

NEW YORK CONSOLIDATED LAWS

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This document was prepared May 2005.

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Real Property Tax Law

Article 11. Procedures for Enforcement of Collection of Delinquent Taxes

Title 1. Short title; definitions; application

S 1100. Short title. This article may be cited as the "Uniform Delinquent Tax Enforcement Act".

S 1102. Definitions. When used in this article:

1. "Charges" or "legal charges" means:

(a) the cost of the mailing or service of notices required or authorized by this article;
(b) the cost of publication of notices required or authorized by this title;
(c) the amount of any interest and penalties imposed by law;
(d) the cost of recording or filing legal documents required or authorized by this article; and
(e) the reasonable and necessary cost of any search of the public record required or authorized to satisfy the notice requirements of this article, and the reasonable and necessary expenses for legal services of a tax district in connection with a proceeding to foreclose a tax lien; provided, that: (i) a charge of up to one hundred fifty dollars per parcel shall be deemed reasonable and necessary to cover the combined costs of such searches and legal expenses, and such an amount may be charged without substantiation, even if salaried employees of the tax district performed the search or legal services; and (ii) a tax district may charge a greater amount with respect to one or more parcels upon demonstration to the satisfaction of the court having jurisdiction that such greater amount was reasonable and necessary.

(f) Charges shall be deemed a part of the delinquent tax for purposes of redemption.

2. "Delinquent tax" means an unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of a municipal corporation or special district, plus all applicable charges, relating to any parcel which is included in the return of unpaid delinquent taxes prepared pursuant to section nine hundred thirty-six of this chapter or such other general, special, or local law as may be applicable. In no event, however, shall "delinquent tax" include any unpaid tax or other charge against lands owned by the state.

3. "Enforcing officer" means any elected or appointed officer of any tax district empowered or charged by law to enforce the collection of tax liens on real property; provided, however, that (a) where no law provides otherwise, the enforcing officer shall be (i) in a county which is a tax district, the county treasurer or commissioner of finance, (ii) in a city which is a tax district, the official so empowered or charged by the city charter, (iii) in a village which is a tax district, the village treasurer, and (iv) in a town which is a tax district, the town supervisor; and (b) when the duties and powers of an "enforcing officer" are vested in two or more elected or appointed officials, the governing body of the tax district shall designate which of such officials shall act as enforcing officer for the purposes set forth in this article. The enforcing officer and other officials of the tax district who have responsibilities affecting the enforcement process shall work cooperatively to facilitate the enforcement process.

4. "Lien date" means the date on which the tax or other legal charges represented thereby became a lien, as provided by section nine hundred two of this chapter or such other general, special or local law as may be applicable, provided, that when the taxes of a school district are enforced by a tax district without being relieved by the tax district, and the lien date of the school district taxes differs from the lien date of the taxes of the tax district which are levied upon the same assessment roll, the later of the two such dates shall be deemed to be the lien date for purposes of this article.

5. "Person" means an individual, a corporation (including a foreign corporation and a municipal corporation), a joint stock association, a partnership, the state, and any other organization, state, government or county which may lawfully own property in the state.

6. "Tax district" means: (a) a county, other than (i) a county for which the cities and towns enforce delinquent taxes pursuant to the county administrative code, or (ii) a county wholly contained within a city;

(b) a city, other than a city for which the county enforces delinquent taxes pursuant to the city charter;

(c) a village, other than a village for which the county enforces delinquent taxes pursuant to section fourteen hundred forty-two of this chapter; or

(d) a town in a county in which towns enforce delinquent taxes pursuant to the county administrative code.

S 1104. Application of article. 1. The provisions of this article shall apply to all counties, cities, towns and villages in this state, and shall supersede any inconsistent general, special or local law, subject to the provisions of subdivision two of this section.

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 state board no later than August first, nineteen hundred ninety-four.

S 1106. Adoption by certain tax districts. 1. Procedure. A local law adopted by an eligible county, city or town pursuant to subdivision two of section eleven hundred four of this article may be repealed without referendum. Upon such a repeal, the provisions of this article shall be applicable to the enforcement by such county, city or town of all taxes which shall have become liens on or after the date on which such repeal shall have become effective. A copy of the local law effectuating such a repeal shall be filed with the state board no later than thirty days after the adoption thereof.

2. Pre-existing liens held by the tax district. (a) For purposes of the enforcement of taxes which shall have become liens prior to the effective date of such repeal, and which are held by the tax district, the provisions that shall have been in effect on the last day preceding the effective date of such repeal shall continue in effect, for a transition period of a duration to be specified in the local law effectuating such repeal. Such transition period shall conclude no later than four years from the effective date of such repeal.

(b) During such transition period, if a parcel is subject both to a lien or liens arising prior to the effective date of the repeal and to a lien or liens arising on or after such effective date, the procedures applicable to the enforcement of delinquent taxes shall depend upon the lien or liens upon which the enforcement proceeding is based; provided, that if an installment agreement is executed pursuant to section eleven hundred eighty-four of this article, the agreement shall apply to all outstanding liens held by the tax district, no matter when arising.

