

STATE OF NEW YORK

9326

IN ASSEMBLY

February 29, 2024

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

AN ACT to amend the real property tax law, in relation to procedures for the foreclosure of tax lien proceedings

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

1 Section 1. Section 1166 of the real property tax law, as amended by
2 chapter 532 of the laws of 1994 and subdivision 1 as amended by chapter
3 500 of the laws of 2015, is amended to read as follows:

4 § 1166. Real property acquired by tax district; right of sale. 1.
5 Whenever any tax district shall become vested with the title to real
6 property by virtue of a foreclosure proceeding brought pursuant to the
7 provisions of this article, such tax district is hereby authorized to
8 sell and convey the real property so acquired at public auction to the
9 highest bidder, which shall include any and all gas, oil or mineral
10 rights associated with such real property, [~~either with or without~~
11 ~~advertising for bids,~~] notwithstanding the provisions of any general,
12 special or local law.

13 2. [~~No such sale shall be effective unless and until such sale shall~~
14 ~~have been approved and confirmed by a majority vote of the governing~~
15 ~~body of the tax district, except that no such approval shall be required~~
16 ~~when the property is sold at public auction to the highest bidder.] (a)~~

17 Notice of such sale shall be given by the officer making it by publish-
18 ing a notice of the time and place of the sale, containing a description
19 of the property to be sold, in a newspaper published in the county in
20 which the property is located, or, if there is none, in a newspaper
21 published in an adjoining county, unless the property is situated wholly
22 or partly in a city, or in an incorporated village in which a daily,
23 semi-weekly or tri-weekly newspaper is published, and, in that case, by
24 publishing notice of the sale in such a daily, semi-weekly or tri-weekly
25 paper, except that where such real property is located in a county with-
26 in the city of New York such publication shall be in a daily newspaper
27 published within such county, or in a weekly paper published in a city
28 or in such incorporated village. If the property be situated in a city,

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

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1 or a village in which no newspaper is published daily, semi-weekly or
2 tri-weekly, and there be an adjoining city or village in the same or
3 another county, in which a newspaper is published daily, semi-weekly or
4 tri-weekly, such notice may be published in such daily, semi-weekly or
5 tri-weekly newspaper of the latter city or village or in a weekly news-
6 paper of such city. In each case, publication may be either once in each
7 week for four successive weeks or at least twice in each week for three
8 successive weeks preceding the original date fixed for the sale. If the
9 publication is for three weeks, such sale shall take place on any day on
10 or after the twenty-first day and on or before the twenty-eighth day
11 after the day of the first publication; and if the publication is for
12 four weeks such sale shall take place on any day on or after the twen-
13 ty-eighth day and on or before the thirty-fifth day after the day of the
14 first publication. Any period of seven successive days shall constitute
15 a week under this section.

16 (b) Where the property is situated wholly outside a city or an incor-
17 porated village referred to in paragraph (a) of this subdivision, notice
18 of such sale shall also be given by posting a copy of the notice of sale
19 at least twenty-eight days preceding the original date fixed for the
20 sale in three public places in the town in which the property is
21 located, and, if the sale is to be held in another town or in a city, in
22 three public places therein.

23 (c) If the officer appointed to make such sale does not appear at the
24 time and place where such sale has been advertised to take place, the
25 attorney for the plaintiff may postpone or adjourn such sale not to
26 exceed four weeks, during which time such attorney may make application
27 to the court to have another person appointed to make such sale. Notice
28 of postponement of the sale shall be posted at least three days prior to
29 the postponed date in the same places as the original notice of sale
30 when posting of the notice of sale is required, and shall be published
31 once at least three days prior to the postponed date in the newspaper in
32 which the notice of sale was originally published.

33 (d) The terms of the sale shall be made known at the sale.

34 (e) If the property consists of two or more distinct buildings, farms
35 or lots, they shall be sold separately, unless otherwise ordered by the
36 court; but where two or more buildings are situated in the same city
37 lot, they shall be sold together.

