REDEMPTION OF RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY IN CERTAIN TAX DISTRICTS. 1. FOR THE PURPOSES OF THIS SECTION:

(A) "RESIDENTIAL PROPERTY" MEANS PROPERTY WHICH IS IMPROVED BY A ONE, TWO, OR THREE FAMILY STRUCTURE USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES OTHER THAN PROPERTY SUBJECT TO THE ASSESSMENT LIMITATIONS OF SECTION FIVE HUNDRED EIGHTY-ONE OF THIS CHAPTER AND ARTICLE NINE-B OF THE REAL PROPERTY LAW. A PARCEL SHALL BE DEEMED TO BE RESIDENTIAL PROPERTY FOR PURPOSES OF THIS ARTICLE IF APPLICABLE TAX ROLL SHOWS THAT (I) THE ASSESSOR HAS ASSIGNED TO THE PARCEL A PROPERTY CLASSIFICATION CODE IN

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

LBD10415-22-0

THE RESIDENTIAL CATEGORY, OR (II) THE PARCEL HAS BEEN INCLUDED IN THE HOMESTEAD CLASS IN AN APPROVED ASSESSING UNIT, OR IN CLASS ONE IN A SPECIAL ASSESSING UNIT.

(B) "CERTAIN PERSONS DEPLOYED BY THE MILITARY" MEANS A MALE OR FEMALE WHO WAS ORDERED TO ACTIVE MILITARY DUTY, OTHER THAN TRAINING, IN THE UNITED STATES ARMED FORCES INCLUDING THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES AND THE ACTIVATION LASTED FOR AT LEAST SIX CONTIGUOUS MONTHS, OR THE OWNER WAS KILLED IN ACTION DURING SUCH ACTIVATION.

(C) "PROPERTY CLASSIFICATION CODES" MEANS THE PROPERTY CLASSIFICATION SYSTEM PRESCRIBED BY THE STATE BOARD PURSUANT TO SECTION FIVE HUNDRED TWO OF THIS CHAPTER AND THE RULES ADOPTED THEREUNDER.

2. A TAX DISTRICT MAY ADOPT A LOCAL LAW WITHOUT REFERENDUM INCREASING THE REDEMPTION PERIOD FOR RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY TO FOUR OR FIVE YEARS AFTER LIEN DATE. A LOCAL LAW INCREASING THE REDEMPTION PERIOD AS AUTHORIZED BY THIS SECTION MAY BE AMENDED OR REPEALED BY LOCAL LAW ADOPTED WITHOUT REFERENDUM. ANY SUCH AMENDMENT OR REPEAL SHALL NOT APPLY TO TAXES THAT SHALL HAVE BECOME LIENS WHILE THE FORMER LOCAL LAW SHALL HAVE BEEN EFFECTIVE. A COPY OF ANY LOCAL LAW ADOPTED PURSUANT TO THIS SECTION SHALL BE FILED WITH THE STATE BOARD FOR INFORMATIONAL PURPOSES WITHIN THIRTY DAYS AFTER THE ENACTMENT THEREOF.

3. WHEN DETERMINING WHETHER A PARCEL QUALIFIES FOR RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY FOR THE PURPOSES OF THIS SECTION, THE ENFORCING OFFICER SHALL CONSIDER THE INFORMATION APPEARING ON THE APPLICABLE TAX ROLL. THE ENFORCING OFFICER SHALL ALSO CONSIDER ANY RELEVANT INFORMATION SUBMITTED TO HIM OR HER BY THE ASSESSOR, BY THE OWNER, OR BY ANY OTHER PERSON WITH AN INTEREST IN A PARCEL, SUBJECT TO THE FOLLOWING:

(A) IF THE SUBMISSION IS MADE AFTER THE ENFORCING OFFICER HAS FILED A LIST OF DELINQUENT TAXES PURSUANT TO SECTION ELEVEN HUNDRED TWENTY-TWO OF THIS ARTICLE THAT PERTAINS SPECIFICALLY TO PROPERTY OTHER THAN RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY, AND THE ENFORCING OFFICER DETERMINES THAT A PARCEL ON THE LIST IS RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY, THE PARCEL SHALL BE ACCORDED THE REDEMPTION PERIOD APPLICABLE TO THE RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY, NOTWITHSTANDING THE FACT THAT IT APPEARS ON THE LIST PERTAINING TO OTHER PROPERTY.

(B) IF THE SUBMISSION IS MADE AFTER THE ENFORCING OFFICER HAS FILED A PETITION OF FORECLOSURE PURSUANT TO SECTION ELEVEN HUNDRED TWENTY-THREE OF THIS ARTICLE THAT PERTAINS SPECIFICALLY TO PROPERTIES OTHER THAN RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY, AND THE ENFORCING OFFICER DETERMINES THAT A PARCEL AFFECTED BY THE PETITION IS RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY, THE ENFORCING OFFICER SHALL WITHDRAW THE PARCEL FROM FORECLOSURE IN THE MANNER PROVIDED BY SECTION ELEVEN HUNDRED THIRTY-EIGHT OF THIS ARTICLE. PROVIDED, HOWEVER, THAT (I) THE SUBMISSIONS SHALL NOT BE CONSIDERED AN ANSWER TO THE FORECLOSURE PETITION UNLESS INTERPOSED AS AN ANSWER INTERPOSED, AND THE ENFORCING OFFICER DOES NOT WITHDRAW THE PARCEL FROM FORECLOSURE MAY BE TAKEN BY DEFAULT AS PROVIDED BY SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS ARTICLE.