(c) After the conclusion of such transition period, if the enforcement of such prior lien or liens shall not have been concluded, as evidenced by the issuance of a tax deed, the amount due shall be relieved and enforced in accordance with the procedures then applicable to the enforcement of taxes.

3. Pre-existing liens held by other parties. For purposes of the enforcement of taxes which shall have become liens prior to the effective date of such repeal, and which are held by a party other than the tax district, the provisions of the applicable general, special or local laws that shall have been in effect on the last day preceding such date, shall continue in effect, as fully and to the same extent as if such laws had not been repealed or superseded by this article.

4. Transitional option. With regard to taxes becoming liens during the first year beginning on the effective date of such repeal, the tax district may adopt a local law without referendum

increasing the redemption period for all property to three or four years after lien date. With regard to taxes becoming liens during the following year, the tax district may adopt a local law without referendum increasing the redemption period to three years after lien date.

Real Property Tax Law

Article 11. Procedures for Enforcement of Collection of Delinquent Taxes

Title 1. Redemption

S 1110. Redemption, generally. 1. Real property subject to a delinquent tax lien may be redeemed by payment to the enforcing officer, on or before the expiration of the redemption period, of the amount of the delinquent tax lien or liens, including all charges authorized by law. If the enforcing officer is not authorized to receive such payments, such payment shall be made to the official who is so authorized.

2. The redemption period shall expire two years after lien date, except that a tax district may increase the redemption period for residential or farm property in the manner provided by section eleven hundred eleven of this article. Notwithstanding the foregoing, if the notice published pursuant to section eleven hundred twenty-four of this article specifies a later date for the expiration of the redemption period, the redemption period shall expire on the date so specified.

3. If a parcel is redeemed which has been included on a list of delinquent taxes that has been filed pursuant to section eleven hundred twenty-two of this article, the enforcing officer shall, upon request, issue a certificate of redemption. Upon the filing of such certificate with the county clerk, the county clerk shall enter on such list the word "redeemed" and the date of the filing opposite the description of such parcel on the list of delinquent taxes. Such notation shall operate to cancel the notice of pendency with respect to such parcel.

S 1111. Redemption of residential or farm property in certain tax districts. 1. For purpose of this article:

(a) "Farm property" means property which primarily consists of land used in agricultural production, as defined in article twenty-five-AA of the agriculture and markets law. A parcel shall be deemed to be farm property for purposes of this article if the applicable tax roll shows that (i) the parcel is exempt from taxation pursuant to section three hundred five or three hundred six of the agriculture and markets law, or pursuant to section four hundred eighty-three of this chapter, or (ii) the assessor has assigned to the parcel a property classification code in the agricultural category.

(b) "Residential property" means property which is improved by a one, two or three family structure used exclusively for residential purposes other than property subject to the assessment limitations of section five hundred eighty-one of this chapter and article nine-B of the real property law. A parcel shall be deemed to be residential property for purposes of this article if the applicable tax roll shows that (i) the assessor has assigned to the parcel a property classification code in the residential category, or (ii) the parcel has been included in the homestead class in an approved assessing unit, or in class one in a special assessing unit.

(c) "Property classification codes" means the property classification system prescribed by the state board pursuant to section five hundred two of this chapter and the rules adopted thereunder.

2. A tax district may adopt a local law without referendum increasing the redemption period for residential or farm property, or both, to three or four years after lien date. A local law increasing the redemption period as authorized by this section may be amended or repealed by local law adopted without referendum. Any such amendment or repeal shall not apply to taxes that shall have become liens while the former local law shall have been effective. A copy of any local law adopted pursuant to this section shall be filed with the state board for informational purposes within thirty days after the enactment thereof.

3. When determining whether a parcel qualifies as residential or farm property for purposes of this article, the enforcing officer shall consider the information appearing on the applicable tax roll. The enforcing officer shall also consider any relevant information submitted to him or

her by the assessor, by the owner, or by any other person with an interest in a parcel, subject to the following:

(a) If the submission is made after the enforcing officer has filed a list of delinquent taxes pursuant to section eleven hundred twenty-two of this article that pertains specifically to property other than residential or farm property, and the enforcing officer determines that a parcel on the list is residential or farm property, the parcel shall be accorded the redemption period applicable to residential or farm property, notwithstanding the fact that it appears on the list pertaining to other property.

(b) If the submission is made after the enforcing officer has filed a petition of foreclosure pursuant to section eleven hundred twenty-three of this article that pertains specifically to properties other than residential or farm properties, and the enforcing officer determines that a parcel affected by the petition is residential or farm property, the enforcing officer shall withdraw the parcel from foreclosure in the manner provided by section eleven hundred thirty-eight of this article. Provided, however, that (i) the submission shall not be considered an answer to the foreclosure petition unless interposed as an answer in the manner provided by this article, and (ii) if no answer is interposed, and the enforcing officer does not withdraw the parcel from foreclosure, a judgment in foreclosure may be taken by default as provided by section eleven hundred thirty-six of this article.

(c) No such submission may be accepted after the expiration of the redemption period applicable to property which is not residential or farm property.

