

STATE OF NEW YORK

8512

IN SENATE

February 7, 2024

Introduced by Sens. THOMAS, HARCKHAM -- read twice and ordered printed,
and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to tax lien fore-
closure

The People of the State of New York, represented in Senate and Assem-
bly, 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 munici-
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:

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

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

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

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

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

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

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

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

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

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

47 § 3. The real property tax law is amended by adding a new section
48 1185-a to read as follows:

49 § 1185-a. Pre-foreclosure notices. (a) The pre-foreclosure notice
50 required in subdivision (e) of section eleven hundred eighty-five of
51 this article shall appear as follows:

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

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

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

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

5 Attached to this notice is a list of government approved housing coun-
6 seling agencies in your area which provide free counseling. You can also
7 call the NYS Office of the Attorney General's Homeowner Protection
8 Program (HOPP) toll-free consumer hotline to be connected to free hous-
9 ing counseling or legal services in your area at 1-855-HOME-456 (1-855-
10 466-3456), or visit their website at <http://www.aghomehelp.com>. A state-
11 wide listing by county is also available at [https://www.dfs.ny.gov/](https://www.dfs.ny.gov/consumer/mortgnynsnpcounselingagencies.html)
12 consumer/mortgnynsnpcounselingagencies.html. Qualified free help is
13 available; watch out for companies or people who charge a fee for these
14 services.

15 Housing counselors from New York-based agencies listed on the website
16 above are trained to help homeowners who are having problems making
17 their tax payments and can help you find the best option for your situ-
18 ation. If you wish, you may also contact our office directly at
19 _____ or our taxpayer advocate at _____, who is responsible
20 for working with homeowners to resolve tax arrears, and ask to discuss
21 possible payment plans and other options.

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

26 _____ Senior Citizen

27 _____ Veteran

28 _____ Physical Disability

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

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

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

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

43 In your case, the "Redemption Date" is _____.

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

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

51 (b) The notice required in subdivision (e) of section eleven hundred
52 eighty-five of this article shall be sent by such taxing authority or
53 purchaser of delinquent tax liens to the homeowner (or heirs or distri-
54 butees if the homeowner is deceased), by registered or certified mail
55 and also by first-class mail to the last known address of the homeowner,
56 and to the residence subject to the tax lien. The notices required by

1 subdivision (e) of section eleven hundred eighty-five of this article
2 shall be sent by the taxing authority or purchaser of delinquent tax
3 liens in a separate envelope from any other mailing or notice. Notice
4 is considered given as of the date it is mailed. The notice required by
5 subdivision (e) of section eleven hundred eighty-five of this article
6 shall contain a current list of at least five housing counseling agen-
7 cies serving the county where the property is located from the most
8 recent listing available from the department of financial services. The
9 list shall include the counseling agencies' last known addresses and
10 telephone numbers. The department of financial services shall make
11 available on its website a listing, by county, of such agencies. The
12 taxing authority or purchaser of delinquent tax liens shall use such
13 lists to meet the requirements of this section.

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

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

28 3. Notwithstanding the provisions of subdivision two of this section,
29 every county, city and town shall comply with the requirements of
30 sections eleven hundred eighty-five and eleven hundred eighty-five-a of
31 this article.

32 4. Notwithstanding the provisions of subdivision two of this section,
33 every county, city, and town shall comply with the requirements of title
34 six of this article.

35 § 5. Article 11 of the real property tax law is amended by adding a
36 new title 6 to read as follows:

37 TITLE 6

38 ADDITIONAL PROTECTIONS

39 Section 1195. Notice of exemptions.

40 1196. Senior citizen delinquent tax deferral program.

41 1197. Repayment plan.

42 § 1195. Notice of exemptions. Tax districts shall include a statement
43 on every property tax collection notice notifying homeowners of avail-
44 able exemptions. The provision of this subdivision shall be met by
45 providing a notice or legend sent on or with each tax bill to homeowners
46 reading "IF YOU ARE A SENIOR CITIZEN, PHYSICALLY DISABLED, AND/OR A
47 VETERAN, YOU MAY BE ENTITLED TO A PARTIAL EXEMPTION FROM PROPERTY TAXES
48 OR TO HAVE TAX FORECLOSURE DELAYED", followed by the name and telephone
49 number of a person or department selected by the tax district to respond
50 to inquiries regarding tax exemptions, eligibility, and instructions on
51 how to apply for such exemptions.

52 § 1196. Senior citizen delinquent tax deferral program. 1. A request
53 by an owner to defer delinquent taxes shall be granted by a tax district
54 to an individual with an ownership interest in the property if:

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

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

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

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

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

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

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

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

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

16 § 1197. Repayment plan. 1. A residential owner of property with a tax
17 delinquency exceeding five hundred dollars shall be entitled to enter
18 into a repayment plan to cure a tax delinquency at any time until the
19 date of redemption.

20 2. The term of the repayment plan shall be no less than eighteen
21 months, unless a shorter duration is requested by the owner. The amount
22 due under the agreement shall be paid, as nearly as possible, in equal
23 amounts on each payment due date. The amount of each such payment shall
24 be determined by dividing the amount due by the number of required
25 installment payments.

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

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

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

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

35 (c) The subject property is sold.

36 5. In the event of a default in payments, and after service of a twenty-
37 day notice of default, the tax district shall have the right to
38 require the entire unpaid balance, with interest, to be paid in full.

39 § 6. The real property tax law is amended by adding a new section
40 1194-a to read as follows:

41 § 1194-a. Proceeding for determining just compensation after foreclo-
42 sure of tax lien by proceeding in rem. 1. For the purposes of this
43 section, the following terms shall have the following meanings:

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

48 (b) "Just compensation" shall mean the appraised value of the property
49 less:

50 (i) all real property taxes, associated interest, and penalties
51 reasonably related to the cost of the delinquency owed to the tax
52 district;

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

55 (iii) reasonable appraisal costs; and

56 (iv) referee fees and costs.

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

4 2. (a) (i) Not more than five days after a former owner is divested of
5 title, the tax district shall serve upon such former owner, or such
6 former owner's successors, heirs, or assigns, or a representative of
7 such successors, heirs, or assigns, a notice of potential compensation.
8 The tax district may serve anyone whose interest is claimed to be
9 subject and subordinate to the foreclosed taxes with such notice of
10 potential compensation.

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

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

25 (b) (i) Within sixty days of the loss of title resulting from a tax
26 foreclosure, the tax district shall determine the appraised value of the
27 property. Within ninety days of the loss of title resulting from a tax
28 foreclosure, the tax district shall file with the office of the clerk
29 where the property is located a notice of just compensation. Such notice
30 shall be served personally upon the former owner and served by regular
31 mail upon attorneys appearing on behalf of such former owners.

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

33 (A) an offer of just compensation;

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

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

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

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

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

45 (ii) Upon receipt of a response to notice of just compensation reject-
46 ing the offer of just compensation, the tax district shall enter into
47 negotiations to reach a consensual agreement with the former owner. At
48 all times, the tax district shall make every reasonable and expeditious
49 effort to justly compensate the former owner for such real property by
50 good faith negotiation and agreement.

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

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

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

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

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

15 4. All tax districts shall review and amend existing legislation as
16 necessary to establish procedures to carry out the provisions of this
17 section.

18 § 7. This act shall take effect immediately.