

# STATE OF NEW YORK

4935--A

2023-2024 Regular Sessions

## IN ASSEMBLY

February 27, 2023

Introduced by M. of A. WEINSTEIN, WALLACE, WILLIAMS -- read once and referred to the Committee on Real Property Taxation -- recommitted to the Committee on Real Property Taxation 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 real property tax law, in relation to tax lien foreclosure

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

1 Section 1. Subdivision 1 of section 924-a of the real property tax  
2 law, as amended by chapter 26 of the laws of 2003, is amended to read as  
3 follows:

4 1. The amount of interest to be added on all taxes received after the  
5 interest free period and all delinquent taxes shall be [~~one-twelfth the~~  
6 ~~rate of interest as determined pursuant to subdivision two or two-a of~~  
7 ~~this section rounded to the nearest one-hundredth of a percentage point~~  
8 sixteen percent per annum, or such other amount as prescribed by section  
9 fourteen-a of the banking law, except as otherwise provided by a general  
10 or special law, or a local law adopted by a city pursuant to the municipi-  
11 pal home rule law or any special law. Such interest shall be added for  
12 each month or fraction thereof until such taxes are paid.

13 § 2. The real property tax law is amended by adding a new section 1185  
14 to read as follows:

15 § 1185. Homeowner bill of rights. Any owner of a residential property,  
16 as defined in section eleven hundred eleven of this article, who occu-  
17 pies such property as their primary residence (or whose heirs or distri-  
18 butees occupy the property as their primary residence where the homeown-  
19 er is deceased) or any purchaser of a contract for a residential  
20 property (or successor in interest to such purchaser) subject to a tax  
21 lien on any parcel of real property, including those liens otherwise  
22 exempt under this article, shall have the following rights:

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

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1 (a) to have any foreclosure on any real property tax lien pursuant to  
2 section nine hundred two of this chapter be a judicial proceeding  
3 specific to each parcel;

4 (b) where the property is the primary residence of an owner entitled  
5 to tax exemption based on age, disability, or veteran status, a foreclo-  
6 sure may not be maintained;

7 (c) to not have exemptions removed or waived for nonpayment of proper-  
8 ty taxes;

9 (d) to be informed of the amount of tax due, the number of tax years  
10 for which the parcel has been in arrears, the date on which the redemp-  
11 tion period ends, the accepted forms of payment, the location where  
12 payments shall be made, and the contact information for the responsible  
13 taxing authority, including but not limited to, the taxpayer advocate or  
14 other similar office within the taxing authority working with homeowners  
15 to resolve tax arrears;

16 (e) to receive pre-foreclosure notices, which shall be conditions  
17 precedent to maintenance of a foreclosure on any tax lien governed by  
18 the service requirements of section thirteen hundred four of the real  
19 property actions and proceedings law;

20 (f) to participate in a mandatory settlement conference process equiv-  
21 alent to the process required in mortgage foreclosure actions pursuant  
22 to rule thirty-four hundred eight of the civil practice law and rules,  
23 which shall be governed by the same good faith negotiation standard  
24 governing that provision, with the goal of: (i) negotiating a mutually  
25 agreeable resolution to avert foreclosure, including, but not limited  
26 to, establishing an affordable repayment plan, abatement of fees, penal-  
27 ties or other charges, forbearance of amounts due, or other home saving  
28 resolution; or (ii) whatever other purposes the court deems appropriate.  
29 A party prosecuting a tax lien foreclosure shall be prohibited from  
30 charging the homeowner for any fees associated with participating in the  
31 settlement conference. Explicitly incorporated into this bill of rights  
32 are subdivisions (c) through (n) of rule thirty-four hundred eight of  
33 the civil practice law and rules, and the office of court administration  
34 shall within ninety days of the effective date of this section promul-  
35 gate rules implementing this mandatory settlement conference process  
36 which shall adapt the foregoing subdivisions to the needs of tax lien  
37 foreclosure cases and which shall, without limitation, include a notice  
38 of the scheduling of the conference that shall require the parties to  
39 appear at the conference with required information for a meaningful  
40 conference and with authority to engage in settlement negotiations;

41 (g) to apply any payments toward delinquent taxes in the order in  
42 which the liens became due;

43 (h) in the event that a residence is foreclosed upon, to receive any  
44 surplus following the sale of the property after the tax lien is satis-  
45 fied ahead of unsecured creditors pursuant to section fifty-two hundred  
46 six of the civil practice law and rules; and

47 (i) where there is a transfer to a municipality pursuant to section  
48 eleven hundred thirty-six of this article or where there is a foreclo-  
49 sure auction with no bidders and the municipality takes possession of  
50 the property, any subsequent sale of the property must be an arm's  
51 length transaction in which the owner has an absolute right to any  
52 surplus funds.