4. In lieu of submitting information to the enforcing officer as provided by this section, or in addition thereto, a respondent may raise the issue in an answer interposed pursuant to this article. If the court determines that the parcel qualifies as residential or farm property and, as such, is not yet subject to foreclosure, the enforcing officer shall withdraw the parcel from foreclosure in the manner provided by section eleven hundred thirty-eight of this article.

5. If the information appearing on the tax roll does not qualify a parcel as residential or farm property, and it is not demonstrated in the manner provided by this section that the parcel is residential or farm property, the parcel shall be presumed not to be residential or farm property for purposes of this article.

S 1112. Redemption of property subject to more than one tax lien. 1. When a tax district holds more than one tax lien against a parcel, the liens need not be redeemed simultaneously. However, the liens must be redeemed in reverse chronological order, so that the lien with the most recent lien date is redeemed first, and the lien with the earliest lien date is redeemed last. Notwithstanding the redemption of one or more of the liens against a parcel as provided herein, the enforcement process shall proceed according to the provisions of this article as long as the earliest lien remains unredeemed.

2. (a) When one or more liens against a parcel are redeemed as provided herein, but the earliest lien remains unredeemed, the receipt issued to the person redeeming shall include a statement in substantially the following form: "This parcel remains subject to one or more delinquent tax liens. The payment you have made will not postpone the enforcement of the outstanding lien or liens. Continued failure to pay the entire amount owed will result in the loss of the property."

(b) Failure to include such a statement on the receipt shall not invalidate any tax lien or prevent the enforcement of the same as provided by law.

3. When all of the liens against the parcel have been redeemed, a certificate of redemption shall be issued upon request, as provided by section eleven hundred ten of this article.

S 1114. Redemption of a partial interest. 1. A person having an interest in a specific or an undivided part of any parcel subject to a delinquent tax lien, or in an undivided share in any parcel out of which an undivided part is subject to such lien, may redeem such part or share by paying the portion of the total amount required for redemption as is in proportion to the portion of the taxable assessed value of such property attributable to such interest.

2. Such payment shall be accompanied by an apportionment of such taxable assessed value prepared by the assessor of the assessing unit in which such property is located in the manner prescribed by section nine hundred thirty-two of this chapter, or such other law as may be applicable, and the rules of the state board relating thereto.

3. When a partial interest is redeemed in a parcel which has been included on a list of delinquent taxes that has been filed pursuant to section eleven hundred twenty-two of this article, but some or all of the remainder of the parcel remains unredeemed, the enforcing officer shall, upon request, issue a certificate of redemption, describing the part or share of the parcel so redeemed as it was described on the apportionment provided by the assessor pursuant to the applicable law and rules. Upon the filing of such certificate with the county clerk, the county clerk shall enter on such list the notation "partially redeemed" and the date of the filing, opposite the description of such parcel. The notation "partially redeemed" shall have no effect upon the notice of pendency relating to the portion of the parcel on which taxes remain unpaid.

Real Property Tax Law

Article 11. Procedures for Enforcement of Collection of Delinquent Taxes

Title 3. Foreclosure of Tax Lien by Proceeding in Rem

S 1120. Foreclosure by proceeding in rem. 1. A proceeding to foreclose a tax lien shall be commenced in the manner provided in this title.

2. The supreme court and the county court shall have concurrent jurisdiction over such proceedings.

S 1122. Filing of list of delinquent taxes. 1. Ten months after lien date, or as soon thereafter as is practicable, but no sooner than one month after the receipt of the return of unpaid taxes, the enforcing officer of each tax district shall execute a list of all parcels of real property, except those excluded from such list in the manner provided by section eleven hundred thirty-eight of this article, affected by delinquent tax liens held and owned by such tax district.

2. (a) In a tax district which has extended the redemption period for residential or farm property to three or four years, there may be separate lists for property identified as residential or farm property and for other property.

(b) In a tax district having a population of fifty thousand or more according to the latest federal census, there may be a separate list for each existing geographical area such as a city, town, village, ward, section or other appropriate area bounded or defined by law.

3. All parcels of real property included in any list shall be numbered consecutively, by tax map number if applicable.

4. The enforcing officer shall file a duplicate of each list in the office of such enforcing officer, in the office of the attorney for such tax district and in the office of the enforcing officer of any other tax district having a right to enforce the payment of a tax imposed upon any of the parcels described upon such list. The inadvertent failure of the enforcing officer to include one or more parcels in such list shall not affect the validity of any proceeding brought pursuant to this title.

5. Each such list shall be known and designated as the "List of Delinquent Taxes". Where the list comprises parcels in a particular area, the list shall also generally describe the area covered by the list.

6. Each list shall also contain as to each parcel, the following:

(a) A brief description sufficient to identify each parcel affected by such tax lien. In a municipal corporation for which a tax map has been approved by the state board, a tax map identification number shall be deemed a sufficient description of any parcel, provided that (i) the parcel has been described by such tax map reference on the tax roll on which the unpaid tax has been levied, and (ii) the tax map as it existed on the taxable status date applicable to the tax roll has been retained in the office of the enforcing officer or in such other office as the enforcing officer may have designated for that purpose in accordance with the rules of the state board.

