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

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I N A S S E M B L Y

(PREFILED)

January 6, 2010

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

AN ACT to amend the general city law and chapter 602 of the laws of 1993 amending the real property tax law relating to the enforcement of the collection of delinquent real property taxes and to the collection of taxes by banks, in relation to the collection of delinquent real property taxes and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The general city law is amended by adding a new section 21-a to read as follows:

S 21-A. COLLECTION OF DELINQUENT TAX LIENS. NOTWITHSTANDING ANY PROVISION OF ANY GENERAL, SPECIAL OR LOCAL LAW TO THE CONTRARY AND UNTIL DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, ANY CITY MAY ENTER INTO A CONTRACT TO SELL SOME OR ALL OF THE DELINQUENT TAX LIENS HELD BY IT WHICH HAVE BEEN ATTACHED TO REAL PROPERTY ON OR BEFORE JANUARY THIRTY-FIRST, TWO THOUSAND FOURTEEN, TO A PRIVATE PARTY, SUBJECT TO THE FOLLOWING CONDITIONS:

1. PRIOR TO ANY SALE, THE CITY COUNCIL SHALL HOLD A PUBLIC HEARING, ON NOTICE OF AT LEAST FORTY-FIVE DAYS, ANNOUNCING THE INTENTION OF THE CITY 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. UPON THE APPROVAL OF THE CITY COUNCIL AND BY ADOPTION OF A LOCAL LAW, ANY CITY SHALL BE AUTHORIZED TO SELL DELINQUENT TAX LIENS AND 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 THE REAL PROPERTY TAX LAW. FAILURE TO PROVIDE SUCH NOTICE OR THE FAILURE OF THE ADDRESSEE TO RECEIVE THE SAME SHALL INVALIDATE ANY SALE OF A TAX LIEN OR TAX LIENS.

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

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4. THE CITY 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 TO THE CITY A LIST OF LIENS TO BE FORECLOSED. THE CITY 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 AND MAY INCLUDE ANY ACCRUED INTEREST AND REASONABLE AND NECESSARY COLLECTION FEES INCURRED BY THE TAX LIEN PURCHASER. THE TAX LIEN PURCHASER SHALL PROVIDE THE FORECLOSURE LIST TO THE CITY ALONG WITH THE APPLICABLE REPURCHASE PRICE OF EACH LIEN, BY CERTIFIED MAIL, AND THE CITY SHALL HAVE THIRTY DAYS FROM RECEIPT TO NOTIFY THE TAX LIEN PURCHASER OF ITS OPTION TO PURCHASE ONE OR MORE OF THE LIENS. IF THE CITY 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 CITY SHALL FAIL TO OPT TO REPURCHASE THE LIEN OR LIENS THE TAX LIEN PURCHASER SHALL HAVE THE RIGHT TO COMMENCE A FORECLOSURE ACTION ONLY AFTER THE PURCHASER HAS GIVEN WRITTEN NOTICE TO THE PROPERTY OWNER AT THE LAST KNOWN ADDRESS AS LISTED ON THE ASSESSMENT ROLL OF THE CITY THAT SAID PROPERTY OWNER HAS THE RIGHT TO ENTER INTO A PAYMENT PLAN OF AT LEAST TWENTY-FOUR MONTHS BUT NO LONGER THAN FORTY-EIGHT MONTHS TO REPAY THE TAX AMOUNT OWED. THE TAX LIEN PURCHASER SHALL HAVE THE RIGHT TO CHARGE THE SAME INTEREST AS WAS ACCRUING ON THE TAX LIEN CERTIFICATE. THE TAX LIEN PURCHASER SHALL NOT BE ALLOWED TO CHARGE ANY OTHER FEES, COSTS OR CHARGES EXCEPT THOSE EXPRESSLY ALLOWED HEREIN UNDER THIS SECTION.

6. THE SALE OF A TAX LIEN PURSUANT TO THIS SECTION 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 AS PROVIDED IN SECTION ELEVEN HUNDRED NINETY-FOUR OF THE REAL PROPERTY TAX LAW. THE PROCEDURE IN SUCH ACTION SHALL BE THE SAME PROCEDURE AS 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, MAY INCLUDE REASONABLE AND NECESSARY COLLECTION COSTS AND LEGAL FEES.

