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

982

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GUNTHER, HOYT, WALKER, ERRIGO, FINCH -- Multi-Sponsored by -- M. of A. BURLING, CALHOUN, DelMONTE, JOHN, KOON, MARKEY, MOLINARO, TOWNS -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to authorizing any municipality to enter into a contract to sell some or all of the delinquent tax liens held by such municipality to a private party; and providing for the repeal of such provisions upon the expiration thereof

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

Section 1. The real property tax law is amended by adding a new section 1191 to read as follows:

S 1191. SALE OF TAX LIENS TO PRIVATE PARTIES. NOTWITHSTANDING ANY PROVISION OF ANY GENERAL, SPECIAL OR LOCAL LAW TO THE CONTRARY, ANY MUNICIPALITY MAY, ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, ENTER INTO A CONTRACT TO SELL ANY OR ALL OF THE DELINQUENT TAX LIENS HELD BY IT TO A PRIVATE PARTY AND SUCH CONTRACT SHALL NOT EXTEND FOR ANY PERIOD BEYOND DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE, SUBJECT TO THE FOLLOWING CONDITIONS:

1. PRIOR TO ANY SALE, THE LOCAL GOVERNING BODY SHALL HOLD A PUBLIC HEARING, ON NOTICE OF AT LEAST THIRTY DAYS, ANNOUNCING THE INTENTION OF SAID LOCAL GOVERNING BODY TO SELL ITS DELINQUENT REAL PROPERTY TAX LIENS TO A THIRD PARTY. SUCH HEARING SHALL NOT BE HELD MORE THAN NINETY DAYS PRIOR TO SUCH SALE.

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

3. PROPERTY OWNERS SHALL BE GIVEN 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 THIS ARTICLE. FAILURE TO PROVIDE

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

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SUCH NOTICE OR THE FAILURE OF THE ADDRESSEE TO RECEIVE THE SAME SHALL NOT IN ANY WAY AFFECT THE VALIDITY OF ANY SALE OF A TAX LIEN OR TAX LIENS, OR THE VALIDITY OF THE TAXES OR INTEREST PRESCRIBED BY LAW WITH RESPECT THERETO;

4. THE MUNICIPALITY SHALL SET THE TERMS AND CONDITIONS OF THE CONTRACT OF SALE;

5. THE TAX LIEN PURCHASER MUST, THIRTY DAYS PRIOR TO THE COMMENCEMENT OF ANY FORECLOSURE ACTION, PROVIDE THE MUNICIPALITY WITH A LIST OF LIENS TO BE FORECLOSED. THE MUNICIPALITY MAY, AT ITS SOLE OPTION AND DISCRETION, REPURCHASE A LIEN OR LIENS ON THE FORECLOSURE LIST FROM THE TAX LIEN PURCHASER. THE REPURCHASE PRICE SHALL BE THE AMOUNT OF THE LIEN OR LIENS PLUS ANY ACCRUED INTEREST AND REASONABLE AND NECESSARY COLLECTION FEES AND COSTS INCURRED BY THE TAX LIEN PURCHASER. THE TAX LIEN PURCHASER SHALL PROVIDE THE FORECLOSURE LIST TO THE MUNICIPALITY, ALONG WITH THE APPLICABLE REPURCHASE PRICE OF EACH LIEN, BY CERTIFIED MAIL, AND THE MUNICIPALITY SHALL HAVE THIRTY DAYS FROM THE RECEIPT THEREOF TO NOTIFY THE TAX LIEN PURCHASER OF ITS OPTION TO PURCHASE ONE OR MORE OF THE LIENS. IF THE MUNICIPALITY OPTS TO PURCHASE THE LIEN, IT SHALL PROVIDE PAYMENT WITHIN THIRTY DAYS OF RECEIPT OF THE REPURCHASE PRICE OF SAID LIEN OR LIENS. IF THE MUNICIPALITY SHALL FAIL TO OPT TO REPURCHASE THE LIEN OR LIENS, THE TAX LIEN PURCHASER SHALL HAVE THE RIGHT TO COMMENCE A FORECLOSURE ACTION IMMEDIATELY;

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

7. 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 THIS ARTICLE. 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 REASONABLE AND NECESSARY COLLECTION COSTS, ATTORNEYS' FEES, LEGAL COSTS, ALLOWANCES AND DISBURSEMENTS; AND

8. THE PROVISIONS OF THIS TITLE SHALL APPLY SO FAR AS IS PRACTICABLE TO A CONTRACT FOR THE SALE OF TAX LIENS PURSUANT TO THIS ACT.

9. IN EACH YEAR SUBSEQUENT TO THE TAX LIEN SALE, AND NO MORE THAN SIXTY DAYS AFTER THE ANNUAL ANNIVERSARY DATE OF SUCH SALE, THE LOCAL GOVERNING BODY SHALL PRODUCE A WRITTEN REPORT ON THE STATUS AND RESULTS OF SAID SALE AND SUCH REPORT SHALL INCLUDE BUT NEED NOT BE LIMITED TO THE TOTAL DOLLAR AMOUNT RECEIVED BY THE MUNICIPALITY IN SAID SALE, THE NUMBER OF FORECLOSURES CONDUCTED BY THE THIRD PARTY, THE NUMBER, IF ANY, OF COMPLAINTS ABOUT THE FORECLOSURE PROCESS, THE NUMBER OF PROPERTIES TAKEN BACK BY THE MUNICIPALITY PURSUANT TO THE TERMS OF THE CONTRACT OF SALE, THE NUMBER, IF ANY, OF COMPLAINTS RECEIVED BY THE MUNICIPALITY ON THE CONDUCT OF THE THIRD PARTY AND ANY OTHER INFORMATION THE MUNICIPALITY DEEMS NECESSARY AND IMPORTANT ON THE STATUS OF SAID SALE. SAID WRITTEN REPORT MUST BE FILED WITH THE GOVERNOR, COMPTROLLER OF THE STATE OF NEW YORK, TEMPORARY PRESIDENT OF THE SENATE, MINORITY LEADER OF THE SENATE, SPEAKER OF THE ASSEMBLY, AND THE MINORITY LEADER OF THE ASSEMBLY.

10. ON OR BEFORE JULY FIRST, TWO THOUSAND TWELVE BUT NOT EARLIER THAN MAY FIRST, TWO THOUSAND TWELVE, THE COMPTROLLER OF THE STATE OF NEW YORK SHALL ISSUE A WRITTEN REPORT ON THE STATUS OF ALL PRIVATE TAX LIEN SALES

THAT HAVE OCCURRED IN THE STATE WHETHER BY THE TERMS OF THIS SECTION, A CHAPTER OF THE LAWS OF THE STATE OF NEW YORK SPECIFIC TO A CITY, COUNTY OR VILLAGE, OR BY ANY OTHER SPECIAL, GENERAL OR LOCAL LAW IN THE CALENDAR YEARS TWO THOUSAND NINE, TWO THOUSAND TEN AND TWO THOUSAND ELEVEN.

S 2. This act shall take effect immediately, and shall expire and be deemed repealed on and after December 31, 2012.