

10166

I N A S S E M B L Y

May 13, 2016

Introduced by M. of A. BARRON -- read once and referred 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 106 of the social services law, as amended by
2 section 1 of part S of chapter 56 of the laws of 2014, is amended to
3 read as follows:
4 S 106. Powers of social services official to receive and dispose of a
5 deed, mortgage, or lien. 1. A social services official responsible, by
6 or pursuant to any provision of this chapter, for the administration of
7 assistance [or care] granted or applied for [may] SHALL NOT accept a
8 deed of real property and/or a mortgage thereon on behalf of the social
9 services district for the assistance [and care] of a person at public
10 expense [but such property shall not be considered as public property
11 and shall remain on the tax rolls and such deed or mortgage shall be
12 subject to redemption as provided in paragraph (a) of subdivision six
13 hereof].
14 2. [A social services official may not assert any claim under any
15 provision of this section to recover] (A) NOTWITHSTANDING SUBDIVISION
16 ONE OF THIS SECTION, IF, PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF
17 THE LAWS OF TWO THOUSAND SIXTEEN THAT AMENDED THIS SECTION, A SOCIAL
18 SERVICES OFFICIAL ACCEPTED A DEED OF REAL PROPERTY AND/OR A MORTGAGE ON
19 BEHALF OF THE SOCIAL SERVICES DISTRICT FOR THE ASSISTANCE OF A PERSON AT
20 PUBLIC EXPENSE, SUCH SOCIAL SERVICES OFFICIAL SHALL NOT ASSERT ANY CLAIM
21 UNDER ANY PROVISION OF THIS SECTION TO RECOVER:
22 (1) payments made as part of Supplemental Nutrition Assistance Program
23 (SNAP), child care services, Emergency Assistance to Adults or the Home
24 Energy Assistance Program (HEAP)[.];
25 [3. A social services official may not assert any claim under any
26 provision of this section to recover] (2) payments of public assistance
27 if such payments were reimbursed by child support collections[.];

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

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1 [4. A social services official may not assert any claim under any
2 provision of this section to recover] (3) payments of public assistance
3 unless, before [it has accepted] a deed or mortgage WAS ACCEPTED from an
4 applicant or recipient, [it has] THE OFFICIAL first received a signed
5 acknowledgment from the applicant or recipient acknowledging that:

6 [(a)] A. benefits provided as part of Supplemental Nutrition Assist-
7 ance Program (SNAP), child care services, Emergency Assistance to Adults
8 or the Home Energy Assistance Program (HEAP) may not be included as part
9 of the recovery to be made under the mortgage or lien; and

10 [(b)] B. if the applicant or recipient declines to provide the lien or
11 mortgage the children in the household SHALL remain eligible for public
12 assistance.

13 [5. (a)] (B) SUCH PROPERTY SHALL NOT BE CONSIDERED PUBLIC PROPERTY AND
14 SHALL REMAIN ON THE TAX ROLLS AND SUCH DEED OR MORTGAGE SHALL BE SUBJECT
15 TO REDEMPTION AS PROVIDED IN SUBPARAGRAPH ONE OF PARAGRAPH (D) OF THIS
16 SUBDIVISION.

17 (C) (1) Until a deed, mortgage, or lien, accepted prior to [or after]
18 the effective date of this [act,] SECTION is satisfied or otherwise
19 disposed of, the social services district shall issue and mail to the
20 last known address of the person [giving] WHO GAVE such deed or mort-
21 gage, or his or her estate or those entitled thereto, a biennial
22 accounting of the public assistance incurred and repairs and taxes paid
23 on property. The social services district shall provide such accounting
24 no later than February first, two thousand sixteen and biennially there-
25 after.

26 [(b)] (2) Such accounting shall include information regarding the debt
27 owed as of the end of the district's most recent fiscal year including,
28 but not limited to:

29 [(1)] A. an enumeration of all public assistance incurred by the
30 person [giving] WHO GAVE such deed or mortgage or his or her household
31 to date;

32 [(2)] B. the current amount of recoverable public assistance under the
33 deed or mortgage;

34 [(3)] C. the amount of any credits against public assistance including
35 but not limited to:

36 [A.] (I) the amount of child support collected and retained by the
37 social services district as reimbursement for public assistance;

38 [B.] (II) recoveries made under section one hundred four of this
39 title;

40 [C.] (III) recoveries made under section one hundred thirty-one-r of
41 this chapter.

