

6302

2011-2012 Regular Sessions

I N A S S E M B L Y

March 11, 2011

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

AN ACT to amend the real property tax law, in relation to tax lien transfers; and to repeal title 4 of article 9 of the real property tax law relating to acceptance of taxes from certain loan corporations

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

1 Section 1. Title 4 of article 9 of the real property tax law is
2 REPEALED and a new title 4 is added to read as follows:

3 TITLE 4

4 TAX LIEN TRANSFER AUTHORIZATIONS

5 SECTION 960. LEGISLATIVE INTENT.

6 961. DEFINITIONS.

7 962. TAX LIEN TRANSFER.

8 963. TAX LIEN TRANSFER AUTHORIZATION.

9 964. TAX LIEN TRANSFER CERTIFICATE.

10 965. PROPERTY TAX LIEN PAYMENT AGREEMENT.

11 966. FORECLOSURE.

12 967. REDEMPTION.

13 S 960. LEGISLATIVE INTENT. THE LEGISLATURE FINDS THAT LOCAL GOVERN-
14 MENTS ARE STRUGGLING UNDER THE WEIGHT OF INCREASED COSTS, REDUCED REVEN-
15 UES AND INCREASED STRESSES ON THEIR RESPECTIVE MUNICIPAL BUDGETS. THE
16 LEGISLATURE ALSO FINDS THAT PROPERTY OWNERS ARE STRUGGLING UNDER THE
17 WEIGHT OF HIGH PROPERTY TAXES AND NEED SOME ASSISTANCE IN PAYING THOSE
18 TAXES IN ORDER TO PREVENT FORECLOSURE AND THE SALE OF THEIR PROPERTY TAX
19 LIENS TO THIRD PARTIES INVOLUNTARILY. THE LEGISLATURE FINDS THAT IT IS
20 IN THE BEST INTERESTS OF THE RESIDENTS OF THE STATE OF NEW YORK AND THE
21 LOCAL GOVERNMENTS TO ALLOW PROPERTY OWNERS TO VOLUNTARILY ENTER INTO
22 AGREEMENTS WITH PRIVATE ENTITIES TO PROVIDE FOR THE PAYMENT OF THEIR
23 PROPERTY TAXES. CURRENTLY, PROPERTY OWNERS ARE REQUIRED TO PAY THEIR
24 TAXES IN FULL. ALLOWING PROPERTY OWNERS TO INCREASE THE PAYMENT TERM

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

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1 WILL HELP ALLEVIATE THE PRESSURE ON THESE ALREADY FINANCIALLY STRESSED
2 RESIDENTS AND BUSINESS OWNERS. MOREOVER, LOCAL GOVERNMENTS WILL INCREASE
3 THEIR REVENUE COLLECTIONS AND SPEND LESS ON ACTIONS TO COLLECT UNPAID
4 TAXES, SUCH AS TAX LIEN SALES AND TAX LIEN FORECLOSURES, BECAUSE THE
5 PROPERTY TAX PAYORS WILL PAY TAXES IN FULL, ALL AT ONCE.

6 S 961. DEFINITIONS. AS USED IN THIS TITLE THE FOLLOWING TERMS SHALL
7 HAVE THE FOLLOWING MEANINGS:

8 1. "PROPERTY TAX PAYOR" MEANS A PERSON WHO ADVANCES MONEY FOR THE
9 PAYMENT OF REAL PROPERTY TAXES DIRECTLY TO A MUNICIPAL GOVERNMENT AT THE
10 REQUEST OF A PROPERTY OWNER. ALSO REFERRED TO AS A "TRANSFeree."

11 2. "PROPERTY TAX PAYMENT" MEANS THE AMOUNT OF MONEY ADVANCED FOR THE
12 PAYMENT OF PROPERTY TAXES PURSUANT TO A PROPERTY TAX LIEN TRANSFER
13 AUTHORIZATION AND PROPERTY TAX LIEN PAYMENT AGREEMENT.

14 3. "TAX LIEN TRANSFER AUTHORIZATION" SHALL HAVE THE MEANING AS SET
15 FORTH IN SECTION NINE HUNDRED SIXTY-THREE OF THIS TITLE.

