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:

Section 1. Section 1142 of the real property tax law, as added by section 12 of part BB of chapter 55 of the laws of 2024, is amended to read as follows:

§ 1142. Homeowner bill of rights. Any owner of a residential property, as defined in section eleven hundred eleven of this article, who occupies such property as their primary residence**, or whose heirs or distributees occupy the property as their primary residence where the homeowner is deceased, or any purchaser of a contract for a residential property, or successor in interest to such purchaser, subject to a tax lien on any parcel of real property, including those loans otherwise exempt under this article**, shall have the following rights:

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

2. To be informed of the amount of tax due, the number of tax years for which the parcel has been in arrears, the date on which the redemption period ends, the accepted forms of payment, the location where payments shall be made, and the contact information for the responsible 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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so informed shall not constitute a valid defense to a foreclosure proceeding;

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

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

5. To be charged interest at a rate no higher than the maximum allowable statutory interest rate for unpaid property taxes;

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

7. For owners who are senior citizens who are receiving a senior citizens exemption, an enhanced STAR exemption or an enhanced STAR credit, to receive a grace period of five business days to pay their taxes without interest in a local government that has opted to grant such an extension to such persons;

8. In the event that their primary residence is foreclosed upon, to have all debts related to delinquent taxes owed on such primary residence extinguished upon the foreclosure, except when they have reacquired title pursuant to subdivision four of section eleven hundred thirty-six of this article; provided, however, that nothing contained herein shall be construed to preclude a tax district from bringing an action against a former owner to recover reasonable costs incurred in acting pursuant to law to remove, abate or mitigate unsafe conditions and/or nuisances that were present on the property at the time of foreclosure, including but not limited to the demolition of unsafe structures and the elimination of fire and health hazards where warranted[~~.~~]**;**

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

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

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

§ 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 notwithstanding any provisions of any general, special or local law to the contrary, if such charter, code or special law does not include provisions allowing for any "surplus" as defined by section eleven hundred ninety-five of this article to be claimed by the former owner or other parties whose interests were extinguished by the foreclosure of a delinquent tax lien, then until such charter, code or**

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

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

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

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

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

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

3. Housing counselors from New York-based homeowner protection program agencies may attend such settlement conferences, and may provide information to such homeowner at such settlement conferences.

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

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

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

2. Notwithstanding any inconsistent provision of law, rule, or regulation to the contrary, the amount of any real property tax payments or allowances provided to an eligible household under this program shall not be considered income or resources of such households, or of any member thereof, for any purpose under any federal or state law, including any law relating to taxation, food stamps, public assistance or other benefits available pursuant to this chapter.

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

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

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

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

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

§ 9. This act shall take effect immediately.