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

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:

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 Title 4 of article 9 of the real property tax law is REPEALED and a new title 4 is added to read as follows:

TITLE 4

TAX LIEN TRANSFER AUTHORIZATIONS

SECTION 960. LEGISLATIVE INTENT.
961. DEFINITIONS.
962. TAX LIEN TRANSFER.
963. TAX LIEN TRANSFER AUTHORIZATION.
964. TAX LIEN TRANSFER CERTIFICATE.
965. PROPERTY TAX LIEN PAYMENT AGREEMENT.
966. FORECLOSURE.
967. REDEMPTION.

S 960. LEGISLATIVE INTENT. THE LEGISLATURE FINDS THAT LOCAL GOVERNMENTS ARE STRUGGLING UNDER THE WEIGHT OF INCREASED COSTS, REDUCED REVENUES AND INCREASED STRESSES ON THEIR RESPECTIVE MUNICIPAL BUDGETS. THE LEGISLATURE ALSO FINDS THAT PROPERTY OWNERS ARE STRUGGLING UNDER THE WEIGHT OF HIGH PROPERTY TAXES AND NEED SOME ASSISTANCE IN PAYING THOSE TAXES IN ORDER TO PREVENT FORECLOSURE AND THE SALE OF THEIR PROPERTY TAX LIENS TO THIRD PARTIES INVOLUNTARILY. THE LEGISLATURE FINDS THAT IT IS IN THE BEST INTERESTS OF THE RESIDENTS OF THE STATE OF NEW YORK AND THE LOCAL GOVERNMENTS TO ALLOW PROPERTY OWNERS TO VOLUNTARILY ENTER INTO AGREEMENTS WITH PRIVATE ENTITIES TO PROVIDE FOR THE PAYMENT OF THEIR PROPERTY TAXES. CURRENTLY, PROPERTY OWNERS ARE REQUIRED TO PAY THEIR 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.

LBD08672-01-1

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

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

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

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

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

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

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

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

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

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

2. UPON RECEIPT BY THE TAXING JURISDICTION OF THE PROPERTY OWNER'S TAX LIEN TRANSFER AUTHORIZATION AND THE PROPERTY TAX PAYMENT FROM THE PROPERTY TAX PAYOR, THE REAL PROPERTY TAX LIEN SHALL BE TRANSFERRED FROM THE TAXING JURISDICTION TO THE PROPERTY TAX PAYOR AS REFLECTED IN A TAX LIEN TRANSFER CERTIFICATE. THE TAX LIEN TRANSFER CERTIFICATE SHALL CERTIFY THAT THE TAXING JURISDICTION RECEIVED WRITTEN AUTHORIZATION FROM THE PROPERTY OWNER TO TRANSFER THE TAXES OWED; THAT THE PROPERTY TAX PAYOR PAID THE PROPER AMOUNT OWED BY THE PROPERTY OWNER; AND THAT THE TAXING JURISDICTION'S LIENS ARE TRANSFERRED TO THE PROPERTY TAX PAYOR IN THE AMOUNTS LISTED IN THE TAX LIEN TRANSFER CERTIFICATE.

3. THE CREATION OF THE TAX LIEN TRANSFER CERTIFICATE SHALL NOT BE DEEMED TO CREATE A NEW TAX LIEN. THE TRANSFEREE, OR ITS HEIRS AND ASSIGNS, SHALL HAVE THE SAME RIGHTS, REMEDIES, AND PRIORITIES AS THE TAXING JURISDICTION, SUBJECT TO THE TERMS AND CONDITIONS OF THE PROPERTY TAX LIEN PAYMENT AGREEMENT. THE CREATION OF THE TAX LIEN TRANSFER CERTIFICATE SHALL NOT BE DEEMED TO ALLOW THE PROPERTY TAX PAYOR TO FORECLOSE OR IN ANY MANNER ACT UPON THE TAX LIEN COVERED BY THE TAX LIEN TRANSFER CERTIFICATE EXCEPT FOR THE COLLECTION OF TAXES, AS PROVIDED FOR IN THE PROPERTY TAX LIEN PAYMENT AGREEMENT.

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

S 963. TAX LIEN TRANSFER AUTHORIZATION. A SWORN AFFIDAVIT OF A PROPERTY OWNER AUTHORIZING THE TRANSFER OF TAX LIENS MUST CONTAIN THE FOLLOWING INFORMATION:

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

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

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

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

5. A DESCRIPTION OF THE PROPERTY THAT INCLUDES:

(A) THE ACCOUNT NUMBER OR PROPERTY IDENTIFICATION NUMBER USED BY THE TAXING JURISDICTION;

(B) THE LEGAL DESCRIPTION OF THE PROPERTY; AND

(C) THE STREET ADDRESS OF THE PROPERTY, IF APPLICABLE;

6. THE AMOUNT PAID FOR THE TRANSFER;

7. THE TAX YEARS FOR THE AMOUNT PAID;

8. THE TRANSFEREE'S NAME;

9. THE TRANSFEREE'S STREET ADDRESS;

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

11. THE DATE THE DOCUMENT WAS SIGNED;

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

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

14. THE NOTARY PUBLIC'S SEAL AND SIGNATURE.

S 964. TAX LIEN TRANSFER CERTIFICATE. A CERTIFIED STATEMENT ISSUED UNDER THIS SECTION BY THE TAXING JURISDICTION FOR THE PURPOSE OF CREATING A TAX LIEN TRANSFER CERTIFICATE SHALL CONTAIN THE FOLLOWING INFORMATION:

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

2. THE DATE THE CERTIFICATION IS EXECUTED;

3. A DESCRIPTION OF THE PROPERTY THAT INCLUDES:

(A) THE ACCOUNT NUMBER OR PROPERTY IDENTIFICATION NUMBER USED BY THE TAXING JURISDICTION;

(B) THE LEGAL DESCRIPTION OF THE PROPERTY; AND

(C) THE STREET ADDRESS OF THE PROPERTY, IF APPLICABLE;

4. THE TAXING JURISDICTION TRANSFERRING A LIEN OR LIENS TO THE TRANSFEREE;

5. THE AMOUNT PAID FOR THE TRANSFER;

6. THE TAX YEARS FOR THE AMOUNT PAID;

7. THE PROPERTY OWNER'S NAME;

8. THE TRANSFEREE'S NAME;

9. THE TRANSFEREE'S STREET ADDRESS;

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

11. THE NAME OF THE TAXING JURISDICTION;

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

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

14. ONE OF THE FOLLOWING:

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

(B) A NOTARY PUBLIC'S SEAL OF OFFICE AND A STATEMENT THAT THE CERTIFIED STATEMENT WAS SUBSCRIBED AND SWORN TO BEFORE A NOTARY PUBLIC; AND

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

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

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

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

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

5. NOTHING CONTAINED WITHIN THIS SECTION SHALL BE DEEMED TO CREATE A MORTGAGE, NOTE OR OTHER INSTRUMENT GOVERNED BY ANY LAW, STATE OR FEDERAL, REGULATING MORTGAGE AGREEMENTS, AND THE TAX LIEN PAYMENT AGREEMENT SHALL BE DEEMED A CONTRACT FOR THE REPAYMENT OF MONIES AND SHALL BE GOVERNED BY APPLICABLE STATE LAWS RELATING TO CONTRACTS, EXCEPT FOR THE FORECLOSURE OF SAID AGREEMENT, WHICH IS SUBJECT TO THE RULES AND REGULATIONS AS GOVERNING MORTGAGE FORECLOSURES AS DETAILED IN THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW.

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

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

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

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

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

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

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

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

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

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

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

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

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