16 4. "TAX LIEN TRANSFER CERTIFICATE" SHALL HAVE THE MEANING AS SET FORTH
17 IN SECTION NINE HUNDRED SIXTY-FOUR OF THIS TITLE.

18 5. "PROPERTY TAX LIEN PAYMENT AGREEMENT" SHALL HAVE THE MEANING AS SET
19 FORTH IN SECTION NINE HUNDRED SIXTY-FIVE OF THIS TITLE.

20 6. "REFEREE'S DEED" SHALL MEAN THE DEED ISSUED TO THE PURCHASER AT THE
21 FORECLOSURE SALE AT THE COURTHOUSE STEPS.

22 7. "TRANSFeree" MEANS A PERSON WHO ADVANCES MONEY FOR THE PAYMENT OF
23 REAL PROPERTY TAXES DIRECTLY TO A MUNICIPAL GOVERNMENT AT THE REQUEST OF
24 A PROPERTY OWNER TO WHOM A PROPERTY TAX LIEN IS TRANSFERRED. ALSO
25 REFERRED TO AS A "PROPERTY TAX PAYOR."

26 S 962. TAX LIEN TRANSFER. 1. A PROPERTY OWNER MAY EXECUTE AN AFFIDAVIT
27 IN THE FORM OF A TAX LIEN TRANSFER AUTHORIZATION THAT CONSENTS TO AND
28 AUTHORIZES THE TRANSFER OF THE PROPERTY TAX LIENS ON HIS OR HER PROPERTY
29 FROM A MUNICIPAL GOVERNMENT TO A PROPERTY TAX PAYOR IF THE PROPERTY TAX
30 PAYOR PAYS THE PROPERTY TAX PAYMENT ON BEHALF OF THE PROPERTY OWNER.

31 2. UPON RECEIPT BY THE TAXING JURISDICTION OF THE PROPERTY OWNER'S TAX
32 LIEN TRANSFER AUTHORIZATION AND THE PROPERTY TAX PAYMENT FROM THE PROP-
33 erty TAX PAYOR, THE REAL PROPERTY TAX LIEN SHALL BE TRANSFERRED FROM THE
34 TAXING JURISDICTION TO THE PROPERTY TAX PAYOR AS REFLECTED IN A TAX LIEN
35 TRANSFER CERTIFICATE. THE TAX LIEN TRANSFER CERTIFICATE SHALL CERTIFY
36 THAT THE TAXING JURISDICTION RECEIVED WRITTEN AUTHORIZATION FROM THE
37 PROPERTY OWNER TO TRANSFER THE TAXES OWED; THAT THE PROPERTY TAX PAYOR
38 PAID THE PROPER AMOUNT OWED BY THE PROPERTY OWNER; AND THAT THE TAXING
39 JURISDICTION'S LIENS ARE TRANSFERRED TO THE PROPERTY TAX PAYOR IN THE
40 AMOUNTS LISTED IN THE TAX LIEN TRANSFER CERTIFICATE.

41 3. THE CREATION OF THE TAX LIEN TRANSFER CERTIFICATE SHALL NOT BE
42 DEEMED TO CREATE A NEW TAX LIEN. THE TRANSFeree, OR ITS HEIRS AND
43 ASSIGNS, SHALL HAVE THE SAME RIGHTS, REMEDIES, AND PRIORITIES AS THE
44 TAXING JURISDICTION, SUBJECT TO THE TERMS AND CONDITIONS OF THE PROPERTY
45 TAX LIEN PAYMENT AGREEMENT. THE CREATION OF THE TAX LIEN TRANSFER
46 CERTIFICATE SHALL NOT BE DEEMED TO ALLOW THE PROPERTY TAX PAYOR TO FORE-
47 CLOSE OR IN ANY MANNER ACT UPON THE TAX LIEN COVERED BY THE TAX LIEN
48 TRANSFER CERTIFICATE EXCEPT FOR THE COLLECTION OF TAXES, AS PROVIDED FOR
49 IN THE PROPERTY TAX LIEN PAYMENT AGREEMENT.

