

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

741--A

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommended to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 the right to convey title to the affected parcel or parcels in the same
2 manner as provided by subdivision three of this section.

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

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

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

1 barred and forever foreclosed of all such right, title, interest, claim,
2 lien or equity of redemption.

3 5. Notification of surplus. Upon confirmation of a surplus resulting
4 from a sale of the foreclosed property under subdivision four of this
5 section, the city of Buffalo shall attempt to notify the owner of the
6 property or his or her heirs, successors, or assigns, at least three
7 times within two consecutive calendar years from the date of the sale of
8 the property. Five years after the date of such foreclosure, any moneys
9 remaining with the comptroller shall be paid to the Buffalo urban
10 renewal agency to support the agency's weatherization and community
11 development projects. Provided, however, if the occupant of a property,
12 at the time of the foreclosure sale, is the owner-occupant and such
13 occupant uses the property as their primary residence, any surplus from
14 a sale of such property shall remain with the comptroller until claimed
15 by a rightful owner. Any individual owner, their heirs, successors or
16 assigns of an owner occupied foreclosed property may collect the surplus
17 from such foreclosure at any time from the county comptroller or state
18 comptroller.

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