38 (f) At any time within one year after the sale, but not thereafter,
39 the court, upon such terms as may be just, may set the sale aside for
40 failure to comply with the provisions of this section as to the notice,
41 time or manner of such sale if a substantial right of a party was preju-
42 diced by the defect.

43 3. After the sale pursuant to this section, all surplus moneys arising
44 from the sale shall be paid into court by the officer conducting the
45 sale within five days after the same shall be received.

46 4. (a) Within thirty days after completing the sale and executing the
47 proper conveyance to the purchaser, unless such time be extended by the
48 court within said thirty days, the officer making the sale shall file
49 with the clerk his or her report under oath of the disposition of the
50 proceeds of the sale, accompanied by the vouchers of the persons to whom
51 payments were made.

52 (b) A motion to confirm such report of sale shall not be made within
53 three months after the filing of the report and shall in any event be
54 made not later than four months after the filing of such report, except
55 that if there be no surplus moneys arising from the sale of the mort-
56 gaged premises under such judgment, an application for confirmation of

1 the report of sale may be made at any time after the report shall have
2 been filed eight days. Where the report of sale shows surplus money,
3 such report must include the amount of surplus and instructions for how
4 interested parties may apply to claim an interest for such surplus
5 pursuant to subdivision five of this section.

6 (c) Such report required pursuant to this subdivision shall be posted
7 publicly in accordance with the provisions of section eleven hundred
8 twenty-four of this article.

9 (d) Personal notice of the sale of property pursuant to this section
10 shall be administered in accordance with the provisions of section elev-
11 en hundred twenty-five of this article.

12 5. (a) Any person claiming the surplus moneys arising upon the sale of
13 premises pursuant to this section, or any part thereof, either in his or
14 her own name, or by his or her attorney, at any time before the confir-
15 mation of the report of sale, may file with the clerk in whose office
16 the report of sale is filed, a written notice of such claim, stating the
17 nature and extent of his or her claim and the address of himself or
18 herself or his or her attorney.

19 (b) On the motion for confirmation, or at any time within three months
20 thereafter, on notice to all parties who have appeared in the action or
21 filed claims, on motion of any party to the action, or any person who
22 has filed a notice of claim on the surplus moneys, the court, by refer-
23 ence or otherwise, shall ascertain and report the amount due to him or
24 any other person who has a lien on such surplus moneys, and the priority
25 of the several liens thereon and order distribution of surplus moneys.

26 (c) The owner of the equity of redemption, or any party who has
27 appeared in the action or any person who files a notice of claim or who
28 has a recorded lien against the property shall be given notice by mail
29 or in such other manner as the court shall direct, to attend any hearing
30 on disposition of surplus money.

31 6. Whenever any tax district shall become vested with the title to
32 real property by virtue of a foreclosure proceeding brought pursuant to
33 the provisions of this article, such tax district is hereby authorized
34 to keep the real property so acquired for such tax district's use. In
35 such case, a valuation proceeding shall be commenced in accordance with
36 article five of the eminent domain procedure law. Once a determination
37 of the property's fair market value has been made, the court shall order
38 the tax district to pay just compensation to the owners of the fore-
39 closed property, representing the difference between the property's
40 value and the total tax debt owed.

41 § 2. Paragraph (d) of subdivision 2 and subdivision 3 of section 1136
42 of the real property tax law, as amended by chapter 532 of the laws of
43 1994, are amended to read as follows:

44 (d) In directing any conveyance pursuant to this subdivision, the
45 judgment shall direct the enforcing officer of the tax district to
46 prepare and execute a deed conveying title to the parcel or parcels of
47 real property concerned. Such title shall be full and complete in the
48 absence of an agreement between tax districts as herein provided that it
49 shall be subject to the tax liens of one or more tax districts. Upon the
50 execution of such deed, the grantee shall be seized of an estate in fee
51 simple absolute in such parcel unless the conveyance is expressly made
52 subject to tax liens of a tax district as herein provided[, and all
53 persons, including the state, infants, incompetents, absentees and non-
54 residents, who may have had any right, title, interest, claim, lien or
55 equity of redemption in or upon such parcel, shall be barred and forever

~~foreclosed of all such right, title, interest, claim, lien or equity of redemption~~].

