

STATE OF NEW YORK

5213--A

2023-2024 Regular Sessions

IN SENATE

February 27, 2023

Introduced by Sens. THOMAS, MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law and the social services 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. Section 1142 of the real property tax law, as added by
2 section 12 of part BB of chapter 55 of the laws of 2024, is amended to
3 read as follows:

4 § 1142. Homeowner bill of rights. Any owner of a residential property,
5 as defined in section eleven hundred eleven of this article, who occu-
6 pies such property as their primary residence, or whose heirs or distri-
7 butees occupy the property as their primary residence where the homeown-
8 er is deceased, or any purchaser of a contract for a residential
9 property, or successor in interest to such purchaser, subject to a tax
10 lien on any parcel of real property, including those loans otherwise
11 exempt under this article, shall have the following rights:

12 1. Notwithstanding any other general, special, or local law, local tax
13 act, code, rule, regulation, or charter provision to the contrary, to
14 not have exemptions removed or waived for nonpayment of property taxes,
15 except to the extent otherwise provided in section one hundred seventy-
16 one-w of the tax law and any other general law that explicitly author-
17 izes the removal of an exemption due to the nonpayment of taxes;

18 2. To be informed of the amount of tax due, the number of tax years
19 for which the parcel has been in arrears, the date on which the redemp-
20 tion period ends, the accepted forms of payment, the location where
21 payments shall be made, and the contact information for the responsible
22 taxing authority, provided that a claim by an owner that they were not

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

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1 so informed shall not constitute a valid defense to a foreclosure
2 proceeding;

3 3. To receive homeowner warning notices pursuant to section eleven
4 hundred forty-four of this title;

5 4. In the event that their primary residence is foreclosed upon, to
6 receive a share of any surplus resulting from the sale of the property
7 in the manner provided by law; provided however, that such homeowner
8 shall receive any surplus following the sale of the property after the
9 tax lien is satisfied ahead of any secured creditors pursuant to section
10 fifty-two hundred six of the civil practice law and rules;

11 5. To be charged interest at a rate no higher than the maximum allow-
12 able statutory interest rate for unpaid property taxes;

13 6. To enter into installment plans or repayment plans for purposes of
14 paying delinquent taxes [~~where locally authorized~~];

15 7. For owners who are senior citizens who are receiving a senior citi-
16 zens exemption, an enhanced STAR exemption or an enhanced STAR credit,
17 to receive a grace period of five business days to pay their taxes with-
18 out interest in a local government that has opted to grant such an
19 extension to such persons;

20 8. In the event that their primary residence is foreclosed upon, to
21 have all debts related to delinquent taxes owed on such primary resi-
22 dence extinguished upon the foreclosure, except when they have reac-
23 quired title pursuant to subdivision four of section eleven hundred
24 thirty-six of this article; provided, however, that nothing contained
25 herein shall be construed to preclude a tax district from bringing an
26 action against a former owner to recover reasonable costs incurred in
27 acting pursuant to law to remove, abate or mitigate unsafe conditions
28 and/or nuisances that were present on the property at the time of fore-
29 closure, including but not limited to the demolition of unsafe struc-
30 tures and the elimination of fire and health hazards where warranted[+];

31 9. To have real property tax-lien related foreclosures be judicial
32 proceedings;

33 10. To attend a pre-foreclosure settlement conference with the taxing
34 jurisdiction; and

35 11. To have homeowner payments toward delinquent taxes applied in
36 reverse chronological order of when the liens become due.

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

41 2. The provisions of this article shall not be applicable to a county,
42 city or town which: (i) on January first, nineteen hundred ninety-three,
43 was authorized to enforce the collection of delinquent taxes pursuant to
44 a county charter, city charter, administrative code or special law; (ii)
45 adopted a local law, no later than July first, nineteen hundred ninety-
46 four, providing that the collection of taxes in such county, city or
47 town shall continue to be enforced pursuant to such charter, code or
48 special law, as such charter, code or special law may from time to time
49 be amended; and (iii) filed a copy of such local law with the commis-
50 sioner no later than August first, nineteen hundred ninety-four.
51 Provided, however, that notwithstanding any provisions of any general,
52 special or local law to the contrary, if such charter, code or special
53 law does not include provisions allowing for any "surplus" as defined by
54 section eleven hundred ninety-five of this article to be claimed by the
55 former owner or other parties whose interests were extinguished by the
56 foreclosure of a delinquent tax lien, then until such charter, code or

1 special law is amended to comply with the provisions of title three-A of
2 this article, any claims for surplus within such tax district shall be
3 administered in a manner substantially similar to that prescribed by
4 title three-A of this article; and provided further, that on or after
5 the effective date of the chapter of the laws of two thousand twenty-
6 four that amended this subdivision, all local taxing jurisdictions must
7 provide protections to homeowners at least as protective as those
8 prescribed in title three-A of this article.

