§ 1138. Withdrawal of parcels from foreclosure. 1. Grounds. The enforcing officer of any tax district may at any time prior to final judgment withdraw any parcel of real property from a foreclosure proceeding under this title for one or more of the following reasons:

(a) there is reason to believe that there may be a legal impediment to the enforcement of the tax lien affecting such parcel;

(b) the tax has been cancelled or is subject to cancellation pursuant to section five hundred fifty-eight of this chapter, or, in the case of a tax district to which such section does not apply, the tax would be subject to cancellation if such section were applicable to the tax district;

(c) the enforcement of the lien has been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the United States Code);

(d) if the tax district were to acquire the parcel, there is a significant risk that it might be exposed to a liability substantially in excess of the amount that could be recovered by enforcing the tax lien;

(e) the owner of the parcel has entered into an agreement to pay the taxes in installments pursuant to section eleven hundred eighty-four of this article, and has not defaulted thereon;

(f) in a tax district which has extended the redemption period for residential or farm property, (i) the parcel has been included on a petition for foreclosure, (ii) it has since been demonstrated to the satisfaction of the enforcing officer that the parcel is residential or farm property, and (iii) being residential or farm property, the parcel is not yet subject to inclusion on such a petition;

(g) in a tax district which has extended the redemption period for residential property for certain persons deployed by the military (i) the parcel has been included on a petition for foreclosure, (ii) has been demonstrated to the satisfaction of the enforcing officer that the parcel is residential, (iii) the property is eligible for the extended redemption period pursuant to section eleven hundred thirteen of this article, and as such is not yet subject to inclusion of such a petition; or

(h) the tax lien has been or is to be sold pursuant to title five of this article.

2. Procedure. (a) Upon the withdrawal from foreclosure of any parcel of real property, the enforcing officer shall issue a certificate of withdrawal, setting forth the facts which render the parcel eligible for withdrawal from foreclosure. The certificate shall be filed with the clerk of the governing body of the tax district.

(b) If the parcel has been included on a list of delinquent taxes that has been filed pursuant to section eleven hundred twenty-two of this title, the enforcing officer shall file a copy of the certificate of withdrawal with the county clerk within ten business days from the issuance of the certificate. The county clerk shall note the word "withdrawn" and the date of such filing opposite the description of such parcel on the list.

3. Effect. The filing of such a certificate shall have the effect of withdrawing the affected parcel from foreclosure; provided, that (a) the filing shall have no effect upon the tax lien or liens against the affected parcel, nor, if the parcel has been included on a list of delinquent taxes that has been filed pursuant to section eleven hundred twenty-two of this article, upon the notice of pendency with respect to any such parcel, unless the lien should be cancelled pursuant to subdivision six of this section or such other law as may be applicable; and (b) if the lien is not cancelled, the foreclosure proceeding may be reinstated in the manner provided in subdivision four of this section, or a supplementary proceeding to enforce collection of the delinquent tax may be commenced in the manner provided in subdivision five of this section.

4. Reinstatement. (a) The enforcing officer shall reinstate a withdrawn foreclosure proceeding if (i) he or she determines that the parcel is no longer eligible for withdrawal from foreclosure, or (ii) the governing body of the tax district adopts a resolution directing the enforcing officer to reinstate such proceeding.

(b) The enforcing officer shall issue a certificate of reinstatement setting forth the reasons for the reinstatement of the proceeding.

(c) If the parcel has been marked "withdrawn" on a list of delinquent taxes that has been filed pursuant to section eleven hundred twenty-two

of this title, the enforcing officer shall file a copy of the certificate with the county clerk within ten business days from the issuance of the certificate. The county clerk shall note the word "reinstated" and the date of the filing of the certificate of reinstatement opposite the description of such parcel on the list.

(d) The enforcing officer shall file a petition of foreclosure pertaining to the affected parcel as soon thereafter as is practicable. In no event, however, shall such petition be filed sooner than twenty-one months after lien date, or, in the case of property which is subject to a three or four year redemption period, sooner than thirty-three or forty-five months after lien date, respectively.

5. Supplementary proceedings. After a foreclosure proceeding has been withdrawn, the enforcing officer shall commence a supplementary proceeding to collect the delinquent taxes in the manner provided by section nine hundred ninety of this chapter if (a) he or she determines that doing so would be an effective means to enforce collection of the delinquent tax, or (b) the governing body of the tax district adopts a resolution directing the enforcing officer to commence such a proceeding. Such a proceeding may be commenced within one year from the issuance of a certificate of withdrawal, notwithstanding the fact that the enforcing officer may have previously proceeded pursuant to the provisions of this article.

6. Cancellation. (a) After a foreclosure proceeding has been withdrawn, the governing body of the tax district may cancel the delinquent tax lien if it determines that there is no practical method to enforce the collection of the delinquent tax lien and that a supplementary proceeding to enforce collection of the tax would not be effective. A copy of the resolution directing the cancellation of the lien shall be filed with the enforcing officer.

(b) If the parcel has been included on a list of delinquent taxes that has been filed with the county clerk, the enforcing officer shall issue a certificate of cancellation, setting forth the relevant facts, and file a copy of the same with the county clerk within ten business days from the issuance of the certificate. The county clerk shall note the word "cancelled" and the date of the filing of the certificate of

cancellation opposite the description of such parcel on the list. The filing of such a certificate of cancellation shall operate to cancel the notice of pendency with respect to the parcel.

(c) A tax district shall not be required to credit or otherwise guarantee to any municipal corporation the amount of any delinquent tax lien which has been cancelled in the manner provided by this section. If such a credit or guarantee shall have been given before the cancellation of the lien, the tax district shall be entitled to charge back to the municipal corporation the amount so credited or guaranteed.

(d) If the governing body should determine that there is no practical method to enforce the collection of delinquent tax liens arising thereafter against the parcel, it may direct the enforcing officer to issue a certificate of prospective cancellation, setting forth the relevant facts. The enforcing officer shall file a copy of the certificate with the assessor of the assessing unit in which the parcel is located and with the county director of real property tax services. The parcel shall thereby become exempt from taxation notwithstanding any other provision of law. The parcel shall remain exempt until the governing body determines that the parcel should be restored to the taxable portion of the assessment roll, and the enforcing officer files a certificate of restoration, setting forth the relevant facts, with the assessor and county director of real property tax services.