3. When no answer has been interposed. The court shall make a final judgment awarding to such tax district the possession of any parcel of real property described in the petition of foreclosure not redeemed as provided in this title and as to which no answer is interposed as provided herein. In addition thereto such judgment shall contain a direction to the enforcing officer of the tax district to prepare, execute and cause to be recorded a deed conveying to such tax district full and complete title to such parcel. Upon the execution of such deed, the tax district shall be seized of an estate in fee simple absolute in such parcel ~~[and all persons, including the state, infants, incompetents, absentees and non residents who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption]~~.

§ 3. Subdivision 10 of section 1194 of the real property tax law, as amended by chapter 149 of the laws of 2003, is amended to read as follows:

10. The conveyance made pursuant to a judgment in any action brought under this title shall vest in the purchaser ~~[all]~~ a proportion of the right, title, interest, claim, lien and equity of redemption in and against the real property sold of all parties to the action, and of all persons whose right, title, interest, claim, lien or equity of redemption has accrued subsequent in time to the filing of the notice of the pendency of the action by assignment of an interest existing prior thereto from one of the parties to the action or any or either of them. All such parties and persons shall ~~[be barred and forever foreclosed by the judgment in such action of all]~~ retain a right, title, interest, claim, lien and equity of redemption in and to the real property sold or any part thereof in proportion to the surplus equity remaining in the property after sale, except that the conveyance shall be subject to all taxes or other legal charges of all tax districts which accrued subsequent to the taxes or other legal charges which were the subject of the action. ~~[Notwithstanding the provisions of subdivision two of]~~ Proceeds of the sale shall be distributed in accordance with section thirteen hundred fifty-four of the real property actions and proceedings law~~[7 this subdivision shall prevail]~~.

§ 4. Subdivision 1 and paragraph (a) of subdivision 2 of section 1112 of the real property tax law, as amended by chapter 532 of the laws of 1994, are amended to read as follows:

1. When a tax district holds more than one tax lien against a parcel, the liens need not be redeemed simultaneously. However, the liens ~~[must]~~ shall be redeemed in ~~[reverse]~~ chronological order, so that the lien with the ~~[most recent]~~ earliest lien date is redeemed first, and the lien with the ~~[earliest]~~ most recent lien date is redeemed last. Notwithstanding the redemption of one or more of the liens against a parcel as provided herein, the enforcement process shall proceed according to the provisions of this article as long as the ~~[earliest]~~ most recent lien remains unredeemed.

(a) When one or more liens against a parcel are redeemed as provided herein, but the ~~[earliest]~~ most recent lien remains unredeemed, the receipt issued to the person redeeming shall include a statement in substantially the following form: "This parcel remains subject to one or more delinquent tax liens. The payment you have made will not post-

1 pone the enforcement of the outstanding lien or liens. Continued failure
2 to pay the entire amount owed will result in the loss of the property."

3 § 5. Paragraph (b) of subdivision 1 of section 1125 of the real prop-
4 erty tax law, as added by chapter 415 of the laws of 2006 and subpara-
5 graph (i) as amended by chapter 275 of the laws of 2009, is amended to
6 read as follows:

7 (b) Notification method. (i) In the case of an owner, the enforcing
8 officer shall cause a copy of such notice to be posted as provided here-
9 in on the property to which the delinquent tax lien relates; in the case
10 of a non-owner, the enforcing officer shall cause a copy of such notice
11 to be posted in his or her office and in the office of the clerk of the
12 court in which the petition of foreclosure has been filed. Notwithstand-
13 ing any provision of law to the contrary, the party to whom such notice
14 is directed may redeem the parcel in question or serve a duly verified
15 answer to the petition of foreclosure until either the thirtieth day
16 after such posting or delivery, or the date specified by the notice of
17 foreclosure as the last day for redemption, whichever is later.