(b) The name or names of the owner or owners of each such parcel as appearing on the tax roll, and, if the parcel has been transferred after the applicable taxable status date, as reported pursuant to section five hundred seventy-four of this chapter.

(c) A statement of the amount of each tax lien upon such parcel, including charges, as of the date of the execution of the list.

7. Such list of delinquent taxes shall be dated and subscribed by the enforcing officer and affirmed by him or her as true under the penalties of perjury. The enforcing officer shall file such list of delinquent taxes in the office of the clerk of the county in which the property subject to such tax liens is situated no later than two business days after the execution thereof. The filing of such list shall constitute and have the same force and effect as the filing and recording in such office of an individual and separate notice of pendency pursuant to

article sixty-five of the civil practice law and rules with respect to each parcel included in such list, notwithstanding the provisions of section six thousand five hundred twelve of the civil practice law and rules.

8. Each county clerk with whom such list of delinquent taxes is filed shall index it in the name of the tax district filing such list. A separate book shall be maintained for this purpose, unless the county clerk maintains a computerized index. The indexing of such list shall constitute due filing, recording and indexing of such notice in lieu of any other requirement under rule six thousand five hundred eleven of the civil practice law and rules or otherwise.

9. Every person, including a tax district other than the one foreclosing, having any right, title or interest in, or lien upon, any parcel described in such list of delinquent taxes may redeem such parcel in the manner provided by title two of this article.

10. (a) After a list of delinquent taxes has been filed, the enforcing officer shall, from time to time, execute a collective statement of redemptions, identifying the parcels which have been redeemed since the last preceding collective statement of redemptions was executed. The collective statement of redemptions need not include any parcel which was the subject of an individual certificate of redemption, and shall not include any parcel which was partially, but not fully, redeemed. The collective statement of redemptions shall be dated, subscribed and affirmed by the enforcing officer and filed with the county clerk in the same manner as a list of delinquent taxes.

(b) Upon the filing of a collective statement of redemptions with the county clerk, the county clerk shall, for each parcel included on the collective statement of redemptions, enter on the list of delinquent taxes the word "redeemed" and the date of the filing opposite the description of such parcel on such list. Such notation shall operate to cancel the notice of pendency with respect to each such parcel.

S 1123. Petition of foreclosure. 1. Twenty-one months after lien date, or as soon thereafter as is practicable, the enforcing officer shall execute a petition of foreclosure pertaining to those properties which remain subject to delinquent tax liens; provided, however, that in the case of property which is subject to a three or four year redemption period, such petition shall be executed thirty-three or forty-five months after lien date, respectively, or as soon thereafter as is practicable.

2. (a) The petition shall be filed with the clerk of the county in which the property is situated no later than two business days after the execution thereof and shall be in substantially the following form:

..... Court,..... County.

IN THE MATTER OF THE FORECLOSURE OF TAX LIENS BY PROCEEDING IN
REM PURSUANT TO ARTICLE ELEVEN OF THE REAL PROPERTY TAX LAW
BY.....

(insert name of tax district).

PETITION OF FORECLOSURE

The above-captioned proceeding is hereby commenced to enforce the payment of delinquent taxes or other lawful charges which have accumulated and become liens against certain property. The parcels to which this proceeding applies are as follows: (insert the descriptions and the names of the owners of record of each such parcel as of the date of the filing of the list of delinquent taxes).

(b) In addition to the information required by this section, the enforcing officer may incorporate into the petition of foreclosure the substance of the notice of foreclosure pursuant to section eleven hundred twenty-four of this article. Where this option is exercised, the document may serve as both a petition of foreclosure and as a notice of foreclosure for purposes of this article.

3. In lieu of placing in the body of the petition the descriptions and

names of the owners of the parcels to which the proceeding applies, the enforcing officer may place such information in an attachment to the petition, in which case the content of the petition shall be revised accordingly.

4. The petition shall be dated and subscribed by the enforcing officer and affirmed by him or her as true under the penalties of perjury.

5. A duplicate copy of such petition shall be retained in the office of the enforcing officer.

6. Every person, including a tax district other than the one foreclosing, having any right, title or interest in, or lien upon, any parcel described in such petition may redeem such parcel in the manner provided by title two of this article, or may interpose an answer in the manner provided herein.

7. An answer to a petition of foreclosure shall be duly verified by the respondent and shall set forth in detail the nature and amount of his or her interest and any defense or objections to the foreclosure of the tax lien. Such answer shall be filed in the office of the county clerk and served on the attorney for the tax district foreclosing on or before the last day for redemption, as specified in the notice of petition. Whenever an answer has been interposed as herein provided, either party shall have an absolute right to a severance of the proceeding as to the parcel or parcels to which the answer relates.

8. In the event of failure to redeem or answer by any person having the right to redeem or answer, such person shall be in default and shall be barred and forever foreclosed from all his or her right, title and interest in and to the parcels described in such petition and a judgment in foreclosure may be taken by default as provided by this title.

S 1124. Public notice of foreclosure. 1. Upon the filing of a petition of foreclosure in the office of the county clerk, the enforcing officer forthwith shall cause a notice of foreclosure to be published in each of three non-consecutive weeks in a two month period in at least two newspapers designated by him or her.

