

4586

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to the powers of a social services official to receive and dispose of a deed, mortgage or lien

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

1 Section 1. Section 106 of the social services law, as amended by chap-
2 ter 200 of the laws of 1946, the section heading as amended and para-
3 graphs (e) and (f) of subdivision 2 as added by chapter 1080 of the laws
4 of 1974, subdivision 1 and paragraph (a) of subdivision 2 as amended by
5 chapter 764 of the laws of 1972, subparagraph 5 of paragraph (a) of
6 subdivision 2 as amended by chapter 764 of the laws of 1972 and as
7 renumbered by chapter 1080 of the laws of 1974, paragraph (b) of subdi-
8 vision 2 as amended by chapter 150 of the laws of 1955, paragraph (c) of
9 subdivision 2 as amended by chapter 310 of the laws of 1962, paragraph
10 (d) of subdivision 2 as added by chapter 43 of the laws of 1952, subdi-
11 vision 3 as amended by chapter 271 of the laws of 1948, and subdivision
12 4 as added by chapter 340 of the laws of 2003, is amended to read as
13 follows:

14 S 106. Powers of social services official to receive and dispose of a
15 deed, mortgage, or lien. 1. A social services official responsible, by
16 or pursuant to any provision of this chapter, for the administration of
17 assistance or care granted or applied for may accept a deed of real
18 property and/or a mortgage thereon on behalf of the public welfare
19 district for the assistance and care of a person at public expense but
20 such property shall not be considered as public property and shall
21 remain on the tax rolls and such deed or mortgage shall be subject to
22 redemption as provided in paragraph (a) of subdivision [two hereof] SIX
23 OF THIS SECTION.

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

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1 2. ANY INCONSISTENT PROVISION OF THIS CHAPTER OR ANY OTHER LAW
2 NOTWITHSTANDING, A SOCIAL SERVICES OFFICIAL MAY NOT ASSERT ANY CLAIM
3 UNDER ANY PROVISION OF THIS CHAPTER TO RECOVER PAYMENTS MADE OR THE COST
4 OF BENEFITS PROVIDED TO A RECIPIENT OR THE MEMBERS OF HIS OR HER HOUSE-
5 HOLD UNDER FOOD STAMPS, CHILD CARE OR THE HOME ENERGY ASSISTANCE PROGRAM
6 (HEAP).

7 3. ANY INCONSISTENT PROVISION OF THIS CHAPTER OR OF ANY OTHER LAW
8 NOTWITHSTANDING, A SOCIAL SERVICES OFFICIAL MAY NOT ASSERT ANY CLAIM
9 UNDER ANY PROVISION OF THIS CHAPTER TO RECOVER PAYMENTS OF PUBLIC
10 ASSISTANCE IF SUCH PAYMENTS WERE REIMBURSED BY CHILD SUPPORT
11 COLLECTIONS.

12 4. ANY INCONSISTENT PROVISION OF THIS CHAPTER OR OF ANY OTHER LAW
13 NOTWITHSTANDING, A SOCIAL SERVICES OFFICIAL MAY NOT ASSERT ANY CLAIM
14 UNDER ANY PROVISION OF THIS CHAPTER TO RECOVER PAYMENTS OF PUBLIC
15 ASSISTANCE UNLESS, BEFORE IT HAS ACCEPTED A DEED OR MORTGAGE FROM AN
16 APPLICANT OR RECIPIENT, IT HAS FIRST RECEIVED A WRITTEN ACKNOWLEDGEMENT
17 FROM THE APPLICANT OR RECIPIENT ACKNOWLEDGING THAT IF THE APPLICANT OR
18 RECIPIENT DECLINES TO PROVIDE THE LIEN OR MORTGAGE THE CHILDREN IN THE
19 HOUSEHOLD REMAIN ELIGIBLE FOR PUBLIC ASSISTANCE.