18 (ii) Such notice shall also be sent to each such party both by certi-
19 fied mail and ordinary first class mail, subject to the provisions of
20 subparagraph (iv) of this paragraph. The notice shall be deemed received
21 unless both the certified mailing and the ordinary first class mailing
22 are returned by the United States postal service within forty-five days
23 after being mailed. In that event, the enforcing officer or his or her
24 agent shall attempt to obtain an alternative mailing address from the
25 United States postal service. When notice is required to be sent to the
26 commissioner of taxation and finance, an alternative notice may be used
27 by the enforcing officer, in accordance with instructions prescribed by
28 the commissioner of taxation and finance.

29 [~~(ii)~~] (iii) If an alternative mailing address is found, the enforcing
30 officer shall cause the notice to be mailed to such owner at such
31 address both by certified mail and by ordinary first class mail.
32 Notwithstanding any provision of law to the contrary, such owner may
33 redeem the parcel in question or serve a duly verified answer to the
34 petition of foreclosure until either the thirtieth day after such mail-
35 ing, or the date specified by the notice of foreclosure as the last day
36 for redemption, whichever is later.

37 [~~(iii) If no alternative mailing address can be found, then in the~~
38 ~~case of an owner, the enforcing officer shall cause a copy of such~~
39 ~~notice to be posted as provided herein on the property to which the~~
40 ~~delinquent tax lien relates; in the case of a non-owner, the enforcing~~
41 ~~officer shall cause a copy of such notice to be posted in his or her~~
42 ~~office and in the office of the clerk of the court in which the petition~~
43 ~~of foreclosure has been filed. Notwithstanding any provision of law to~~
44 ~~the contrary, the party to whom such notice is directed may redeem the~~
45 ~~parcel in question or serve a duly verified answer to the petition of~~
46 ~~foreclosure until either the thirtieth day after such posting or deliv-~~
47 ~~ery, or the date specified by the notice of foreclosure as the last day~~
48 ~~for redemption, whichever is later.]~~

49 (iv) Where an owner is listed as "unknown" on the tax roll and the
50 name of such owner cannot be found in the public record, the notice
51 shall be mailed to the property address by ordinary first class mail
52 addressed to "occupant" and a copy thereof shall be posted on the prop-
53 erty to which the tax lien relates.

54 § 6. Subdivision 3 of section 1180 of the real property tax law, as
55 amended by chapter 579 of the laws of 1995, is amended to read as
56 follows:

1 3. If such lands are not redeemed, every person despoiling such lands
2 or interested in making such despoliation upon whom service of the
3 notice has been made, shall be liable to pay to the tax district the
4 ~~[full]~~ differential value ~~[of]~~ between that total tax debt and the
5 market value of the property at the time of foreclosure attributable to
6 any buildings, timber or other products cut or destroyed or removed
7 therefrom, from the date of the filing of the list of delinquent taxes
8 to the termination of such action or proceeding, and may be restrained
9 by injunction from committing any waste thereon. Where the value of the
10 property at the time of foreclosure exceeds the amount of the total tax
11 debt, there shall be no liability for despoliation. The value of the
12 property at the time of foreclosure may be measured by either the amount
13 generated by sale of the property at public auction, in accordance with
14 section eleven hundred sixty-six of this title, or by valuation
15 proceedings in accordance with article five of the eminent domain proce-
16 dure law.

17 § 7. This act shall take effect on the sixtieth day after it shall
18 have become a law. Effective immediately, the addition, amendment and/or
19 repeal of any rule or regulation necessary for the implementation of
20 this act on its effective date are authorized to be made and completed
21 on or before such effective date.