50 4. THE TAX LIEN TRANSFER CERTIFICATE SHALL BE RECORDED IN THE COUNTY
51 CLERK'S OFFICE WHERE THE PROPERTY IS SITUATED, AND THE PROPERTY TAX
52 PAYOR SHALL PAY ANY STATUTORY FEE FOR SAID RECORDING.

53 S 963. TAX LIEN TRANSFER AUTHORIZATION. A SWORN AFFIDAVIT OF A PROP-
54 erty OWNER AUTHORIZING THE TRANSFER OF TAX LIENS MUST CONTAIN THE
55 FOLLOWING INFORMATION:

56 1. THE NAME OF THE COUNTY WHERE THE PROPERTY IS LOCATED;

1 2. A STATEMENT BY A NOTARY PUBLIC IDENTIFYING THE AFFIANT(S), EITHER
2 PROPERTY OWNER(S) OR AUTHORIZED REPRESENTATIVE(S), AND STATING THAT THE
3 AFFIANT(S) PERSONALLY APPEARED BEFORE THE NOTARY AND MADE THE STATEMENTS
4 UNDER OATH;

5 3. A STATEMENT BY THE AFFIANT THAT HE OR SHE IS OVER EIGHTEEN YEARS OF
6 AGE AND IS CAPABLE OF MAKING THE AFFIDAVIT, AND THAT THE FACTS STATED IN
7 THE AFFIDAVIT ARE WITHIN THE AFFIANT'S PERSONAL KNOWLEDGE AND ARE TRUE
8 AND CORRECT;

9 4. A STATEMENT BY THE AFFIANT(S) THAT EITHER THE AFFIANT(S) OR THE
10 ENTITIES REPRESENTED BY THE AFFIANT(S) OWNS THE REAL PROPERTY DESCRIBED
11 IN THE DOCUMENT;

12 5. A DESCRIPTION OF THE PROPERTY THAT INCLUDES:
13 (A) THE ACCOUNT NUMBER OR PROPERTY IDENTIFICATION NUMBER USED BY THE
14 TAXING JURISDICTION;
15 (B) THE LEGAL DESCRIPTION OF THE PROPERTY; AND
16 (C) THE STREET ADDRESS OF THE PROPERTY, IF APPLICABLE;

17 6. THE AMOUNT PAID FOR THE TRANSFER;

18 7. THE TAX YEARS FOR THE AMOUNT PAID;

19 8. THE TRANSFEREE'S NAME;

20 9. THE TRANSFEREE'S STREET ADDRESS;

21 10. THE FOLLOWING STATEMENT: "PURSUANT TO SECTION 963 OF THE REAL
22 PROPERTY TAX LAW, I HEREBY AUTHORIZE THE ABOVE-NAMED TRANSFEREE OR
23 TRANSFEREE'S AGENT (THE "TRANSFEREE"), TO PAY ALL TAXES, PENALTIES,
24 INTEREST, AND COLLECTION COSTS IMPOSED BY ANY AND ALL LOCAL TAXING UNITS
25 OR THEIR AGENTS ON THE REAL PROPERTY, DESCRIBED ABOVE, FOR THE TAX YEARS
26 LISTED ABOVE. I FURTHER AUTHORIZE AND DIRECT THE TAX
27 ASSESSOR-COLLECTOR(S) FOR SAID TAXING UNITS TO ISSUE A TAX RECEIPT WITH
28 THE COLLECTOR'S SEAL OF OFFICE OR NOTARIZED SIGNATURE TO THE TRANSFEREE
29 AND TO CERTIFY THAT THE TAXES AND ANY PENALTIES AND INTEREST ON THE
30 SUBJECT PROPERTY AND COLLECTION COSTS HAVE BEEN PAID BY THE TRANSFEREE
31 ON BEHALF OF THE OWNER, AND THE TAX LIEN(S) ON THE OWNER'S PROPERTY HAS
32 BEEN TRANSFERRED TO THE TRANSFEREE.";

33 11. THE DATE THE DOCUMENT WAS SIGNED;

34 12. THE SIGNATURE AND PRINTED NAME OF THE PROPERTY OWNER OR AUTHORIZED
35 REPRESENTATIVE;

36 13. THE REPRESENTATIVE CAPACITY OR TITLE OF THE AUTHORIZED REPRESENTATIVE,
37 IF APPLICABLE; AND

38 14. THE NOTARY PUBLIC'S SEAL AND SIGNATURE.