53 § 3. The real property tax law is amended by adding a new section  
54 1185-a to read as follows:

1 § 1185-a. Pre-foreclosure notices. (a) The pre-foreclosure notice  
2 required in subdivision (e) of section eleven hundred eighty-five of  
3 this title shall appear as follows:

4 "YOU MAY BE AT RISK OF FORECLOSURE ON A PROPERTY TAX LIEN  
5 PLEASE READ THE FOLLOWING NOTICE CAREFULLY.

6 As of (date), your property taxes have not been paid for the following  
7 years and amounts each year:

8 The total needed to pay off all tax arrears as of the date of this  
9 notice is:

10 Under New York State law, we are required to send you this notice to  
11 inform you that you are at risk of losing your home.

12 Attached to this notice is a list of government approved housing coun-  
13 seling agencies in your area which provide free counseling. You can also  
14 call the NYS Office of the Attorney General's Homeowner Protection  
15 Program (HOPP) toll-free consumer hotline to be connected to free hous-  
16 ing counseling or legal services in your area at 1-855-HOME-456 (1-855-  
17 466-3456), or visit their website at <http://www.aghomehelp.com>. A state-  
18 wide listing by county is also available at [https://www.dfs.ny.gov/](https://www.dfs.ny.gov/consumer/mortgnynsnpcounselingagencies.html)  
19 consumer/mortgnynsnpcounselingagencies.html. Qualified free help is  
20 available; watch out for companies or people who charge a fee for these  
21 services.

22 Housing counselors from New York-based agencies listed on the website  
23 above are trained to help homeowners who are having problems making  
24 their tax payments and can help you find the best option for your situ-  
25 ation. If you wish, you may also contact our office directly at  
26 \_\_\_\_\_ or our taxpayer advocate at \_\_\_\_\_, who is responsible  
27 for working with homeowners to resolve tax arrears, and ask to discuss  
28 possible payment plans and other options.

29 PLEASE NOTE THAT IF YOU ARE A SENIOR CITIZEN, PHYSICALLY DISABLED,  
30 AND/OR A VETERAN, YOU MAY BE ENTITLED TO A PARTIAL EXEMPTION FROM PROP-  
31 ERTY TAXES or to have tax foreclosure delayed. The following exemptions  
32 that local rules allow that could prevent foreclosure in your case are:

33 Senior Citizen

34 Veteran

35 Physical Disability

36 We encourage you to contact our taxpayer advocate at the telephone  
37 number above if you have any questions about whether you qualify for any  
38 of these exemptions.

39 While we cannot assure that a mutually agreeable resolution is possible,  
40 we encourage you to take immediate steps to try to achieve a resolution.  
41 The longer you wait, the fewer options you may have.

42 If you have not taken any actions to resolve this matter within 90 days  
43 from the date this notice was mailed (or sooner if you cease to live in  
44 the dwelling as your primary residence), we may commence legal action or  
45 other remedies against you to foreclose the tax lien, which may eventu-  
46 ally result in eviction from your home.

47 Under New York State law, you may be barred from entering into a payment  
48 plan or from being permitted to make any payment to save your home after  
49 the "Redemption Date".

50 In your case, the "Redemption Date" is \_\_\_\_\_.

51 IMPORTANT: You have the right to remain in your home until you receive a  
52 court order telling you to leave the property; however, you may lose the  
53 right to continue ownership of your home after the Redemption Date. If a  
54 foreclosure action is filed against you in court, you still have the  
55 right to remain in the home until a court orders you to leave.

1 This notice is not an eviction notice, and a foreclosure action has not  
2 yet been commenced against you."

3 (b) The notice required in subdivision (e) of section eleven hundred  
4 eighty-five of this title shall be sent by such taxing authority or  
5 purchaser of delinquent tax liens to the homeowner (or heirs or distri-  
6 butees if the homeowner is deceased), by registered or certified mail  
7 and also by first-class mail to the last known address of the homeowner,  
8 and to the residence subject to the tax lien. The notices required by  
9 subdivision (e) of section eleven hundred eighty-five of this title  
10 shall be sent by the taxing authority or purchaser of delinquent tax  
11 liens in a separate envelope from any other mailing or notice. Notice  
12 is considered given as of the date it is mailed. The notice required by  
13 subdivision (e) of section eleven hundred eighty-five of this title  
14 shall contain a current list of at least five housing counseling agen-  
15 cies serving the county where the property is located from the most  
16 recent listing available from the department of financial services. The  
17 list shall include the counseling agencies' last known addresses and  
18 telephone numbers. The department of financial services shall make  
19 available on its website a listing, by county, of such agencies. The  
20 taxing authority or purchaser of delinquent tax liens shall use such  
21 lists to meet the requirements of this section.

