

STATE OF NEW YORK

6116

2019-2020 Regular Sessions

IN ASSEMBLY

February 28, 2019

Introduced by M. of A. FITZPATRICK, TAGUE, BYRNES, BLANKENBUSH, GIGLIO, SALKA -- Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, DeSTEFANO, HAWLEY, KOLB, MANKTELOW, McDONOUGH, RAIA -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to enacting provisions related to distressed property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 11 of the real property tax law is amended by adding a new title 3-A to read as follows:

TITLE 3-A

DISTRESSED PROPERTY

Section 1141. Definitions.

1142. Procedures for distressed property.

§ 1141. Definitions. When used in this article: 1. "Distressed property" means any parcel of residential real property that is subject to a tax lien or liens with a lien or liens to value ratio, as determined by the enforcing officer, equal to or greater than fifteen percent and that meets one of the following two criteria:

(a) such parcel has an average of five or more violations of record of the housing maintenance code per dwelling unit which constitute a fire hazard or a serious threat to the life, health or safety of occupants thereof; and

(b) such parcel is subject to a lien or liens for any expenses incurred by the department of housing for the repair or the elimination of any fire hazard or serious threat to the life, health or safety of occupants thereof or any dangerous or unlawful conditions, in an amount equal to or greater than one thousand dollars.

2. "Housing maintenance code" means the provisions of the multiple residence law or the multiple dwelling law, whichever is applicable to the tax district in which the distressed property is situate, the state

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

LBD06012-01-9

1 building conservation and fire prevention code or any local law, ordi-
2 nance, resolution or regulation made or adopted by such tax district
3 relating to the construction, alteration, use, maintenance or occupancy
4 of such property.

5 3. "Department of housing" means any officer, board, bureau, commis-
6 sion, department or other agency of the tax district, or any other
7 public authority designated by the governing body of the tax district in
8 which such property is situate to carry out the functions vested in the
9 department of housing under this article or delegated to the department
10 by the governing body in order to carry out the purposes and provisions
11 of this article.

12 4. "Head of the department of housing" means the person who is the
13 chief executive officer of the department of housing.

14 5. "Residential real property" means any premises that is or may be
15 used in whole or in part as a personal residence, and shall include a
16 one, two, or three family house, an individual condominium unit, a coop-
17 erative apartment unit, or a farm dwelling.

18 6. "Governing body" means: (a) in a county, the county legislative
19 body; (b) in a city, the board of aldermen, common council, commission
20 or other body vested by its charter or other law with jurisdiction to
21 enact ordinances or local laws, except that in a city having a popu-
22 lation of one million or more, if there be a board of estimate, the term
23 "governing body" shall mean such board of estimate; (c) in a town, the
24 town board; and (d) in a village, the board of trustees.

25 § 1142. Procedures for distressed property. 1. The enforcing officer
26 shall, not less than sixty days preceding the date of the sale of a tax
27 lien or tax liens, submit to the department of housing, a description by
28 tax map number, or by such other identification as the enforcing officer
29 may deem appropriate, of any parcel of residential real property on
30 which there is a tax lien that may be foreclosed by the tax district.
31 The head of the department of housing shall determine and direct the
32 enforcing officer, not less than ten days preceding the date of the sale
33 of a tax lien or tax liens, whether any such parcel is a distressed
34 property as defined in subdivision one of section eleven hundred forty-
35 one of this title. Any tax lien on a parcel so determined to be a
36 distressed property shall not be included in such sale. In connection
37 with a subsequent sale of a tax lien or tax liens, the enforcing officer
38 may, not less than sixty days preceding the date of the sale, resubmit
39 to the head of the department of housing a description by tax map
40 number, or by such other identification as the enforcing officer may
41 deem appropriate, of any parcel of residential real property that was
42 previously determined to be a distressed property pursuant to this
43 subdivision and on which there is a tax lien that may be included in
44 such sale. The head of the department of housing shall determine and
45 direct the enforcing officer, not less than ten days preceding the date
46 of the sale, whether such parcel remains a distressed property. If the
47 head of the department of housing determines that the parcel is not a
48 distressed property, then the tax lien on the parcel may be included in
49 the sale.