39 S 964. TAX LIEN TRANSFER CERTIFICATE. A CERTIFIED STATEMENT ISSUED
40 UNDER THIS SECTION BY THE TAXING JURISDICTION FOR THE PURPOSE OF CREAT-
41 ING A TAX LIEN TRANSFER CERTIFICATE SHALL CONTAIN THE FOLLOWING INFORMA-
42 TION:

43 1. THE NAME OF THE COUNTY WHERE THE PROPERTY IS LOCATED;

44 2. THE DATE THE CERTIFICATION IS EXECUTED;

45 3. A DESCRIPTION OF THE PROPERTY THAT INCLUDES:
46 (A) THE ACCOUNT NUMBER OR PROPERTY IDENTIFICATION NUMBER USED BY THE
47 TAXING JURISDICTION;
48 (B) THE LEGAL DESCRIPTION OF THE PROPERTY; AND
49 (C) THE STREET ADDRESS OF THE PROPERTY, IF APPLICABLE;

50 4. THE TAXING JURISDICTION TRANSFERRING A LIEN OR LIENS TO THE TRANS-
51 FEREE;

52 5. THE AMOUNT PAID FOR THE TRANSFER;

53 6. THE TAX YEARS FOR THE AMOUNT PAID;

54 7. THE PROPERTY OWNER'S NAME;

55 8. THE TRANSFEREE'S NAME;

56 9. THE TRANSFEREE'S STREET ADDRESS;

1 10. THE FOLLOWING STATEMENT: "I, (INSERT AGENT FOR TAXING JURISDIC-
2 TION), CERTIFY THAT I HAVE RECEIVED AUTHORIZATION FROM THE OWNER OF THE
3 SUBJECT PROPERTY TO TRANSFER THE TAX LIEN TO THE ABOVE-NAMED TRANSFEREE
4 OR TRANSFEREE'S AGENT ("TRANSFEREE"), THAT TRANSFEREE HAS MADE PAYMENT
5 OF THE AMOUNT LISTED ABOVE TO THE ABOVE-NAMED TAXING JURISDICTIONS ON
6 THE PROPERTY DESCRIBED ABOVE AS CONSIDERATION FOR A TRANSFER OF THE TAX
7 LIEN(S), AND THAT THE TAX LIENS HELD BY TAXING JURISDICTIONS ON THE
8 PROPERTY FOR THE TAX YEARS LISTED ABOVE ARE HEREBY TRANSFERRED TO TRANS-
9 FEREE IN ACCORDANCE WITH SECTION NINE HUNDRED SIXTY-THREE OF THE REAL
10 PROPERTY TAX LAW. I HAVE ISSUED A RECEIPT TO TRANSFEREE IN CONJUNCTION
11 WITH THIS CERTIFICATION REFLECTING THE PAYMENT FOR THE TRANSFER IN THE
12 AMOUNT OF TAXES, PENALTIES, INTEREST, AND COLLECTION COSTS."

13 11. THE NAME OF THE TAXING JURISDICTION;

14 12. THE NAME OF THE TAXING UNIT(S);

15 13. THE SIGNATURE OF THE AGENT FOR THE TAXING JURISDICTION; AND

16 14. ONE OF THE FOLLOWING:

17 (A) THE SEAL OF OFFICE OF THE TAXING JURISDICTION; OR

18 (B) A NOTARY PUBLIC'S SEAL OF OFFICE AND A STATEMENT THAT THE CERTI-
19 FIED STATEMENT WAS SUBSCRIBED AND SWORN TO BEFORE A NOTARY PUBLIC; AND

20 15. A STATEMENT THAT AFTER THE DOCUMENT IS RECORDED, IT IS TO BE
21 RETURNED TO THE TRANSFEREE.