2. (a) Each newspaper designated for this purpose shall have general circulation in the tax district. An official newspaper of the tax district shall be deemed to satisfy the requirements of this provision.

(b) In New York and Bronx counties the newspapers to be designated for the publication of such notice or any other public notice required pursuant to this article shall be the daily law journal designated by the justices of the appellate division of the first judicial department and another newspaper designated by such justices pursuant to the provisions of subdivisions one and two of section ninety-one of the judiciary law.

3. Such notice shall be in substantially the following form:

..... Court,..... County.

IN THE MATTER OF THE FORECLOSURE OF TAX LIENS BYPROCEEDING IN REM
PURSUANT TO ARTICLE ELEVEN OF THE REAL PROPERTY TAX LAW
BY.....

(insert name of tax district).

NOTICE OF FORECLOSURE

PLEASE TAKE NOTICE that on the..... day of....., the..... (insert title of enforcing officer), hereinafter, the "Enforcing Officer", of..... (insert name of tax district), hereinafter, the "Tax District", pursuant to law filed with the clerk of..... county, a petition of foreclosure against various parcels of real property for unpaid taxes. Such petition pertains to the following parcels: (insert the description and the name of the owner or owners of record of each parcel as of the date of the filing of the list of delinquent taxes).

Effect of filing: All persons having or claiming to have an interest in the real property described in such petition are hereby notified that the filing of such petition constitutes the

commencement by the Tax District of a proceeding in the court specified in the caption above to foreclose each of the tax liens therein described by a foreclosure proceeding in rem.

Nature of proceeding: Such proceeding is brought against the real property only and is to foreclose the tax liens described in such petition. No personal judgment will be entered herein for such taxes or other legal charges or any part thereof.

Persons affected: This notice is directed to all persons owning or having or claiming to have an interest in the real property described in such petition. Such persons are hereby notified further that a duplicate of such petition has been filed in the office of the Enforcing Officer of the Tax District and will remain open for public inspection up to and including the date specified below as the last day for redemption.

Right of redemption: Any person having or claiming to have an interest in any such real property and the legal right thereto may on or before said date redeem the same by paying the amount of all such unpaid tax liens thereon, including all interest and penalties and other legal charges which are included in the lien against such real property, computed to and including the date of redemption. Such payments shall be made to (here insert the name, title and address of the official to whom such payments are to be made). In the event that such taxes are paid by a person other than the record owner of such real property, the person so paying shall be entitled to have the tax liens affected thereby satisfied of record.

Last day for redemption: The last day for redemption is hereby fixed as the day of (here insert a date at least three months after the date of the first publication of this notice).

Service of answer: Every person having any right, title or interest in or lien upon any parcel of real property described in such petition may serve a duly verified answer upon the attorney for the Tax District setting forth in detail the nature and amount of his or her interest and any defense or objection to the foreclosure. Such answer must be filed in the office of the county clerk and served upon the attorney for the Tax District on or before the date above mentioned as the last day for redemption.

Failure to redeem or answer: In the event of failure to redeem or answer by any person having the right to redeem or answer, such person shall be forever barred and foreclosed of all his or her right, title and interest and equity of redemption in and to the parcel described in such petition and a judgment in foreclosure may be taken by default.

Enforcing Officer:

.....
.....

(Name and title of enforcing officer)

Attorney for Tax District:

.....
.....
.....
.....

(Name, title and address of attorney for tax district, if the same is not the enforcing officer)

4. The enforcing officer shall on or before the date of the first publication of the notice above set forth cause a copy of such notice to be posted once in his or her office and shall cause a copy of such notice to be posted in the county court house in the place provided for the posting of public notices.

5. Nothing contained herein shall be construed to preclude the enforcing officer from providing for additional public notice of foreclosure by other means, including broadcast on the local access channel of a cable television company having a franchise within the tax district.

6. If the substance of such notice has been incorporated into the petition of foreclosure, the requirements of this section shall be satisfied if the petition of foreclosure is published and posted in the manner prescribed by this section.

S 1125. Personal notice of commencement of foreclosure proceeding. 1. The enforcing officer shall on or before the date of the first publication of the notice above set forth cause a notice to be mailed to (a) each owner by certified mail and any other person by ordinary first class mail whose right, title, or interest was a matter of public record as of the date the list of delinquent taxes was filed, which right, title or interest will be affected by the termination of the redemption period, and whose name and address are reasonably ascertainable from the public record, including the records in the offices of the surrogate of the county, (b) any other person by ordinary first class mail who has filed a declaration of interest pursuant to section eleven hundred twenty-six of this title which has not expired, and (c) the enforcing officer by ordinary first class mail of any other tax district having a right to enforce the payment of a tax imposed upon any of the parcels described upon such petition. In the event that the name or address of an owner does not appear in such records the enforcing officer shall so state in an affidavit which shall be filed in the office of the county clerk.

2. The notice to be so mailed shall consist of (a) a copy of the petition and, if not substantially the same as the petition, the public notice of foreclosure, provided that such copies need not include the descriptions or the names of the owners of any parcels in which the addressee does not have an interest, and (b) a statement substantially as follows:

To the party to whom the enclosed notice is addressed:

You are presumed to own or have a legal interest in one or more of the parcels of real property described on the enclosed petition of foreclosure.

