

# STATE OF NEW YORK

1570--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 12, 2017

Introduced by M. of A. BARRON, HEVESI, PEOPLES-STOKES, WILLIAMS, GOTTFRIED, COOK, CRESPO, JAFFEE, CARROLL, STECK, AUBRY -- Multi-Sponsored by -- M. of A. SIMON -- read once and referred to the Committee on Social Services -- reported and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, do enact as follows:

Section 1. Section 106 of the social services law, as amended by section 1 of part S of chapter 56 of the laws of 2014, is amended to read as follows:

§ 106. Powers of social services official to receive and dispose of a deed, mortgage, or lien. 1. A social services official responsible, by or pursuant to any provision of this chapter, for the administration of assistance ~~[or care]~~ granted or applied for ~~[may]~~ shall not accept a deed of real property and/or a mortgage thereon on behalf of the social services district for the assistance ~~[and care]~~ of a person at public expense ~~[but such property shall not be considered as public property and shall remain on the tax rolls and such deed or mortgage shall be subject to redemption as provided in paragraph (a) of subdivision six hereof]~~.

2. ~~[A social services official may not assert any claim under any provision of this section to recover]~~ (a) Notwithstanding subdivision one of this section, if, prior to the effective date of the chapter of the laws of two thousand eighteen that amended this section, a social services official accepted a deed of real property and/or a mortgage on behalf of the social services district for the assistance of a person at

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

LBD00323-02-8

1 public expense, such social services official shall not assert any claim  
2 under any provision of this section to recover:

3 (1) payments made as part of Supplemental Nutrition Assistance Program  
4 (SNAP), child care services, Emergency Assistance to Adults or the Home  
5 Energy Assistance Program (HEAP)[~~7~~

6 ~~3. A social services official may not assert any claim under any~~  
7 ~~provision of this section to recover];~~

8 (2) payments of public assistance if such payments were reimbursed by  
9 child support collections[~~7~~

10 ~~4. A social services official may not assert any claim under any~~  
11 ~~provision of this section to recover];~~

12 (3) payments of public assistance unless, before [~~it has accepted~~] a  
13 deed or mortgage was accepted from an applicant or recipient, [~~it has~~]  
14 the official first received a signed acknowledgment from the applicant  
15 or recipient acknowledging that:

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

20 [~~(b)~~] B. if the applicant or recipient declines to provide the lien or  
21 mortgage the children in the household shall remain eligible for public  
22 assistance.

23 [~~5--(a)~~] (b) Such property shall not be considered public property and  
24 shall remain on the tax rolls and such deed or mortgage shall be subject  
25 to redemption as provided in subparagraph one of paragraph (d) of this  
26 subdivision.

27 (c) (1) Until a deed, mortgage, or lien, accepted prior to [~~or after~~]  
28 the effective date of this [~~act,~~] section is satisfied or otherwise  
29 disposed of, the social services district shall issue and mail to the  
30 last known address of the person [~~giving~~] who gave such deed or mort-  
31 gage, or his or her estate or those entitled thereto, a biennial  
32 accounting of the public assistance incurred and repairs and taxes paid  
33 on property. The social services district shall provide such accounting  
34 no later than February first, two thousand sixteen and biennially there-  
35 after.

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

39 [~~(1)~~] A. an enumeration of all public assistance incurred by the  
40 person [~~giving~~] who gave such deed or mortgage or his or her household  
41 to date;

42 [~~(2)~~] B. the current amount of recoverable public assistance under the  
43 deed or mortgage;

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

46 [~~A-~~] (i) the amount of child support collected and retained by the  
47 social services district as reimbursement for public assistance;

48 [~~B-~~] (ii) recoveries made under section one hundred four of this  
49 title;

50 [~~C-~~] (iii) recoveries made under section one hundred thirty-one-r of  
51 this chapter.

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

55 [~~(e)~~] (3) In the event that a biennial accounting is not issued and  
56 mailed to the last known address of the person [~~giving~~] who gave such

1 deed or mortgage or his or her estate or those entitled thereto, within  
2 the time period required in [~~paragraph (a) of this subdivision~~] subpara-  
3 graph one of this paragraph, no public assistance shall be recoverable  
4 under this section for the previous two fiscal years. In the event that  
5 a biennial accounting is not issued and mailed to the last known address  
6 of the person [~~giving~~] who gave such deed or mortgage or his or her  
7 estate or those entitled thereto, within the time period required in  
8 [~~paragraph (a) of this subdivision~~] subparagraph one of this paragraph,  
9 and such person has received no recoverable public assistance in the  
10 district's most recent fiscal year, no public assistance shall be recov-  
11 erable under this section for the most recent two fiscal years where  
12 public assistance remains recoverable.

13 [~~6. (a) (1)~~] (d) (1) A. Until such property or mortgage is sold,  
14 assigned or foreclosed pursuant to law by the social services official,  
15 the person [~~giving~~] who gave such deed or mortgage, or his or her estate  
16 or those entitled thereto, may redeem the same by the payment of all  
17 expenses incurred for the support of the person, and for repairs and  
18 taxes paid on such property, provided, however, that a social services  
19 official may enter into a contract for such redemption, subject to the  
20 provisions of this [~~paragraph~~] subparagraph, and containing such terms  
21 and conditions, including provisions for periodic payments, without  
22 interest, for an amount less than the full expenses incurred for the  
23 support of the person and for repairs and taxes paid on such property  
24 (hereinafter called a "lesser sum"), which lesser sum shall in no event  
25 be less than the difference between the appraised value of such property  
26 and the total of the then unpaid principal balance of any recorded mort-  
27 gages and the unpaid balance of sums secured by other liens against such  
28 property.