8. IN EACH YEAR SUBSEQUENT TO THE TAX LIEN SALE, AND NO MORE THAN SIXTY DAYS AFTER THE ANNUAL ANNIVERSARY OF SUCH SALE, THE CITY COUNCIL OR THEIR DESIGNEE SHALL PREPARE A REPORT ON THE STATUS AND RESULTS OF SUCH SALE. SUCH REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, INFORMATION ON THE TOTAL DOLLAR AMOUNT RECEIVED BY THE MUNICIPALITY IN SUCH SALE, THE NUMBER OF FORECLOSURES CONDUCTED BY THE THIRD PARTY, THE NUMBER OF PAYMENT PLANS ENTERED INTO BY TAXPAYERS AND THE STATUS THEREOF, THE NUMBER, IF ANY, OF COMPLAINTS ABOUT THE FORECLOSURE PROCESS, THE NUMBER OF PROPERTIES TAKEN BACK BY THE CITY PURSUANT TO THE TERMS AND CONDITIONS OF THE CONTRACT OF SALE, THE NUMBER, IF ANY, OF COMPLAINTS RECEIVED BY THE CITY ON THE CONDUCT OF THE ACTIONS OF THE THIRD PARTY AND ANY OTHER INFORMATION THE CITY COUNCIL DEEMS NECESSARY AND PROPER. SUCH REPORT SHALL BE FILED WITH THE STATE COMPTROLLER FOR HIS OR HER REVIEW. THE STATE COMPTROLLER SHALL ANNUALLY PREPARE A REPORT FOR SUBMISSION TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND TO THE RESPECTIVE MINORITY LEADERS IN BOTH THE SENATE AND ASSEMBLY WHICH DETAILS THE EXPERIENCES OF ALL CITIES THAT PARTICIPATED IN SUCH PROGRAM TO COLLECT DELINQUENT TAX LIENS AS PROVIDED

FOR IN SECTION THREE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SECTION.

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

S 2. Section 6 of chapter 602 of the laws of 1993 amending the real property tax law relating to the enforcement of the collection of delinquent real property taxes and to the collection of taxes by banks, is amended by adding a new subdivision (d) to read as follows:

(D) NOTWITHSTANDING ANY PROVISION OF ANY GENERAL, SPECIAL OR LOCAL LAW TO THE CONTRARY AND UNTIL DECEMBER 31, 2013, ANY VILLAGE MAY ENTER INTO A CONTRACT TO SELL SOME OR ALL OF THE DELINQUENT TAX LIENS HELD BY IT WHICH HAVE BEEN ATTACHED TO REAL PROPERTY ON OR BEFORE JANUARY 31, 2014, TO A PRIVATE PARTY, SUBJECT TO THE FOLLOWING CONDITIONS:

(1) PRIOR TO ANY SALE, THE BOARD OF TRUSTEES SHALL HOLD A PUBLIC HEARING, ON NOTICE OF AT LEAST 45 DAYS, ANNOUNCING THE INTENTION OF THE VILLAGE TO SELL ITS DELINQUENT REAL PROPERTY TAX LIENS TO A THIRD PARTY. SUCH HEARING SHALL NOT BE HELD MORE THAN 90 DAYS PRIOR TO SUCH SALE.

(2) UPON THE APPROVAL OF THE BOARD OF TRUSTEES AND BY ADOPTION OF A LOCAL LAW, THE BOARD SHALL AUTHORIZE THE SALE OF SAID DELINQUENT TAX LIENS AND 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 30 DAYS ADVANCE NOTICE OF SUCH SALE IN THE SAME FORM AND MANNER AS IS PROVIDED BY SUBDIVISION 2 OF SECTION 1190 OF THE REAL PROPERTY TAX LAW. FAILURE TO PROVIDE SUCH NOTICE OR THE FAILURE OF THE ADDRESSEE TO RECEIVE THE SAME SHALL INVALIDATE 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 VILLAGE SHALL SET THE TERMS AND CONDITIONS OF THE CONTRACT OF SALE.

(5) THE TAX LIEN PURCHASER MUST, 30 DAYS PRIOR TO THE COMMENCEMENT OF ANY FORECLOSURE ACTION, PROVIDE TO THE VILLAGE A LIST OF LIENS TO BE FORECLOSED. THE VILLAGE 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 AND MAY INCLUDE ANY ACCRUED INTEREST AND REASONABLE AND NECESSARY COLLECTION FEES INCURRED BY THE TAX LIEN PURCHASER. THE TAX LIEN PURCHASER SHALL PROVIDE THE FORECLOSURE LIST TO THE VILLAGE ALONG WITH THE APPLICABLE REPURCHASE PRICE OF EACH LIEN, BY CERTIFIED MAIL, AND THE VILLAGE SHALL HAVE 30 DAYS FROM RECEIPT TO NOTIFY THE TAX LIEN PURCHASER OF ITS OPTION TO PURCHASE ONE OR MORE OF THE LIENS. IF THE VILLAGE OPTS TO PURCHASE THE LIEN, IT SHALL PROVIDE PAYMENT WITHIN 30 DAYS OF RECEIPT OF THE REPURCHASE PRICE OF SAID LIEN OR LIENS. IF THE VILLAGE SHALL FAIL TO OPT TO REPURCHASE THE LIEN OR LIENS THE TAX LIEN PURCHASER SHALL HAVE THE RIGHT TO COMMENCE A FORECLOSURE ACTION ONLY AFTER THE PURCHASER HAS GIVEN WRITTEN NOTICE TO THE PROPERTY OWNER AT THE LAST KNOWN ADDRESS AS LISTED ON THE ASSESSMENT ROLL OF THE VILLAGE THAT SAID PROPERTY OWNER HAS THE RIGHT TO ENTER INTO A PAYMENT PLAN OF AT LEAST 24 MONTHS BUT NO LONGER THAN 48 MONTHS TO REPAY THE TAX AMOUNT OWED. THE TAX LIEN PURCHASER SHALL HAVE THE RIGHT TO CHARGE THE SAME INTEREST AS WAS ACCRUING ON THE TAX LIEN CERTIFICATE. THE TAX LIEN PURCHASER SHALL NOT BE ALLOWED TO CHARGE ANY OTHER FEES, COSTS OR CHARGES EXCEPT THOSE EXPRESSLY ALLOWED HEREIN UNDER THIS SUBDIVISION.

