STATE OF NEW YORK

5607

2023-2024 Regular Sessions

IN ASSEMBLY

March 16, 2023

Introduced by M. of A. WILLIAMS -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to distribution of surplus in tax enforcement proceedings

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

Section 1. The real property tax law is amended by adding a new section 989 to read as follows:

§ 989. Distribution of surplus in tax enforcement proceedings. 1. Notwithstanding the provisions of any general, special or local law to the contrary, when a property owner is divested of title due to the foreclosure of a delinquent real property tax lien on the property, and the property is sold to a third party, the proceeds of such sale shall be distributed as follows:

(a) If the proceeds of the sale are less than or equal to the total taxes due on the property plus interest, penalties and other charges duly imposed upon the property, including the administrative costs associated with the foreclosure process, the entire proceeds shall be paid to the local government.

(b) If the proceeds of the sale exceed the total taxes due on the property plus interest, penalties and other charges duly imposed upon the property, including the administrative costs associated with the foreclosure process, the excess shall be distributed as follows:

(i) If the property is not subject to other liens, the excess proceeds shall be paid to the prior owner or owners of the property.

(ii) If the property is subject to other liens, the lienholders shall be paid from the excess proceeds in the same order and to the same extent as they would be in an action to foreclose a mortgage pursuant to article thirteen of the real property actions and proceedings law. Any proceeds remaining after the other lienholders have been so paid shall be paid to the prior owner or owners of the property.

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

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2. The provisions of this section shall apply whether property is sold through a public auction or otherwise.

3. When a foreclosure concludes with the tax district taking title to property, the provisions of this section shall not apply unless and until the tax district sells the property to a third party; provided that in such a case, if there are excess proceeds to be paid to the prior owner or owners of the property, such proceeds shall be paid to the owner or owners of the property prior to its acquisition by the tax district.

4. The provisions of this section shall not apply to the enforcement of tax liens on abandoned real property. For purposes of this section, real property shall be deemed abandoned if it:

(a) has been included on a local municipal roll, registry or list of vacant and abandoned residential property pursuant to section eleven hundred eleven-a of this chapter, or

(b) has been certified as abandoned commercial or industrial real property pursuant to article nineteen-A of the real property actions and proceedings law, or

(c) has been included on the statewide registry of vacant and abandoned property pursuant to section thirteen hundred ten of the real property actions and proceedings law.

5. A municipality shall notify a property owner when the owner's property netted a surplus at a tax foreclosure auction that was held on or after the effective date of this section. The notification shall be made as directed by the court and shall state the possible existence of a surplus, how to obtain the surplus and the steps the property owner must take to obtain the surplus.

6. This section shall be construed to supersede all general, special and local laws relating to tax enforcement to the extent that such laws would otherwise allow the proceeds of a sale to be distributed in a manner other than as set forth in this section. This section is not intended to supersede such laws in other respects.

§ 2. Subdivision 2 of section 1104 of the real property tax law, as amended by chapter 532 of the laws of 1994, paragraph (iii) as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

2. The provisions of this article shall not be applicable to a county, city or town which: (i) on January first, nineteen hundred ninety-three, was authorized to enforce the collection of delinquent taxes pursuant to a county charter, city charter, administrative code or special law; (ii) adopted a local law, no later than July first, nineteen hundred ninety-four, providing that the collection of taxes in such county, city or town shall continue to be enforced pursuant to such charter, code or special law, as such charter, code or special law may from time to time be amended; and (iii) filed a copy of such local law with the commissioner no later than August first, nineteen hundred ninety-four. Provided, however, that nothing contained herein shall be construed to exempt any such county, city or town from the provisions of section nine hundred eighty-nine of this chapter.

§ 3. Subdivision 1 of section 1166 of the real property tax law, as amended by chapter 500 of the laws of 2015, is amended to read as follows:

1. Whenever any tax district shall become vested with the title to real property by virtue of a foreclosure proceeding brought pursuant to the provisions of this article, such tax district is hereby authorized to sell and convey the real property so acquired, which shall include

any and all gas, oil or mineral rights associated with such real property, either with or without advertising for bids, notwithstanding the provisions of any general, special or local law. **The proceeds obtained from any such sale shall be distributed in the manner provided by section nine hundred eighty-nine of this chapter.**

§ 4. This act shall take effect October 1, 2023, and shall apply to all tax foreclosure proceedings commenced on and after such date.