9 § 3. Subdivision 1 of section 1146 of the real property tax law, as
10 added by section 12 of part BB of chapter 55 of the laws of 2024, is
11 amended to read as follows:

12 1. [~~The governing body of a tax district is hereby authorized and~~
13 ~~empowered to enact and amend a local law providing that in~~] In the case
14 of primary residences with a tax delinquency greater than five hundred
15 dollars but less than thirty thousand dollars or such other limit as may
16 be provided by such local law, the property owner shall be permitted to
17 enter into a repayment plan to cure a tax delinquency at any time until
18 the date of redemption; provided however, that each taxing jurisdiction
19 shall be authorized and empowered to enact a local law to increase the
20 maximum threshold of thirty thousand dollars for tax arrears by passage
21 of a local law, ordinance, or resolution.

22 § 4. The real property tax law is amended by adding a new section 1149
23 to read as follows:

24 § 1149. Pre-foreclosure settlement conferences. 1. Notwithstanding
25 any inconsistent general, special, or local law, local tax act, code,
26 rule, regulation, or charter provision to the contrary, no taxing juris-
27 isdiction shall commence a foreclosure action against any primary resident
28 homeowner without first providing such homeowner with the notice
29 required pursuant to section eleven hundred forty-four of this title,
30 and providing such homeowner an opportunity to engage in a pre-foreclo-
31 sure settlement conference.

32 2. The purpose of such settlement conference shall be, at a minimum,
33 to offer such homeowner information about their rights as enumerated in
34 section eleven hundred forty-two of this title, and to offer such home-
35 owner to opt into a repayment plan as enumerated in section eleven
36 hundred forty-six of this title. Such homeowner shall be informed at
37 such settlement conferences that they shall have the right to enter into
38 a repayment plan of twelve, eighteen, twenty-four, or thirty-six months,
39 as enumerated in section eleven hundred forty-six of this title, if they
40 so opt to avail themselves of such repayment plan. No taxing jurisdic-
41 tion shall initiate a foreclosure proceeding until and unless at least
42 fourteen days have passed since the settlement conference has taken
43 place and the primary resident homeowner has either not opted into a
44 repayment plan, or has defaulted upon such repayment plan.

45 3. Housing counselors from New York-based homeowner protection program
46 agencies may attend such settlement conferences, and may provide infor-
47 mation to such homeowner at such settlement conferences.

48 4. Local taxing jurisdictions may conduct such pre-foreclosure settle-
49 ment conferences in group settings or batches, and an in-person attend-
50 ance option must be offered; provided however, that a homeowner's
51 inability to attend such pre-foreclosure settlement conference shall not
52 be a defense against a foreclosure action, so long as such homeowner was
53 properly notified of such settlement conference, and a virtual attend-
54 ance option was provided.

55 § 5. The social services law is amended by adding a new section 97-a
56 to read as follows:

1 § 97-a. Senior, disabled, and veteran homeowner real property tax
2 assistance program. 1. Each social services district shall assist eligi-
3 ble households found in such districts to obtain real property tax
4 assistance. However, only those persons who qualify for senior, disa-
5 bled, or veterans' assistance in accordance with state requirements, and
6 standards promulgated by the department, shall be certified as eligible
7 for and entitled to receive said homeowner real property tax assistance.
8 No person shall be certified as eligible for and entitled to receive
9 said real property tax assistance if no funds are available for such
10 purpose.

11 2. Notwithstanding any inconsistent provision of law, rule, or regu-
12 lation to the contrary, the amount of any real property tax payments or
13 allowances provided to an eligible household under this program shall
14 not be considered income or resources of such households, or of any
15 member thereof, for any purpose under any federal or state law, includ-
16 ing any law relating to taxation, food stamps, public assistance or
17 other benefits available pursuant to this chapter.

18 § 6. Section 972 of the real property tax law is amended by adding a
19 new subdivision 6 to read as follows:

20 6. Installment plans. Notwithstanding any inconsistent general,
21 special, or local law, local tax act, code, rule, regulation, or charter
22 provision to the contrary, beginning in all local fiscal years commenc-
23 ing in calendar year two thousand twenty-five and thereafter, all local
24 taxing jurisdictions shall offer an option for taxpayers to enter into
25 installment plans which shall permit collection of taxes on at least a
26 quarterly basis.

27 § 7. Section 975 of the real property tax law is amended by adding a
28 new subdivision 7 to read as follows:

29 7. Notwithstanding any inconsistent general, special, or local law,
30 local tax act, code, rule, regulation, or charter provision to the
31 contrary, beginning in all local fiscal years commencing in calendar
32 year two thousand twenty-five and thereafter, all local taxing jurisdic-
33 tions shall promulgate and amend suitable rules and regulations
34 prescribing the necessary forms for carrying into effect the provisions
35 of subdivision six of section nine hundred seventy-two of this article.

36 § 8. Severability clause. If any clause, sentence, paragraph, subdivi-
37 sion, section or subpart contained in any part of this act shall be
38 adjudged by any court of competent jurisdiction to be invalid, such
39 judgment shall not affect, impair, or invalidate the remainder thereof,
40 but shall be confined in its operation to the clause, sentence, para-
41 graph, subdivision, section or subpart contained in any part thereof
42 directly involved in the controversy in which such judgment shall have
43 been rendered. It is hereby declared to be the intent of the legislature
44 that this act would have been enacted even if such invalid provisions
45 had not been included herein.

46 § 9. This act shall take effect immediately.