A proceeding to foreclose on such property based upon the failure to pay real property taxes has been commenced. Foreclosure will result in the loss of ownership of such property and all rights in that property.

To avoid loss of ownership or of any other rights in the property, all unpaid taxes and other legal charges must be paid prior to..... (insert the last date to redeem) or you must interpose a duly verified answer in the proceeding. You may make payment to..... (insert name, title and address of the official to whom such payments are to be made) in the amount of all such unpaid taxes and legal charges prior to that date. You may wish to contact an attorney to protect your rights.

After..... (insert the last date to redeem), a court will transfer the title of the property to the..... (Name of the tax district) by means of a court judgment.

Should you have any questions regarding this notice, please call..... (insert the name of the enforcing officer) at..... (insert telephone number). Dated,..... (Insert date).

3. (a) An affidavit of mailing of such notice shall be executed.

(b) The failure of an intended recipient to receive any such notice shall not invalidate any tax or prevent the enforcement of the same as provided by law.

(c) The service of the notice required by this section shall be deemed to be equivalent to the service of a notice of petition pursuant to section four hundred three of the civil practice law and rules.

4. (a) Nothing contained herein shall be construed to preclude the enforcing officer from issuing, at his or her discretion, a duplicate of any such notice, clearly labeled as such, through means other than ordinary first class mail, including but not limited to personal service, registered or certified mail, facsimile transmission, or electronic mail.

(b) Nothing contained herein shall be construed to preclude the enforcing officer from issuing, at his or her discretion, one or more informal notices to an owner or other party prior to issuing the notice required by this section.

(c) The failure of the enforcing officer to mail any such discretionary notice, or the failure of an intended recipient to receive such a notice, shall not invalidate any tax or prevent the enforcement of the same as provided by law.

5. Any notice mailed by ordinary first class mail pursuant to subdivision one of this section may also be mailed in duplicate by certified mail at the option of the enforcing officer.

S 1126. Declaration of interest. 1. Any mortgagee, lienor, lessee or other person having a legally protected interest in real property who wishes to receive copies of the notices required by this article may file with the enforcing officer a declaration of interest on a form prescribed by the state board. Such declaration shall include the name and mailing address of the person submitting such declaration, a description of the parcel or parcels in which such person claims an interest, and a description of the nature of such interest. A declaration of interest shall be effective upon filing and shall expire on the last day of the tenth calendar year commencing thereafter, unless extended or cancelled as provided herein.

2. The declarant, or his or her successor in interest, may obtain an extension or reinstatement of a declaration of interest one or more times on a form prescribed by the state board. Such extension shall expire on the last day of the tenth calendar year commencing after the filing thereof.

3. The declarant, or his or her successor in interest, shall amend or cancel a declaration of interest, on a form prescribed by the state board, upon the transfer or termination of such interest, or upon a change of address of the declarant or his or her successor in interest.

S 1128. Filing of affidavits. 1. All affidavits of filing, publication, posting, mailing or other acts required by this article shall be made by the person or persons performing such acts and shall be filed with the application for judgment. Such affidavits shall together with all other documents required by this article to be filed in the office of such county clerk, constitute and become a part of the judgment roll in such foreclosure proceeding.

2. An affidavit of publication required by this article shall be made in the manner an affidavit of publication of notice of sale is made pursuant to article fourteen of the real property actions and proceedings law.

S 1130. Trial of issues. 1. If a duly verified answer is filed with the county clerk and served upon the attorney for such tax district within the period mentioned in the notice published pursuant to section eleven hundred twenty-four of this title, the court shall summarily hear and determine the issues raised by the petition and answer in the same manner and under the same rules as it hears and determines other proceedings or actions, except as otherwise provided in this article. Upon such trial, proof that the tax was paid, together with all interest, penalties and other charges which may have been due, or that the property was not subject to tax shall constitute a complete defense.

2. If it appears to the court that testimony is necessary for the proper disposition of the matter, it shall take evidence or appoint a referee to take such evidence as it may direct. The referee shall report to the court his or her findings of fact and conclusions of law and the evidence upon which it is based, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The report of the referee and the decision or final order of the court shall contain the essential facts upon which the ultimate finding of facts is made.

S 1131. Default judgment. In the event of a failure to redeem or answer by any person having the right to redeem or answer, such person shall forever be barred and foreclosed of all right, title, and interest and equity of redemption in and to the parcel in which the person

has an interest and a judgment in foreclosure may be taken by default as provided by subdivision three of section eleven hundred thirty-six of this title. A motion to reopen any such default may not be brought later than one month after entry of the judgment.

S 1132. Preference over other proceedings and actions. Any proceeding brought pursuant to this article shall be given preference over all other proceedings and actions.

S 1134. Presumption of validity. It shall not be necessary for the tax district to plead or prove the various steps, procedures and notices for the assessment and levy of the taxes or other lawful charges against the parcels of real property set forth in the petition and all such taxes or other lawful charges and the lien thereof shall be presumed to be valid. A respondent alleging any jurisdictional defect or invalidity in the tax, or in the proceeding for the enforcement thereof, must particularly specify in his or her answer such jurisdictional defect or invalidity and must affirmatively establish such defense. The provisions of this article shall apply to and be valid and effective with respect to all respondents even though one or more of them be infants, incompetents, absentees or non-residents of the state.