42 [(4)] D. Said accounting shall also provide information regarding the
43 manner in which payments may be made to the social services district to
44 reduce the amount of the mortgage or lien.

45 [(c)] (3) In the event that a biennial accounting is not issued and
46 mailed to the last known address of the person [giving] WHO GAVE such
47 deed or mortgage or his or her estate or those entitled thereto, within
48 the time period required in [paragraph (a) of this subdivision] SUBPARA-
49 GRAPH ONE OF THIS PARAGRAPH, no public assistance shall be recoverable
50 under this section for the previous two fiscal years. In the event that
51 a biennial accounting is not issued and mailed to the last known address
52 of the person [giving] WHO GAVE such deed or mortgage or his or her
53 estate or those entitled thereto, within the time period required in
54 [paragraph (a) of this subdivision] SUBPARAGRAPH ONE OF THIS PARAGRAPH,
55 and such person has received no recoverable public assistance in the
56 district's most recent fiscal year, no public assistance shall be recov-

erale under this section for the most recent two fiscal years where public assistance remains recoverable.

[6. (a) (1)] (D) (1) A. Until such property or mortgage is sold, assigned or foreclosed pursuant to law by the social services official, the person [giving] WHO GAVE such deed or mortgage, or his OR HER estate or those entitled thereto, may redeem the same by the payment of all expenses incurred for the support of the person, and for repairs and taxes paid on such property, provided, however, that a social services official may enter into a contract for such redemption, subject to the provisions of this [paragraph] SUBPARAGRAPH, and containing such terms and conditions, including provisions for periodic payments, without interest, for an amount less than the full expenses incurred for the support of the person and for repairs and taxes paid on such property (hereinafter called a "lesser sum"), which lesser sum shall in no event be less than the difference between the appraised value of such property and the total of the then unpaid principal balance of any recorded mortgages and the unpaid balance of sums secured by other liens against such property.

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

[(3)] C. Every redemption contract for any lesser sum shall be approved by the department upon an application by the social services official containing the appraisal and statement required by [subparagraph two] CLAUSE B OF THIS SUBPARAGRAPH, a statement by the social services official of his OR HER reasons for entering into the contract for such lesser sum and any other information required by regulations of the department.

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

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

[(b)] (2) In order to allow a minimum period for redemption, the social services official shall not sell the property or mortgage until after the expiration of one year from the date he OR SHE received the deed or mortgage, but if unoccupied property has not been redeemed within six months from the date of death of the person who conveyed it to him OR HER by deed the social services official may thereafter, and before the expiration of such year, sell the property.

[(c)] (3) Except as otherwise provided in this chapter, upon the death of the person or his OR HER receiving institutional care, if the mortgage has not been redeemed, sold or assigned, the social services official may enforce collection of the mortgage debt in the manner provided for the foreclosure of mortgages by action.

[(d)] (4) Provided the department shall have given its approval in writing, the social services official may, when in his OR HER judgment it is advisable and in the public interest, release a part of the property from the lien of the mortgage to permit, and in consideration of, the sale of such part by the owner and the application of the proceeds

1 to reduce said mortgage or to satisfy and discharge or reduce a prior or
2 superior mortgage.

3 [(e)](5) While real property covered by a deed or mortgage is occu-
4 pied, in whole or in part, by an aged, blind or disabled person who
5 executed such deed or mortgage to the social services official for old
6 age assistance, assistance to the blind or aid to the disabled granted
7 to such person before January first, nineteen hundred seventy-four, the
8 social services official shall not sell the property or assign or
9 enforce the mortgage unless it appears reasonably certain that the sale
10 or other disposition of the property will not materially adversely
11 affect the welfare of such person. After the death of such person no
12 claim for assistance granted him OR HER shall be enforced against any
13 real property while it is occupied by the surviving spouse.