20 5.(A) UNTIL SUCH PROPERTY OR MORTGAGE IS SOLD, ASSIGNED OR FORECLOSED
21 PURSUANT TO LAW BY THE SOCIAL SERVICES OFFICIAL, OR UNTIL SUCH MORTGAGE
22 HAS BEEN PAID OFF PURSUANT TO THIS SUBDIVISION, THE PERSON GIVING SUCH
23 DEED OR MORTGAGE, OR HIS OR HER ESTATE OR THOSE ENTITLED THERETO, SHALL
24 RECEIVE AN ANNUAL ACCOUNTING OF THE PUBLIC ASSISTANCE INCURRED AND
25 REPAIRS AND TAXES PAID ON PROPERTY. THE DISTRICT SHALL PROVIDE SUCH
26 ACCOUNTING NO LATER THAN FOUR MONTHS AFTER THE END OF THE COUNTY'S
27 FISCAL YEAR.

28 (B) SUCH ACCOUNTING SHALL INCLUDE INFORMATION REGARDING THE DEBT OWED,
29 INCLUDING, BUT NOT LIMITED TO: AN ENUMERATION OF ALL ASSISTANCE INCURRED
30 BY THE PERSON GIVING SUCH DEED OR MORTGAGE OR HIS OR HER HOUSEHOLD TO
31 DATE, THE CURRENT AMOUNT OF RECOVERABLE ASSISTANCE UNDER THE DEED OR
32 MORTGAGE, THE AMOUNT OF CHILD SUPPORT COLLECTED BY THE DISTRICT AS
33 REIMBURSEMENT FOR ASSISTANCE PROVIDED TO THE PERSON GIVING SUCH DEED OR
34 MORTGAGE OR HIS OR HER HOUSEHOLD, WHICH SHALL BE DEDUCTED FROM THE
35 AMOUNT RECOVERABLE PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

36 (C) IN THE EVENT THAT AN ANNUAL ACCOUNTING IS NOT PROVIDED TO THE
37 PERSON GIVING SUCH DEED OR MORTGAGE OR HIS OR HER ESTATE OR THOSE ENTI-
38 TLED THERETO, WITHIN THE FOUR MONTH PERIOD REQUIRED IN PARAGRAPH (A) OF
39 THIS SUBDIVISION, NO ASSISTANCE SHALL BE RECOVERABLE FOR THAT FISCAL
40 YEAR.

41 (D) NO DEED OR MORTGAGE TAKEN ON OR BEFORE JANUARY FIRST, TWO THOUSAND
42 TEN SHALL BE VALID UNLESS A SOCIAL SERVICES OFFICIAL PROVIDES AN
43 ACCOUNTING TO THE PERSON GIVING SUCH DEED OR MORTGAGE OR HIS OR HER
44 ESTATE OR THOSE ENTITLED THERETO, PURSUANT TO THIS SUBDIVISION, ON OR
45 BEFORE NOVEMBER FIRST, TWO THOUSAND TEN.

46 [2.] 6. (a) (1) Until such property or mortgage is sold, assigned or
47 foreclosed pursuant to law by the social services official, the person
48 giving such deed or mortgage, or his estate or those entitled thereto,
49 may redeem the same by the payment of all expenses incurred for the
50 support of the person, and for repairs and taxes paid on such property,
51 provided, however, that a social services official may enter into a
52 contract for such redemption, subject to the provisions of this para-
53 graph, and containing such terms and conditions, including provisions
54 for periodic payments, [with or] without interest, [as the social
55 services official shall deem appropriate,] for an amount less than the
56 full expenses incurred for the support of the person and for repairs and

1 taxes paid on such property (hereinafter called a "lesser sum"), which
2 lesser sum shall in no event be less than the difference between the
3 appraised value of such property and the total of the then unpaid prin-
4 cipal balance of any recorded mortgages and the unpaid balance of sums
5 secured by other liens against such property.