S 1136. Final judgment. 1. Generally. The court shall have full power to determine and enforce in all respects the priorities, rights, claims and demands of the several parties to the proceeding, as the same exist according to law, including the priorities, rights, claims and demands of the respondents as between themselves. The court shall further determine upon proof and shall make findings upon such proof whether there has been due compliance by the tax district with the provisions of this article.

2. When an answer has been interposed. (a) When an answer has been interposed by a party other than a tax district as to any parcel of real property included in the petition described in section eleven hundred twenty-three of this chapter and the court determines that the answer is meritorious, the court shall dismiss the petition of foreclosure, with or without prejudice, as to the affected parcel or parcels, unless an agreement is executed pursuant to subdivision two of section eleven hundred fifty of this article. If the court determines that the answer is not meritorious, the court shall make a final judgment awarding to such tax district the possession of the affected parcel or parcels in the same manner as provided by subdivision three of this section.

(b) When an answer has been interposed by another tax district as to any parcel and the court shall determine that such other tax district has an interest in such parcel, then and in that event the tax districts having an interest in such parcel may by agreement between themselves pursuant to subdivision one of section eleven hundred fifty of this article provide (i) for a conveyance without sale of any such parcel to one of such tax districts free and clear of any right, title or interest in or lien upon such parcel or such other tax district or districts or (ii) for a conveyance without sale of any such parcel to one of such tax districts subject to any right, title or interest in or lien upon such parcel of such other tax district or districts. In either of such events, the court shall in its judgment expressly dispense with the sale and direct the making and execution of a conveyance by the enforcing officer in accordance with such agreement. In the absence of such an agreement, the court shall make a final judgment directing the sale of such parcel.

(c) Any sale directed by the court pursuant to this subdivision shall be at public auction by the enforcing officer. Public notice thereof shall be given once a week for at least three successive weeks in a newspaper published in the tax district, if any, or if none, in a newspaper published in the county in which such tax district is situated. The enforcing officer shall receive no additional fee or compensation for such service. The description of the parcel offered for sale in such notice shall be that contained in the petition with such other description, if any, as the court may direct.

(d) In directing any conveyance pursuant to this subdivision, the judgment shall direct the enforcing officer of the tax district to prepare and execute a deed conveying title to the parcel

or parcels of real property concerned. Such title shall be full and complete in the absence of an agreement between tax districts as herein provided that it shall be subject to the tax liens of one or more tax districts. Upon the execution of such deed, the grantee shall be seized of an estate in fee simple absolute in such parcel unless the conveyance is expressly made subject to tax liens of a tax district as herein provided, and all persons, including the state, infants, incompetents, absentees and non-residents, who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel, shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption.

3. When no answer has been interposed. The court shall make a final judgment awarding to such tax district the possession of any parcel of real property described in the petition of foreclosure not redeemed as provided in this title and as to which no answer is interposed as provided herein. In addition thereto such judgment shall contain a direction to the enforcing officer of the tax district to prepare, execute and cause to be recorded a deed conveying to such tax district full and complete title to such parcel. Upon the execution of such deed, the tax district shall be seized of an estate in fee simple absolute in such parcel and all persons, including the state, infants, incompetents, absentees and non-residents who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption.

S 1137. Statute of limitations. Every deed given pursuant to the provisions of this article shall be presumptive evidence that the proceeding and all proceedings therein and all proceedings prior thereto from and including the assessment of the real property affected and all notices required by law were regular and in accordance with all provisions of law relating thereto. After two years from the date of the recording of such deed, the presumption shall be conclusive. No proceeding to set aside such deed may be maintained unless the proceeding is commenced and a notice of pendency of the proceeding is filed in the office of the proper county clerk prior to the time that the presumption becomes conclusive.

S 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; or

(g) 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.

S 1140. Parcels affected by bankruptcy proceedings. 1. Stay of enforcement proceeding. The commencement of a bankruptcy proceeding pursuant to the bankruptcy code of 1978 (title eleven of the United States code) shall stay a proceeding to enforce a delinquent tax lien, to the extent required by the bankruptcy code.

2. Notice to enforcing officer. Whenever an officer or employee of a municipal corporation receives an official notification of the commencement of a bankruptcy proceeding affecting real property therein, such officer or employee shall forthwith forward the same, or a copy thereof, to the enforcing officer of the tax district which enforces taxes on behalf of such municipal corporation.

3. Partial payments. Notwithstanding any law otherwise precluding the acceptance of partial payments of taxes, a partial payment may be accepted in relation to property which is the subject of a bankruptcy proceeding, provided that the payment is accompanied by satisfactory proof of the bankruptcy proceeding, such as a copy of an order or plan issued thereunder.