22 S 965. PROPERTY TAX LIEN PAYMENT AGREEMENT. 1. A PROPERTY OWNER IS
23 PERMITTED TO ENTER INTO A PROPERTY TAX LIEN PAYMENT AGREEMENT WITH A
24 PROPERTY TAX PAYOR.

25 2. SAID AGREEMENT SHALL CONTAIN TERMS AND CONDITIONS OF REPAYMENT.

26 3. THE PROPERTY TAX PAYOR SHALL BE ALLOWED TO COLLECT FROM THE PROPER-
27 TY OWNER AN APPLICATION FEE NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS, A
28 FEE FOR TITLE CHARGES NOT TO EXCEED FOUR HUNDRED DOLLARS, REASONABLE AND
29 CUSTOMARY ATTORNEY'S FEES NOT TO EXCEED ONE THOUSAND DOLLARS, AND
30 REASONABLE AND CUSTOMARY CLOSING COSTS, NOT TO EXCEED FIVE HUNDRED
31 DOLLARS, ALL OF WHICH MAY, AT THE PROPERTY OWNER'S REQUEST AND WRITTEN
32 CONSENT, BE CONTAINED IN AND MADE A PART OF THE AMOUNTS OWED UNDER THE
33 PROPERTY TAX LIEN PAYMENT AGREEMENT AND THE AMOUNTS SECURED BY THE
34 TRANSFERRED TAX LIEN.

35 4. THE PROPERTY TAX PAYOR SHALL BE ALLOWED TO COLLECT INTEREST NOT TO
36 EXCEED 1.5% PER MONTH ON THE AMOUNT OWED ACCORDING TO THE TAX LIEN
37 PAYMENT AGREEMENT.

38 5. NOTHING CONTAINED WITHIN THIS SECTION SHALL BE DEEMED TO CREATE A
39 MORTGAGE, NOTE OR OTHER INSTRUMENT GOVERNED BY ANY LAW, STATE OR FEDER-
40 AL, REGULATING MORTGAGE AGREEMENTS, AND THE TAX LIEN PAYMENT AGREEMENT
41 SHALL BE DEEMED A CONTRACT FOR THE REPAYMENT OF MONIES AND SHALL BE
42 GOVERNED BY APPLICABLE STATE LAWS RELATING TO CONTRACTS, EXCEPT FOR THE
43 FORECLOSURE OF SAID AGREEMENT, WHICH IS SUBJECT TO THE RULES AND REGU-
44 LATIONS AS GOVERNING MORTGAGE FORECLOSURES AS DETAILED IN THE REAL PROP-
45 erty ACTIONS AND PROCEEDINGS LAW.

46 6. THE PROPERTY OWNER OR A PRIOR RECORDED FIRST LIEN MORTGAGEE MAY
47 OBTAIN A RELEASE OF THE TRANSFERRED TAX LIEN BY PAYING THE PROPERTY TAX
48 PAYOR ALL AMOUNTS DUE UNDER THE PROPERTY TAX LIEN PAYMENT AGREEMENT.

49 S 966. FORECLOSURE. 1. IF AT ANYTIME THE PROPERTY TAX PAYOR FILES TO
50 FORECLOSE UPON THE TERMS AND CONDITIONS OF THE PROPERTY TAX AGREEMENT,
51 THE PROPERTY TAX PAYOR SHALL FORECLOSE PURSUANT TO REAL PROPERTY ACTIONS
52 AND PROCEEDINGS LAW AS IF FORECLOSING A MORTGAGE.

53 2. THE PROPERTY TAX PAYOR IS ENTITLED TO RECOVER FORECLOSURE FEES FOR
54 THE FOLLOWING COSTS:

55 (A) REASONABLE AND CUSTOMARY ATTORNEYS FEES AS SET BY A COURT OF
56 COMPETENT JURISDICTION; AND

1 (B) REASONABLE AND CUSTOMARY TITLE CHARGES NOT TO EXCEED FOUR HUNDRED
2 DOLLARS; AND

3 (C) REASONABLE AND CUSTOMARY FEES FOR SERVICE OF PROCESS AND ADVER-
4 TISEMENT AS APPROVED BY A COURT OF COMPETENT JURISDICTION, SO LONG AS
5 THE PROPERTY TAX PAYOR SUBMITS PROOF OF ACTUAL COSTS TO SAID COURT.