50 2. The head of the department of housing may periodically review
51 whether a parcel of residential real property is subject to subdivision
52 three of this section or subdivision seven of section eleven hundred
53 thirty-six-a of this article remains a distressed property. If the head
54 of the department of housing determines that the parcel is not a
55 distressed property as defined in subdivision one of section eleven

1 hundred forty-one of this title, then the parcel shall not be subject to
2 such subdivisions.

3 3. Any parcel so determined to be a distressed property shall be
4 subject to an in rem foreclosure action, or in the case where the
5 enforcing officer does not commence such action the head of the depart-
6 ment of housing shall evaluate such parcel and take such action as he or
7 she deems appropriate under the programs, existing at the time of such
8 evaluation, that are designed to encourage the rehabilitation and pres-
9 ervation of existing housing, and shall monitor or cause to be monitored
10 the status of the property. The head of the department of housing, in
11 his or her discretion, shall cause an inspection to be conducted on any
12 parcel so determined to be a distressed property. In addition, the head
13 of the department of housing shall submit to the governing body of the
14 tax district in which such distressed property is situate, a list of all
15 parcels so determined to be a distressed property within thirty days
16 from the date such parcels are identified as a distressed property.

17 § 2. The real property tax law is amended by adding two new sections
18 1136-a and 1136-b to read as follows:

19 § 1136-a. Special procedures relating to final judgment and release of
20 residential real property. Notwithstanding any other provision of law to
21 the contrary:

22 1. The court shall determine upon proof and shall make a finding upon
23 such proof whether there has been due compliance by the tax district
24 with the applicable provisions of this chapter.

25 2. (a) The court shall make a final judgment authorizing the award of
26 possession of any parcel of residential real property described in the
27 list of delinquent taxes not redeemed or withdrawn as provided in this
28 article and as to which no answer is interposed as provided in this
29 section, and authorizing the enforcing officer to prepare, execute and
30 cause to be recorded a deed conveying either to the tax district or to a
31 third party deemed qualified and designated by the head of the depart-
32 ment of housing full and complete title to such lands. Any such convey-
33 ance to a third party shall be for an existing use.

34 (b) Such third party shall be deemed qualified and shall be designated
35 pursuant to such criteria as are established in rules promulgated by the
36 head of the department of housing, provided, however, that such criteria
37 shall include but not be limited to: residential management experience;
38 financial ability; rehabilitation experience; ability to work with
39 government and community organizations; neighborhood ties; and that the
40 head of the department of housing shall consider whether the third party
41 is a responsible legal tenant, not-for-profit organization or neighbor-
42 hood-based-for-profit individual or organization. The head of the
43 department of housing shall not deem qualified any third party who has
44 been finally adjudicated by a court of competent jurisdiction, within
45 seven years of the date on which such third party would otherwise be
46 deemed qualified, to have violated any section of articles one hundred
47 fifty, one hundred seventy-five, one hundred seventy-six, one hundred
48 eighty, one hundred eighty-five or two hundred of the penal law or any
49 similar laws of another jurisdiction, or who has been suspended or
50 debarred from contracting with the tax district or any agency of the tax
51 district pursuant to any provision of law, rule or regulation during the
52 period of such suspension or debarment. The rules promulgated by the
53 head of the department of housing pursuant to this paragraph may estab-
54 lish other bases for disqualification of a third party.