22 (c) For any homeowner known to have limited English proficiency, the  
23 notice required by subdivision (e) of section eleven hundred eighty-five  
24 of this title shall be in the homeowner's native language (or a language  
25 in which the homeowner is proficient), provided that the language is one  
26 of the six most common non-English languages spoken by individuals with  
27 limited English proficiency in the state of New York, based on United  
28 States census data. The department of financial services shall post the  
29 notices required by subdivision (e) of section eleven hundred eighty-  
30 five of this title on its website in the six most common non-English  
31 languages spoken by individuals with limited English proficiency in the  
32 state of New York, based on the United States census data.

33 § 4. Section 1104 of the real property tax law is amended by adding  
34 two new subdivisions 3 and 4 to read as follows:

35 3. Notwithstanding the provisions of subdivision two of this section,  
36 every county, city and town shall comply with the requirements of  
37 sections eleven hundred eighty-five and eleven hundred eighty-five-a of  
38 this article.

39 4. Notwithstanding the provisions of subdivision two of this section,  
40 every county, city, and town shall comply with the requirements of title  
41 six of this article.

42 § 5. Article 11 of the real property tax law is amended by adding a  
43 new title 7 to read as follows:

#### 44 TITLE 7

#### 45 ADDITIONAL PROTECTIONS

46 Section 1198. Notice of exemptions.

47 1198-a. Senior citizen delinquent tax deferral program.

48 1198-b. Repayment plan.

49 § 1198. Notice of exemptions. Tax districts shall include a statement  
50 on every property tax collection notice notifying homeowners of avail-  
51 able exemptions. The provision of this subdivision shall be met by  
52 providing a notice or legend sent on or with each tax bill to homeowners  
53 reading "IF YOU ARE A SENIOR CITIZEN, PHYSICALLY DISABLED, AND/OR A  
54 VETERAN, YOU MAY BE ENTITLED TO A PARTIAL EXEMPTION FROM PROPERTY TAXES  
55 OR TO HAVE TAX FORECLOSURE DELAYED", followed by the name and telephone  
56 number of a person or department selected by the tax district to respond

1 to inquiries regarding tax exemptions, eligibility, and instructions on  
2 how to apply for such exemptions.

3 § 1198-a. Senior citizen delinquent tax deferral program. 1. A request  
4 by an owner to defer delinquent taxes shall be granted by a tax district  
5 to an individual with an ownership interest in the property if:

6 (a) the property is a one-, two-, or three-family residential proper-  
7 ty;

8 (b) the property serves as the primary residence of the owner;

9 (c) all of the owners are at least seventy years of age or older, or  
10 in the case of property owned by husband and wife, one of the owners is  
11 at least seventy years of age;

12 (d) the gross income of the homeowner is at or below two hundred  
13 percent of the federal poverty level; and

14 (e) the deferral amount plus interest does not exceed eighty percent  
15 of the owner's equity in the property.

16 2. All amounts owed by the owner pursuant to this section shall become  
17 due immediately upon the occurrence of any of the following events:

18 (a) The owner ceases to own the residence.

19 (b) The residence ceases to be the owner's primary residence.

20 (c) The owner's equity in the residence falls below the required  
21 eligible amount pursuant to paragraph (e) of subdivision one of this  
22 section.

23 § 1198-b. Repayment plan. 1. A residential owner of property with a  
24 tax delinquency exceeding five hundred dollars shall be entitled to  
25 enter into a repayment plan to cure a tax delinquency at any time until  
26 the date of redemption.

27 2. The term of the repayment plan shall be no less than eighteen  
28 months, unless a shorter duration is requested by the owner. The amount  
29 due under the agreement shall be paid, as nearly as possible, in equal  
30 amounts on each payment due date. The amount of each such payment shall  
31 be determined by dividing the amount due by the number of required  
32 installment payments.

33 3. No penalties shall be imposed and interest shall not accrue  
34 throughout the repayment plan period.

35 4. The owner shall be deemed to be in default of a payment plan agree-  
36 ment pursuant to this section upon the occurrence of any of the follow-  
37 ing events:

38 (a) Any installment payment is not made within forty-five days from  
39 the payment due date.

40 (b) Any current county tax, assessment, fee, or charge is not paid  
41 when due.

42 (c) The subject property is sold.

43 5. In the event of a default in payments, and after service of a twen-  
44 ty-day notice of default, the tax district shall have the right to  
45 require the entire unpaid balance, with interest, to be paid in full.

46 § 6. The real property tax law is amended by adding a new section  
47 1194-b to read as follows:

48 § 1194-b. Proceeding for determining just compensation after foreclo-  
49 sure of tax lien by proceeding in rem. 1. For the purposes of this  
50 section, the following terms shall have the following meanings:

51 (a) "Appraised value" shall mean a retrospective appraisal of the  
52 property effective as of the date of the loss of title by the former  
53 owners determined by an independent New York state licensed residential  
54 real estate appraiser.