(6) THE SALE OF A TAX LIEN PURSUANT TO THIS SUBDIVISION 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 AS PROVIDED IN SECTION 1194 OF THE REAL PROPERTY TAX LAW. THE PROCEDURE IN SUCH ACTION SHALL BE THE SAME PROCEDURE AS PRESCRIBED BY ARTICLE 13 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, MAY INCLUDE REASONABLE AND NECESSARY COLLECTION COSTS AND LEGAL FEES.

(8) IN EACH YEAR SUBSEQUENT TO THE TAX LIEN SALE, AND NO MORE THAN 60 DAYS AFTER THE ANNUAL ANNIVERSARY OF SUCH SALE, THE VILLAGE SHALL PREPARE A REPORT ON THE STATUS AND RESULTS OF SUCH SALE. SUCH REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, INFORMATION ON THE TOTAL DOLLAR AMOUNT RECEIVED BY THE MUNICIPALITY IN SUCH SALE, THE NUMBER OF FORECLOSURES CONDUCTED BY THE THIRD PARTY, THE NUMBER OF PAYMENT PLANS ENTERED INTO BY THE TAXPAYERS AND THE STATUS THEREOF, THE NUMBER, IF ANY, OF COMPLAINTS ABOUT THE FORECLOSURE PROCESS, THE NUMBER OF PROPERTIES TAKEN BACK BY THE VILLAGE PURSUANT TO THE TERMS AND CONDITIONS OF THE CONTRACT OF SALE, THE NUMBER, IF ANY, OF COMPLAINTS RECEIVED BY THE VILLAGE ON THE CONDUCT OF THE ACTIONS OF THE THIRD PARTY AND ANY OTHER INFORMATION THE VILLAGE DEEMS NECESSARY AND PROPER. SUCH REPORT SHALL BE FILED WITH THE STATE COMPTROLLER FOR HIS OR HER REVIEW. THE STATE COMPTROLLER SHALL ANNUALLY PREPARE A REPORT FOR SUBMISSION TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND TO THE RESPECTIVE MINORITY LEADERS IN BOTH THE SENATE AND ASSEMBLY WHICH DETAILS THE EXPERIENCES OF ALL VILLAGES THAT PARTICIPATED IN SUCH PROGRAM TO COLLECT DELINQUENT TAX LIENS AS PROVIDED FOR IN SECTION THREE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SUBDIVISION.

(9) THE PROVISIONS OF TITLE 5 OF ARTICLE 11 OF THE REAL PROPERTY TAX LAW SHALL APPLY SO FAR AS IS PRACTICABLE TO A CONTRACT FOR THE SALE OF TAX LIENS PURSUANT TO THIS SUBDIVISION.

S 3. The state comptroller in preparing its annual report that outlines the experiences of all cities and villages that have participated in a program to collect delinquent tax liens as provided for in section 21-a of the general city law and subdivision (d) of section 6 of chapter 602 of the laws of 1993, shall include the following information as provided for in this section. Such report shall briefly outline the reports submitted by all participating municipalities, the cost effectiveness of such program to enhance real property tax collections, the aggregate amount of tax revenue collected minus expenses, the number of foreclosures conducted by third parties, the number of payment plans entered into by taxpayers, the number and severity of complaints about the foreclosure process, the number of properties taken back by participating municipalities, any complaints received by participating municipalities from tax lien debtors and the general public, and any other items or suggestions that the state comptroller may make to increase consumer protections to assist real property owners who have delinquent tax liens pending to retain their real property. Such report shall be issued by the state comptroller by July first of each year.

S 4. This act shall take effect immediately and shall expire January 31, 2014 when upon such date the provisions of this act shall be deemed repealed.