6 3. A FORECLOSURE OF A TAX LIEN TRANSFERRED AS PROVIDED BY SECTION NINE
7 HUNDRED SIXTY-TWO OF THIS TITLE MAY NOT BE INSTITUTED WITHIN ONE YEAR
8 FROM THE DATE ON WHICH THE LIEN IS RECORDED IN ALL COUNTIES IN WHICH THE
9 PROPERTY IS LOCATED, UNLESS THE CONTRACT BETWEEN THE OWNER OF THE PROP-
10 erty AND THE TRANSFEREE PROVIDES OTHERWISE; PROVIDED THAT AFTER ONE YEAR
11 FROM THE DATE ON WHICH A TAX LIEN TRANSFERRED AS PROVIDED BY SECTION
12 NINE HUNDRED SIXTY-TWO OF THIS TITLE IS RECORDED IN ALL COUNTIES IN
13 WHICH THE PROPERTY IS LOCATED, THE TRANSFEREE OF THE LIEN MAY FORECLOSE
14 THE LIEN IN THE MANNER PROVIDED BY SUBDIVISION ONE OF THIS SECTION.

15 4. NOTHING IN THIS SECTION SHALL BE DEEMED TO AFFECT THE RIGHTS OF A
16 TAXING JURISDICTION UNDER ARTICLE ELEVEN OF THIS CHAPTER OR AFFECT OR
17 EXTEND THE REDEMPTION PERIOD, SUBJECT TO SECTION NINE HUNDRED SIXTY-SEV-
18 EN OF THIS TITLE.

19 S 967. REDEMPTION. 1. IF A PROPERTY TAX PAYOR FORECLOSES ON A TAX LIEN
20 TRANSFERRED AS PROVIDED BY SECTION NINE HUNDRED SIXTY-TWO OF THIS TITLE,
21 BEGINNING ON THE DATE THE REFEREE'S DEED IS RECORDED, THE PERSON WHOSE
22 PROPERTY IS SOLD AS PROVIDED BY SECTION NINE HUNDRED SIXTY-SIX OF THIS
23 TITLE OR THE MORTGAGE SERVICER OF A PRIOR RECORDED FIRST MORTGAGE LIEN
24 AGAINST THE PROPERTY IS ENTITLED TO REDEEM THE FORECLOSED PROPERTY FROM
25 THE PURCHASER OR THE PURCHASER'S SUCCESSOR BY PAYING THE PURCHASER OR
26 HIS OR HER SUCCESSOR:

27 (A) ONE HUNDRED TWENTY PERCENT OF THE AMOUNT PAID BY THE PURCHASER AT
28 THE FORECLOSURE SALE; AND

29 (B) THE AMOUNT REASONABLY SPENT BY THE PURCHASER IN CONNECTION WITH
30 THE UPKEEP OF THE PROPERTY PLUS THE LEGAL JUDGMENT RATE OF RETURN ON
31 THAT AMOUNT. THE PROPERTY PURCHASER SHALL ONLY BE ENTITLED TO RECOVER
32 THE COSTS CONTAINED WITHIN THIS PARAGRAPH IF THE PURCHASER PROVIDES
33 WRITTEN PROOF OF ANY AND ALL COSTS INCURRED IN THE UPKEEP OF THE PROPER-
34 TY PRIOR TO REDEMPTION.

35 2. THE RIGHT OF REDEMPTION PROVIDED BY THIS SECTION MAY BE EXERCISED
36 NOT LATER THAN THE ONE HUNDRED EIGHTIETH DAY AFTER THE DATE ON WHICH THE
37 REFEREE'S DEED IS FILED IN THE OFFICE OF THE COUNTY CLERK OF THE COUNTY
38 WHERE THE PROPERTY IS SITUATED.

39 S 2. This act shall take effect on the ninetieth day after it shall
40 have become a law.