6 (2) In the case of a redemption for a lesser sum, the social services
7 official shall obtain (i) an appraisal of the current market value of
8 such property, by an appraiser acceptable to both parties, and (ii) a
9 statement of the principal balance of any recorded mortgages or other
10 liens against such property (excluding the debt secured by the deed,
11 mortgage or lien of the social services official). Any expenses incurred
12 pursuant to this paragraph shall be audited and allowed in the same
13 manner as other official expenses.

14 (3) Every redemption contract for any lesser sum shall be approved by
15 the department upon an application by the social services official
16 containing the appraisal and statement required by subparagraph two, a
17 statement by the social services official of his reasons for entering
18 into the contract for such lesser sum and any other information required
19 by regulations of the department.

20 (4) So long as the terms of the approved redemption contract are
21 performed, no public sale of such property shall be held.

22 (5) The redemption for a lesser sum shall reduce the claim of the
23 social services official against the recipient on the implied contract
24 under section one hundred four of this chapter or under any other law,
25 to the extent of all sums paid in redemption.

26 (b) In order to allow a minimum period for redemption, the public
27 welfare official shall not sell the property or mortgage until after the
28 expiration of one year from the date he received the deed or mortgage,
29 but if unoccupied property has not been redeemed within six months from
30 the date of death of the person who conveyed it to him by deed the
31 public welfare official may thereafter, and before the expiration of
32 such year, sell the property.

33 (c) Except as otherwise provided in this chapter, upon the death of
34 the person or his receiving institutional care, if the mortgage has not
35 been redeemed, sold or assigned, the public welfare official may enforce
36 collection of the mortgage debt in the manner provided for the foreclo-
37 sure of mortgages by action.

38 (d) Provided the department shall have given its approval in writing,
39 the public welfare official may, when in his judgment it is advisable
40 and in the public interest, release a part of the property from the lien
41 of the mortgage to permit, and in consideration of, the sale of such
42 part by the owner and the application of the proceeds to reduce said
43 mortgage or to satisfy and discharge or reduce a prior or superior mort-
44 gage.

45 (e) While real property covered by a deed or mortgage is occupied, in
46 whole or in part, by an aged, blind or disabled person who executed such
47 deed or mortgage to the social services official for old age assistance,
48 assistance to the blind or aid to the disabled granted to such person
49 before January first, nineteen hundred seventy-four, the social services
50 official shall not sell the property or assign or enforce the mortgage
51 unless it appears reasonably certain that the sale or other disposition
52 of the property will not materially adversely affect the welfare of such
53 person. After the death of such person no claim for assistance granted
54 him shall be enforced against any real property while it is occupied by
55 the surviving spouse.

1 (f) Except as otherwise provided, upon the death of a person who
2 executed a lien to the social services official in return for old age
3 assistance, assistance to the blind or aid to the disabled granted prior
4 to January first, nineteen hundred seventy-four, or before the death of
5 such person if it appears reasonably certain that the sale or other
6 disposition of the property will not materially adversely affect the
7 welfare of such person, the social services official may enforce such
8 lien in the manner provided by article three of the lien law. After the
9 death of such person the lien may not be enforced against real property
10 while it is occupied by the surviving spouse.

11 [3.] 7. The sale of any parcel of real property or mortgage on real
12 property by the public welfare official, under the provisions of this
13 section, shall be made at a public sale, held at least two weeks after
14 notice thereof shall have been published in a newspaper having a general
15 circulation in that section of the county in which the real property is
16 located. Such notice shall specify the time and place of such public
17 sale and shall contain a brief description of the premises to be sold,
18 or upon which the mortgage is a lien, as the case may be. Unless in the
19 judgment of the public welfare official, it shall be in the public
20 interest to reject all bids, such parcel or mortgage shall be sold to
21 the highest responsible bidder.

22 [4. Any inconsistent provision of this chapter or of any other law
23 notwithstanding, a social services official may not assert any claim
24 under any provision of this chapter to recover payments of public
25 assistance if such payments were reimbursed by child support
26 collections.]

27 S 2. This act shall take effect on the sixtieth day after it shall
28 have become a law.