55 3. (a) Following the expiration of the four-month period prescribed in
56 subdivision four of this section, but not more than eight months after

1 the date on which, pursuant to subdivision two of this section, the
2 final judgment authorizing the award of possession of a parcel of resi-
3 dential real property was entered, the enforcing officer may execute a
4 deed, pursuant to subdivision two of this section, with respect to such
5 parcel. The owner of said parcel shall continue to have all of the
6 rights, liabilities, responsibilities, duties and obligations of an
7 owner of such parcel, including, but not limited to, maintaining such
8 parcel in compliance with the housing maintenance, building and fire
9 codes, and all other applicable laws, unless and until the enforcing
10 officer has prepared and executed a deed conveying to the tax district
11 or to a third party full and complete title to such parcel. Upon the
12 execution of such deed, the tax district or the third party shall be
13 seized of an estate in fee simple absolute in such land and all persons,
14 including the state of New York, infants, incompetents, absentees and
15 non-residents who may have had any right, title, interest, claim, lien
16 or equity of redemption in or upon such lands shall be barred and forev-
17 er foreclosed of all such right, title, interest, claim, lien or equity
18 of redemption. The appointment and tenure of receivers, trustees or any
19 other persons, including administrators under article seven-A of the
20 real property actions and proceedings law, appointed by an order of a
21 court to manage real property, shall terminate when title to such prop-
22 erty vests in the city or a third party pursuant to the provisions of
23 this chapter. After such termination, said receivers, trustees or admin-
24 istrators shall be accountable to the courts that appointed them for the
25 faithful performance of their fiduciary obligations during the term of
26 their appointment and to the tax district or such third party for any
27 rents and income received by them for any period subsequent to the date
28 of the vesting of title in the tax district or such third party.

29 (b) If the tax district serves a tenant in possession of a dwelling
30 unit with notice of termination of tenancy on grounds other than nonpay-
31 ment of rent, the acceptance of rent for the first forty-five days after
32 termination of tenancy by anyone other than an employee of the depart-
33 ment of housing designated by the department of housing to receive such
34 rent shall not be deemed or construed as a waiver of the tax district's
35 right to initiate and prosecute a proceeding to terminate the tenancy
36 for good cause.

37 4. Within four months after the date on which, pursuant to subdivision
38 two of this section, the final judgment authorizing the award of
39 possession of a parcel of residential real property was entered, any
40 person claiming to have an interest in such parcel shall have the right
41 to make a payment to the enforcing officer of all taxes, assessments and
42 other legal charges owing on said parcel, the lawful interest thereon to
43 the date of payment and a penalty of five percent of said payment of
44 taxes, assessments and other legal charges and interest, which penalty
45 may not exceed one thousand dollars. Such payment shall be made in cash
46 or by certified or bank check. Within such four-month period, such
47 interested person may also request an installment agreement from the
48 enforcing officer. Such agreement shall require, in addition to full
49 payment of the penalty specified in this subdivision at the time such
50 agreement is entered into, the payment at such time of a first install-
51 ment equal to fifty percent of all taxes, assessments and other legal
52 charges, and the lawful interest thereon, then owing on such parcel, and
53 the payment of the balance of such taxes, assessments and other legal
54 charges and interest in four equal quarterly installments together with
55 all current taxes, assessments and other legal charges that accrue
56 during such period. Upon receipt of payment in full of the amount speci-

1 fied in the first sentence of this subdivision, the enforcing officer
2 shall direct the attorney for the tax district to prepare and cause to
3 be entered an order discontinuing the in rem tax foreclosure action as
4 to said property, cancelling the notice of pendency of such action as to
5 said property and vacating and setting aside the final judgment. Upon
6 the execution of an installment agreement and payment of the amounts due
7 at the time such agreement is executed as provided in this subdivision,
8 the enforcing officer shall direct the attorney for the tax district to
9 prepare and cause to be entered an order vacating and setting aside the
10 final judgment. The entry of either such order shall restore all
11 parties, including owners, mortgagees and any and all lienors, receivers
12 and administrators and encumbrancers, to the status they held immedi-
13 ately before such final judgment was entered. Where the enforcing officer
14 approves an application requesting an installment agreement pursuant to
15 this subdivision, the order vacating and setting aside the final judg-
16 ment shall provide that in the event of any default as to the payment of
17 either quarterly installments or current taxes, assessments or other
18 legal charges during the term of such agreement, all payments under said
19 agreement shall be forfeited and the attorney for the tax district,
20 immediately upon notification by the enforcing officer of such default,
21 shall cause to be entered as to such property a supplemental judgment of
22 foreclosure in the in rem action which authorizes the enforcing officer
23 to prepare, execute and cause to be recorded a deed conveying either to
24 the tax district or to a third party full and complete title to such
25 lands. Upon the entry of such supplemental judgment, the provisions of
26 subdivision three of this section shall apply in the same manner as such
27 subdivision would have applied had no payment been made nor installment
28 agreement executed during the four-month period specified in this subdivi-
29 vision.

