§ 1194. Foreclosure of tax lien as in an action to foreclose a mortgage. 1. Upon the expiration of the redemption period prescribed by law, the purchaser of a delinquent tax lien, or its successors or assigns, may foreclose the lien as in an action to foreclose a mortgage. The procedure in such action shall be the procedure prescribed by article thirteen of the real property actions and proceedings law for the foreclosure of mortgages, except as herein otherwise provided. The complaint in any such action shall be duly verified. At any time following the commencement of an action to foreclose a lien, the amount required to redeem the lien, or the amount received upon sale of a property, shall include reasonable attorneys' fees, legal costs, allowances and disbursements.

2. In addition to the parties named in section thirteen hundred eleven of the real property actions and proceedings law, the owners of all tax liens upon the real property concerned and all tax districts having a right to assess such real property may be made parties defendant.

3. Where the defendants personally served with the summons and complaint are not infants, incompetents, conservatees or non-residents of the state, and do not appear or answer, judgment by default may be taken without application to the court.

4. In all other cases, including those where a defendant is an infant, incompetent or conservatee and has put in a general answer by his or her guardian, committee or conservator, or where any of the defendants are non-residents of the state, judgment may be entered upon application to the court, but the court shall take proof of the facts and circumstances stated in the complaint and ascertain and determine the amount due without reference, unless the plaintiff apply for reference.

5. The plaintiff shall include and join in one action all tax liens on the same real property or any part thereof which are held by the plaintiff and which are subject to foreclosure as provided in this article. The plaintiff may include and join in one action all tax liens held by the plaintiff, although imposed upon separate and distinct parcels of real property; provided, however, that the description of the

particular parcels upon which such tax liens have been imposed are distinctly set forth in separate paragraphs of the complaint, and such parcels shall be separately sold in such action; and provided, further, that any defendant having an interest in or lien upon one or more separate parcels so joined shall have the absolute right to a severance of the action as to such parcel or parcels upon written demand filed with or made a part of his or her answer. The state and any tax district thereof having a lien for taxes or other lawful charges on the real property described in the complaint which arises before the filing of the notice of pendency may be made defendants, and the nature of their respective interests shall be specifically stated.

6. It shall not be necessary for the plaintiff to plead or prove the various steps, procedures and notices for the levy of the tax sought to be foreclosed, other than to allege the nature and amount of the tax and that the same was duly levied, but all such acts, procedures and notices shall be presumed to be valid unless questioned by an answer duly filed. A defendant who has a tax lien evidenced by a certificate of sale or other written instrument shall include in his or her answer a copy of such instrument and a statement of the interest, penalties and other legal charges due on account thereof. A defendant alleging any jurisdictional defect or invalidity in the tax or the sale thereof shall particularly specify in his or her answer such jurisdictional defect or invalidity and shall affirmatively establish such defense. Every answer shall be duly verified.

7. The court shall have full power to determine and enforce in all respects the priorities, rights, claims and demands of the several parties to such action, including the priorities, rights, claims and demands of the defendants as between themselves, and to direct a sale of such real property and the distribution or other disposition of the proceeds of the sale, except as otherwise provided in this article. Any party to the action may become the purchaser at any such sale.

9. After the payment of all legal costs, including reasonable attorneys' fees, allowances and disbursements, the tax liens shall be paid in the order of priority as listed and determined in the judgment

pursuant to subdivision seven of this section. All parties to the action who are the owners of tax liens affecting such real property, equal in right, shall be paid from the proceeds of the sale, so far as the proceeds suffice to pay the same, the amounts of their respective liens in the ratio to which the amount of the tax lien of each such party bears to the sum available for distribution as herein provided.

10. The conveyance made pursuant to a judgment in any action brought under this title shall vest in the purchaser all 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 right, title, interest, claim, lien and equity of redemption in and to the real property sold or any part thereof, 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 section thirteen hundred fifty-four of the real property actions and proceedings law, this subdivision shall prevail.

11. Where a party to the action or a prospective purchaser seeks to inspect the real property prior to the conveyance in order to ascertain whether, and to what extent, it is environmentally impaired, and permission to enter has been refused, such party or prospective purchaser may petition the court for license to so enter. The motion and affidavits, if any, shall state the facts making such entry necessary, and the date or dates on which entry is sought. Such license shall be granted by the court in an appropriate case upon such terms as justice requires. If the property is redeemed prior to conveyance, the licensee shall be liable to the owner for any actual damages occurring as a result of the entry.