55 (b) "Just compensation" shall mean the appraised value of the property  
56 less:

1 (i) all real property taxes, associated interest, and penalties  
2 reasonably related to the cost of the delinquency owed to the tax  
3 district;

4 (ii) reasonable attorney's fees and costs of the foreclosure proceed-  
5 ing;

6 (iii) reasonable appraisal costs; and

7 (iv) referee fees and costs.

8 (c) "Former owner" shall mean a party divested of title due to unpaid  
9 real property taxes or that party's successors, heirs, or assigns, or a  
10 representative of such successors, heirs, or assigns.

11 2. (a) (i) Not more than five days after a former owner is divested of  
12 title, the tax district shall serve upon such former owner, or such  
13 former owner's successors, heirs, or assigns, or a representative of  
14 such successors, heirs, or assigns, a notice of potential compensation.  
15 The tax district may serve anyone whose interest is claimed to be  
16 subject and subordinate to the foreclosed taxes with such notice of  
17 potential compensation.

18 (ii) Such notice of potential compensation shall be served upon the  
19 former owner by regular first class mail and by certified mail, return  
20 receipt requested, to the property address and the last known address of  
21 the former owner. If no address is provided for a property on the tax  
22 rolls, the tax district shall conduct a diligent inquiry for the address  
23 for each and every former owner and send the notice to such addresses.

24 (iii) Such notice of potential compensation must be provided in  
25 substantially the following form: "NOTICE OF POTENTIAL COMPENSATION. The  
26 tax lien foreclosure process for property located at (Property Address)  
27 has concluded and you are entitled to determination of just compensation  
28 through a court proceeding. You should consult an attorney who can  
29 assist you in this process. To be connected with a legal services or  
30 housing counseling organization near you, call 855-HOME-456 or visit  
31 homeownerhelpny.org."

32 (b) (i) Within sixty days of the loss of title resulting from a tax  
33 foreclosure, the tax district shall determine the appraised value of the  
34 property. Within ninety days of the loss of title resulting from a tax  
35 foreclosure, the tax district shall file with the office of the clerk  
36 where the property is located a notice of just compensation. Such notice  
37 shall be served personally upon the former owner and served by regular  
38 mail upon attorneys appearing on behalf of such former owners.

39 (ii) Such notice of just compensation shall include:

40 (A) an offer of just compensation;

41 (B) an itemization of deductions from the appraised value; and

42 (C) a copy of the written appraisal obtained by the tax district.

43 (c) (i) Within sixty days of the mailing by the tax district of the  
44 offer of just compensation, the former owner shall complete and serve  
45 upon the tax district a response to notice of just compensation.

46 (ii) Such response to notice of just compensation shall include an  
47 election by the former owner to either accept the tax district's offer  
48 or reject the offer and contest the appraised value.

49 3. (a) (i) Upon receipt of a response to notice of just compensation  
50 accepting the offer of just compensation, the former owner shall enter  
51 into a written agreement with the tax district accepting such offer.

52 (ii) Upon receipt of a response to notice of just compensation reject-  
53 ing the offer of just compensation, the tax district shall enter into  
54 negotiations to reach a consensual agreement with the former owner. At  
55 all times, the tax district shall make every reasonable and expeditious

1 effort to justly compensate the former owner for such real property by  
2 good faith negotiation and agreement.

3 (b) (i) If the former owner is dissatisfied with the result of the  
4 negotiations required pursuant to subparagraph (ii) of paragraph (a) of  
5 this subdivision, the former owner may submit to a court of competent  
6 jurisdiction a request for hearing to determine just compensation.

7 (ii) Within fourteen days of receipt of a request for hearing to  
8 determine just compensation, the court shall by reference or otherwise:

9 (A) direct the parties to exchange and file appraisal reports by a  
10 date certain before the hearing, to be completed at least twenty days  
11 before such hearing; and

12 (B) fix the place and time for such hearing to determine the just  
13 compensation.

14 (c) The former owner shall have a period of up to three years from the  
15 loss of title to either (i) accept the tax district's offer; or (ii)  
16 request a hearing to ascertain just compensation. In the event of any  
17 conflict, the three-year period specified in this paragraph shall  
18 control. Following such three-year period, funds held by the tax  
19 district after the payment of real property taxes, associated interest,  
20 and penalties reasonably related to the cost of the delinquency owed to  
21 the tax district shall be transferred to the New York state comp-  
22 troller's office of unclaimed funds.

23 4. All tax districts shall review and amend existing legislation as  
24 necessary to establish procedures to carry out the provisions of this  
25 section.

26 § 7. This act shall take effect immediately.