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

37 [~~(3)~~] C. Every redemption contract for any lesser sum shall be  
38 approved by the department upon an application by the social services  
39 official containing the appraisal and statement required by [~~subpara-~~  
40 ~~graph two~~] clause B of this subparagraph, a statement by the social  
41 services official of his or her reasons for entering into the contract  
42 for such lesser sum and any other information required by regulations of  
43 the department.

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

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

50 [~~(b)~~] (2) In order to allow a minimum period for redemption, the  
51 social services official shall not sell the property or mortgage until  
52 after the expiration of one year from the date he or she received the  
53 deed or mortgage, but if unoccupied property has not been redeemed with-  
54 in six months from the date of death of the person who conveyed it to  
55 him or her by deed the social services official may thereafter, and  
56 before the expiration of such year, sell the property.

1    ~~[(e)]~~ (3) Except as otherwise provided in this chapter, upon the death  
2 of the person or his or her receiving institutional care, if the mort-  
3 gage has not been redeemed, sold or assigned, the social services offi-  
4 cial may enforce collection of the mortgage debt in the manner provided  
5 for the foreclosure of mortgages by action.

6    ~~[(d)]~~ (4) Provided the department shall have given its approval in  
7 writing, the social services official may, when in his or her judgment  
8 it is advisable and in the public interest, release a part of the prop-  
9 erty from the lien of the mortgage to permit, and in consideration of,  
10 the sale of such part by the owner and the application of the proceeds  
11 to reduce said mortgage or to satisfy and discharge or reduce a prior or  
12 superior mortgage.

13   ~~[(e)]~~ (5) While real property covered by a deed or mortgage is occu-  
14 pied, in whole or in part, by an aged, blind or disabled person who  
15 executed such deed or mortgage to the social services official for old  
16 age assistance, assistance to the blind or aid to the disabled granted  
17 to such person before January first, nineteen hundred seventy-four, the  
18 social services official shall not sell the property or assign or  
19 enforce the mortgage unless it appears reasonably certain that the sale  
20 or other disposition of the property will not materially adversely  
21 affect the welfare of such person. After the death of such person no  
22 claim for assistance granted him or her shall be enforced against any  
23 real property while it is occupied by the surviving spouse.

24   ~~[(f)]~~ (6) Except as otherwise provided, upon the death of a person who  
25 executed a lien to the social services official in return for old age  
26 assistance, assistance to the blind or aid to the disabled granted prior  
27 to January first, nineteen hundred seventy-four, or before the death of  
28 such person if it appears reasonably certain that the sale or other  
29 disposition of the property will not materially adversely affect the  
30 welfare of such person, the social services official may enforce such  
31 lien in the manner provided by article three of the lien law. After the  
32 death of such person the lien may not be enforced against real property  
33 while it is occupied by the surviving spouse.

34   ~~[(7)]~~ (e) The sale of any parcel of real property or mortgage on real  
35 property by the social services official, under the provisions of this  
36 section, shall be made at a public sale, held at least two weeks after  
37 notice thereof shall have been published in a newspaper having a general  
38 circulation in that section of the county in which the real property is  
39 located. Such notice shall specify the time and place of such public  
40 sale and shall contain a brief description of the premises to be sold,  
41 or upon which the mortgage is a lien, as the case may be. Unless in the  
42 judgment of the social services official, it shall be in the public  
43 interest to reject all bids, such parcel or mortgage shall be sold to  
44 the highest responsible bidder.

45   ~~[(8)]~~ (f) It is permissible for social services officials to subordinate  
46 a mortgage taken on behalf of the social services district pursuant to  
47 this section. In the event that a social services official determines to  
48 subordinate a mortgage, or lien, he or she shall do so within thirty  
49 days of receipt of written notice that the mortgagor is attempting to  
50 modify their mortgage that is held by a mortgagee with superior lien  
51 rights and subordination of the social services district's mortgage is  
52 required by such mortgagee in order for it to approve or complete the  
53 modification.

54   § 2. Section 360 of the social services law, as added by chapter 722  
55 of the laws of 1951, subdivisions 1 and 3 as amended by section 92 of  
56 part B of chapter 436 of the laws of 1997, subdivision 2 as amended by

chapter 909 of the laws of 1974, and subdivision 4 as amended by chapter 803 of the laws of 1959, is amended to read as follows:

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

~~[The social services official may, however, require, as a condition to the granting of aid or the continuance thereof, that he or she be given a deed of or a mortgage on such property in accordance with the provisions of section one hundred six.]~~

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

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

~~4. If any balance remains it shall belong to the estate of the legally responsible relative or relatives and the public welfare district shall forthwith credit the same accordingly, and, provided they claim it within four years thereafter, pay it to the persons entitled thereto. If not so claimed within four years it shall be deemed abandoned property and be paid to the state comptroller pursuant to section thirteen hundred five of the abandoned property law.~~

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

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