

3013

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. SCHROEDER -- Multi-Sponsored by -- M. of A.
BOYLAND -- read once and referred to the Committee on Judiciary

AN ACT relating to final judgment in foreclosures by in rem proceedings
in the city of Buffalo

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

1 Section 1. Final judgment; proceedings in the city of Buffalo.
2 Notwithstanding the provisions of section 1136 of the real property tax
3 law, the following provisions shall apply to final judgments in in rem
4 proceedings taken in the city of Buffalo. 1. Generally. The court shall
5 have full power to determine and enforce in all respects the priorities,
6 rights, claims and demands of the several parties to the proceeding, as
7 the same exist according to law, including the priorities, rights,
8 claims and demands of the respondents as between themselves. The court
9 shall further determine upon proof and shall make findings upon such
10 proof whether there has been due compliance by the tax district with the
11 provisions of article 11 of the real property tax law.

12 2. When an answer has been interposed. (a) When an answer has been
13 interposed by a party other than a tax district as to any parcel of real
14 property included in the petition described in section 1123 of the real
15 property tax law and the court determines that the answer is meritori-
16 ous, the court shall dismiss the petition of foreclosure, with or with-
17 out prejudice, as to the affected parcel or parcels, unless an agreement
18 is executed pursuant to subdivision 2 of section 1150 of the real prop-
19 erty tax law. If the court determines that the answer is not meritori-
20 ous, the court shall make a final judgment awarding to such tax district
21 the right to convey title to the affected parcel or parcels in the same
22 manner as provided by subdivision three of this section.

23 (b) When an answer has been interposed by another tax district as to
24 any parcel and the court shall determine that such other tax district
25 has an interest in such parcel, then and in that event the tax districts

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

1 having an interest in such parcel may by agreement between themselves
2 pursuant to subdivision one of section 1150 of the real property tax law
3 provide (i) for a conveyance without sale of any such parcel to one of
4 such tax districts free and clear of any right, title or interest in or
5 lien upon such parcel or such other tax district or districts or (ii)
6 for a conveyance without sale of any such parcel to one of such tax
7 districts subject to any right, title or interest in or lien upon such
8 parcel of such other tax district or districts. In either of such
9 events, the court shall in its judgment expressly dispense with the sale
10 and direct the making and execution of a conveyance by the enforcing
11 officer in accordance with such agreement. In the absence of such an
12 agreement, the court shall make a final judgment directing the sale of
13 such parcel in the same manner as provided by subdivision four of this
14 section, except that the conveyance may expressly be made subject to tax
15 liens of a tax district as provided herein.

16 3. When no answer has been interposed. The court shall make a final
17 judgment awarding to such tax district the right to convey title to any
18 parcel of real property described in the petition of foreclosure not
19 redeemed as provided in article 11 of the real property tax law and as
20 to which no answer is interposed as provided herein. In addition there-
21 to, where the enforcing officer has requested that such a parcel be sold
22 pursuant to subdivision four of this section without the tax district
23 taking title thereto, the judgment shall so direct. Otherwise such judg-
24 ment shall contain a direction to the enforcing officer of the tax
25 district to prepare, execute and cause to be recorded a deed conveying
26 to such tax district full and complete title to such parcel. Upon the
27 execution of such deed, the tax district shall be seized of an estate in
28 fee simple absolute in such parcel and all persons, including the state,
29 infants, incompetents, absentees and non-residents who may have had any
30 right, title, interest, claim, lien or equity of redemption in or upon
31 such parcel shall be barred and forever foreclosed of all such right,
32 title, interest, claim, lien or equity of redemption. The tax district
33 may sell any parcel so acquired in the manner provided by section 1166
34 of the real property tax law if it does not choose to retain the parcel
35 for a public use.

36 4. Court-ordered sales. Where the enforcing officer requests that a
37 parcel be sold without the tax district taking title thereto, the judg-
38 ment shall direct that a public auction shall be conducted by or under
39 the direction of the enforcing officer. Public notice of such sale shall
40 be given once a week for at least three successive weeks in a newspaper
41 published in the county in which such tax district is situated. The
42 terms and conditions of such sale shall be as prescribed by court order,
43 provided that all proceeds including any surplus, shall be paid to the
44 enforcing officer for the benefit of the tax district. At the conclusion
45 of such sale the enforcing officer shall prepare and execute a deed
46 conveying to the purchaser or its designee full and complete title to
47 such parcel. Upon the delivery and acceptance of such deed, the grantee
48 shall be seized of an estate in fee simple absolute in such parcel and
49 all persons, including the state, infants, incompetents, absentees and
50 non-residents who may have had any right, title, interest, claim, lien
51 or equity of redemption in or upon such parcel shall be barred and
52 forever foreclosed of all such right, title, interest, claim, lien or
53 equity of redemption.

54 S 2. This act shall take effect immediately and shall apply to any
55 surplus funds from the proceeds of a tax lien foreclosure sale in the
56 city of Buffalo paid into court on or after such effective date.