14 [(f)](6) Except as otherwise provided, upon the death of a person who
15 executed a lien to the social services official in return for old age
16 assistance, assistance to the blind or aid to the disabled granted prior
17 to January first, nineteen hundred seventy-four, or before the death of
18 such person if it appears reasonably certain that the sale or other
19 disposition of the property will not materially adversely affect the
20 welfare of such person, the social services official may enforce such
21 lien in the manner provided by article three of the lien law. After the
22 death of such person the lien may not be enforced against real property
23 while it is occupied by the surviving spouse.

24 [7.](E) The sale of any parcel of real property or mortgage on real
25 property by the social services official, under the provisions of this
26 section, shall be made at a public sale, held at least two weeks after
27 notice thereof shall have been published in a newspaper having a general
28 circulation in that section of the county in which the real property is
29 located. Such notice shall specify the time and place of such public
30 sale and shall contain a brief description of the premises to be sold,
31 or upon which the mortgage is a lien, as the case may be. Unless in the
32 judgment of the social services official, it shall be in the public
33 interest to reject all bids, such parcel or mortgage shall be sold to
34 the highest responsible bidder.

35 [8.](F) It is permissible for social services officials to subordinate
36 a mortgage taken on behalf of the social services district pursuant to
37 this section. In the event that a social services official determines to
38 subordinate a mortgage, or lien, he or she shall do so within thirty
39 days of receipt of written notice that the mortgagor is attempting to
40 modify their mortgage that is held by a mortgagee with superior lien
41 rights and subordination of the social services district's mortgage is
42 required by such mortgagee in order for it to approve or complete the
43 modification.

44 S 2. Section 360 of the social services law, as added by chapter 722
45 of the laws of 1951, subdivisions 1 and 3 as amended by section 92 of
46 part B of chapter 436 of the laws of 1997, subdivision 2 as amended by
47 chapter 909 of the laws of 1974, and subdivision 4 as amended by chapter
48 803 of the laws of 1959, is amended to read as follows:

49 S 360. Real property of legally responsible relatives[; deeds and
50 mortgages may be required]. [1.] The ownership of real property by an
51 applicant or applicants, recipient or recipients who is or are legally
52 responsible relatives of the child or children for whose benefit the
53 application is made or the aid is granted, whether such ownership be
54 individual or joint as tenants in common, tenants by the entirety or
55 joint tenants, shall not preclude the granting of family assistance or
56 the continuance thereof if he or they are without the necessary funds to

1 maintain himself, herself or themselves and such child or children.
2 [The social services official may, however, require, as a condition to
3 the granting of aid or the continuance thereof, that he or she be given
4 a deed of or a mortgage on such property in accordance with the
5 provisions of section one hundred six.

6 2. However, while the property covered by the deed or mortgage is
7 occupied, in whole or in part, by the responsible relative who gave such
8 deed or mortgage to the social services official or, by a child for
9 whose benefit the aid was granted the social services official shall not
10 sell the property or assign or enforce the mortgage without the written
11 consent of the department; and, when the property is occupied by such
12 child, such consent shall not be given unless it appears reasonably
13 certain that the sale or other disposition of the property will not
14 materially adversely affect the welfare of such child.

15 3. The net amount recovered by the social services department from
16 such property, less any expenditures approved by the department for the
17 burial of the relative or the child who dies while in receipt of aid
18 under this title, shall be used to repay the social services district,
19 the state and the federal government their proportionate share of the
20 cost of family assistance granted. The state and federal share shall be
21 paid by the social services district to the state and the manner and
22 amount of such payment shall be determined in accordance with the regu-
23 lations of the department.

24 4. If any balance remains it shall belong to the estate of the legal-
25 ly responsible relative or relatives and the public welfare district
26 shall forthwith credit the same accordingly, and, provided they claim it
27 within four years thereafter, pay it to the persons entitled thereto.
28 If not so claimed within four years it shall be deemed abandoned proper-
29 ty and be paid to the state comptroller pursuant to section thirteen
30 hundred five of the abandoned property law.

31 5. The proceeds or moneys due the United States shall be paid or
32 reported in such manner and at such times as the federal security agency
33 or other authorized federal agency may direct.]

34 S 3. This act shall take effect on the first of April next succeeding
35 the date on which it shall have become a law.