30 5. Every deed given pursuant to the provisions of this section shall
31 be presumptive evidence that the action and all proceedings therein and
32 all proceedings prior thereto from and including the assessment of the
33 lands affected and all notices required by law were regular and in
34 accordance with all provisions of law relating thereto. After four
35 months from the date of entry of the final judgment authorizing the
36 award of possession of any parcel of residential real property pursuant
37 to the provisions of this section, the presumption shall be conclusive.
38 No action to set aside such deed may be maintained unless the action is
39 commenced and a notice of pendency of the action is filed in the office
40 of the proper county clerk prior to the time that the presumption
41 becomes conclusive as aforesaid. Should any lawsuit or proceeding be
42 commenced to set aside a deed conveying to a third party a parcel of
43 residential real property pursuant to the provisions of this section,
44 such third party shall send to the attorney for the tax district within
45 ten days of their receipt a copy of any papers served on such third
46 party in such lawsuit or proceeding.

47 6. If the enforcing officer does not execute a deed conveying to the
48 tax district or to a third party a parcel of residential real property
49 within eight months after the entry of final judgment authorizing the
50 award of possession of such parcel pursuant to subdivision two of this
51 section, the enforcing officer shall direct the attorney for the tax
52 district to prepare and cause to be entered an order discontinuing the
53 in rem foreclosure action as to said property, canceling the notice of
54 pendency of such action as to said property and vacating and setting
55 aside said final judgment. The entry of such order shall restore all
56 parties, including owners, mortgagees and any and all lienors, receivers

1 and administrators and encumbrancers, to the status they held immediately
2 before such final judgment was entered.

3 7. If the enforcing officer directs the attorney for the tax district,
4 pursuant to subdivision six of this section, to prepare and cause to be
5 entered an order discontinuing the in rem foreclosure action with
6 respect to a parcel of residential real property determined to be
7 distressed pursuant to section eleven hundred forty-two of this article,
8 the head of the department of housing shall evaluate the parcel deter-
9 mined to be distressed and take such action as he or she deems appropri-
10 ate under the programs, existing at the time of such evaluation, that
11 are designed to encourage the rehabilitation and preservation of exist-
12 ing housing, and shall monitor or cause to be monitored the status of
13 the property. The head of the department of housing shall maintain a
14 register of properties determined to be distressed.

15 § 1136-b. Governing body review of conveyance to a third party. The
16 enforcing officer shall, prior to the execution of a deed conveying full
17 and complete title of any parcel of residential real property to a third
18 party pursuant to subdivision three of section eleven hundred thirty-
19 six-a of this title, notify the governing body of the tax district in
20 which such residential real property is situated of the proposed convey-
21 ance. Within forty-five days of such notification, the governing body
22 may act by local law disapproving the proposed conveyance. In the event
23 the governing body does not act by local law within such forty-five day
24 period, the governing body shall be deemed to have approved the proposed
25 conveyance. During such forty-five day period or, if the governing body
26 acts by local law pursuant to this section, during the period of time
27 from the notification of the governing body to the presentation to the
28 chief executive officer of such tax district of such local law, the
29 eight-month period provided in subdivision three of section eleven
30 hundred thirty-six-a of this title shall be tolled.

31 § 3. This act shall take effect on the one hundred eightieth day after
32 it shall have become a law. Effective immediately, the addition, amend-
33 ment and/or repeal of any rule or regulation necessary for the implemen-
34 tation of this act on its effective date are authorized to be made and
35 completed on or before such effective date.