(C) NO SUCH SUBMISSION MAY BE ACCEPTABLE AFTER THE EXPIRATION OF THE REDEMPTION PERIOD APPLICABLE TO PROPERTY WHICH IS NOT RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY.

4. IN LIEU OF SUBMITTING INFORMATION TO THE ENFORCING OFFICER AS PROVIDED BY THIS SECTION, OR IN ADDITION THERETO, A RESPONDENT MAY RAISE

THE ISSUE IN AN ANSWER INTERPOSED PURSUANT TO THIS ARTICLE. IF THE COURT DETERMINES THAT THE PARCEL QUALIFIES AS RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY AND AS SUCH, IS NOT YET SUBJECT TO FORECLOSURE, THE ENFORCING OFFICER SHALL WITHDRAW THE PARCEL FROM FORECLOSURE IN THE MANNER PROVIDED BY SECTION ELEVEN HUNDRED THIRTY-EIGHT OF THIS ARTICLE.

5. IF THE INFORMATION APPEARING ON THE TAX ROLL DOES NOT QUALIFY A PARCEL AS RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY, AND IT IS NOT DEMONSTRATED IN THE MANNER PROVIDED BY THIS SECTION THAT THE PARCEL IS RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY, THE PARCEL SHALL BE PRESUMED NOT TO BE RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY FOR PURPOSES OF THIS ARTICLE.

S 3. Subdivision 1 of section 1138 of the real property tax law, as amended by chapter 203 of the laws of 2000 and paragraph (g) as amended by chapter 149 of the laws of 2003, is amended to read as follows:

1. Grounds. The enforcing officer of any tax district may at any time prior to final judgment withdraw any parcel of real property from a foreclosure proceeding under this title for one or more of the following reasons:

(a) there is reason to believe that there may be a legal impediment to the enforcement of the tax lien affecting such parcel;

(b) the tax has been cancelled or is subject to cancellation pursuant to section five hundred fifty-eight of this chapter, or, in the case of a tax district to which such section does not apply, the tax would be subject to cancellation if such section were applicable to the tax district;

(c) the enforcement of the lien has been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the United States Code);

(d) if the tax district were to acquire the parcel, there is a significant risk that it might be exposed to a liability substantially in excess of the amount that could be recovered by enforcing the tax lien;

(e) the owner of the parcel has entered into an agreement to pay the taxes in installments pursuant to section eleven hundred eighty-four of this article, and has not defaulted thereon;

(f) in a tax district which has extended the redemption period for residential or farm property, (i) the parcel has been included on a petition for foreclosure, (ii) it has since been demonstrated to the satisfaction of the enforcing officer that the parcel is residential or farm property, and (iii) being residential or farm property, the parcel is not yet subject to inclusion on such a petition; [or]

(g) IN A TAX DISTRICT WHICH HAS EXTENDED THE REDEMPTION PERIOD FOR RESIDENTIAL PROPERTY FOR CERTAIN PERSONS DEPLOYED BY THE MILITARY (I) THE PARCEL HAS BEEN INCLUDED ON A PETITION FOR FORECLOSURE, (II) HAS BEEN DEMONSTRATED TO THE SATISFACTION OF THE ENFORCING OFFICER THAT THE PARCEL IS RESIDENTIAL, (III) THE PROPERTY IS ELIGIBLE FOR THE EXTENDED REDEMPTION PERIOD PURSUANT TO SECTION ELEVEN HUNDRED THIRTEEN OF THIS ARTICLE, AND AS SUCH IS NOT YET SUBJECT TO INCLUSION OF SUCH A PETITION; OR

(H) the tax lien has been or is to be sold pursuant to title five of this article.

S 4. Section 1184 of the real property tax law is amended by adding a new subdivision 7-a to read as follows:

7-A. WAIVER OF INTEREST AND PENALTIES FOR CERTAIN ELIGIBLE DEPLOYED MILITARY MEMBERS. A COUNTY, CITY, TOWN, VILLAGE OR OTHER TAXING ENTITY

MAY ADOPT A LOCAL LAW, RESOLUTION OR ORDINANCE TO WAIVE INTEREST, PENALTIES AND FEES AS WOULD OTHERWISE BE IMPOSED PURSUANT TO THIS SECTION, PROVIDED THAT:

(A) THE FINANCIAL HARDSHIP WAS CAUSED IN SUBSTANTIAL PART BY THE OWNER'S HAVING BEEN ORDERED TO ACTIVE MILITARY DUTY IN THE UNITED STATES ARMED FORCES INCLUDING THE RESERVE COMPONENTS OF SUCH ARMED FORCES;

(B) THE DEPLOYMENT LASTED FOR AT LEAST SIX CONTIGUOUS MONTHS, OR THE OWNER WAS KILLED IN ACTING DURING SUCH ACTIVATION; AND

(C) THE OWNER PROVIDES SATISFACTORY WRITTEN EVIDENCE AS PRESCRIBED IN THE LOCAL LAW, RESOLUTION OR ORDINANCE THAT THE CHIEF ELECTED OFFICER OR SUCH COUNTY, CITY, TOWN, VILLAGE OR TAXING ENTITY, OR THEIR DESIGNEE, OR ANY OTHER OFFICIAL THAT MAY BE DESIGNATED BY SUCH LAW, ORDINANCE OR REGULATION.

S 5. This act shall take effect immediately.