4. Cancellation and chargebacks. A tax district shall direct the cancellation of a delinquent tax lien to the extent such lien has been rendered permanently unenforceable as the result of a bankruptcy proceeding. The tax district shall not be required to credit or otherwise guarantee to any municipal corporation a delinquent tax against a parcel to the extent the lien thereon has been cancelled pursuant to 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 each municipal corporation a proportionate share of the cancelled lien.

Real Property Tax Law

Article 11. Procedures for Enforcement of Collection of Delinquent Taxes

Title 4. General Provisions

S 1150. Agreements by tax districts. 1. Agreements with other tax districts. All tax districts are hereby authorized to make agreements with one another with respect to any parcel of real property upon which they respectively own tax liens in regard to the disposition of such liens, of the parcel of real property subject thereto and of the avails thereof, including, without limiting the generality of the foregoing, authority to make the agreements referred to in paragraph (b) of subdivision two of section eleven hundred thirty-six of this article, and to make agreements for the disposition of the proceeds of real property upon which tax liens have been extinguished by agreement.

2. Agreements with parties other than tax districts. When a person other than a tax district has any right, title, interest, claim, lien or equity of redemption in any parcel which is the subject of a tax lien, the tax district owning the tax lien may agree with such person that, in lieu of a sale of the property pursuant to paragraph (a) of subdivision two of section eleven hundred thirty-six of this article, the rights of such person shall be released in exchange for a fixed sum or for a share of the proceeds to be obtained upon the sale of such parcel by such tax district.

S 1152. Power of tax district to protect liens. 1. When authorized by resolution of the governing body, any enforcing officer may on behalf of a tax district having a tax lien on any parcel of real property, lawfully protect such liens by entering into an agreement pursuant to section eleven hundred fifty of this title with another tax district holding liens on such property, or by bidding for and purchasing such parcel at any judicial sale of such parcel held pursuant to this article. Any tax district so bidding at a judicial sale shall not be required to make any deposit, but shall within ten calendar days after such sale, pay the amount due another tax district or other holder of tax lien on such parcel.

2. For the purpose of providing the funds so required, any tax district, by resolution adopted by its governing body, may specifically appropriate any funds generally provided for the purpose in its budget of that fiscal year or may appropriate any funds not otherwise appropriated or may finance such expenditure pursuant to the local finance law.

S 1154. Mailing statements of taxes. 1. It shall be the duty of the collecting officer upon receipt of the tax roll and warrant to prepare, complete, mail or otherwise deliver statements of taxes in the manner provided by section nine hundred twenty-two of this chapter to the owners of real property assessed so far as such owners and their addresses are known.

2. The failure of the collecting officer to mail such statements shall not invalidate or otherwise affect such tax nor prevent the accruing of any interest or penalty imposed for the non-payment thereof, nor prevent or stay proceedings under this article for any of the remedies for collection thereof, nor affect the title acquired pursuant to such proceedings.

S 1156. Publication of notices; distress and sale. 1. Before proceeding to enforce the collection of tax liens pursuant to this article, the enforcing officer shall publish such notices as the general, special or local laws relating to his or her tax district requires.

2. Proceedings to enforce collection by distress and sale of personal property or other means of compulsory collection shall not be a condition precedent to the remedies provided in this article.

S 1160. Enforcement of tax liens. 1. It shall be the duty of the enforcing officer to enforce annually all tax liens, in accordance with the applicable provisions of law, except as otherwise provided herein. The failure of the enforcing officer to enforce such tax lien shall

not impair the lien or prevent a sale or stay any other proceedings for its enforcement after the time specified.

2. All provisions with respect to the procedure for the enforcement of tax liens requiring acts to be done at or within or before specified times or dates, except provisions with respect to length of notice, shall be deemed directory and failure to take such action at or within the time specified shall not invalidate or otherwise affect such tax lien nor prevent the accruing of any interest or penalty imposed for the non-payment thereof, nor prevent or stay proceedings under this article for any of the remedies for collection thereof in this article provided, nor affect the title of the purchaser under such proceedings.

S 1162. Writ of assistance. Any party or tax district acquiring title to a parcel of real property under and pursuant to the terms and provisions of this article shall be entitled to a writ of assistance, with the same force and effect as if such party or tax district had acquired the property by virtue of a mortgage foreclosure.

S 1164. Consolidation of actions or proceedings. Actions or proceedings pending in the courts, or otherwise, to cancel a lien which is being foreclosed by a proceeding under this article, shall be terminated upon the institution of a foreclosure proceeding pursuant to this article, and the rights and remedies of the parties in interest to such pending actions or proceedings shall be determined by the court in such foreclosure proceeding.

S 1166. Real property acquired by tax district; right of sale. 1. Whenever any tax district shall become vested with the title to real property by virtue of a foreclosure proceeding brought pursuant to the provisions of this article, such tax district is hereby authorized to sell and convey the real property so acquired, either with or without advertising for bids, notwithstanding the provisions of any general, special or local law.

2. No such sale shall be effective unless and until such sale shall have been approved and confirmed by a majority vote of the governing body of the tax district, except that no such approval shall be required when the property is sold at public auction to the highest bidder.

S 1168. Certificate of sale as evidence. 1. The certificate of sale or any other written instrument representing a tax lien shall be presumptive evidence in all courts in all proceedings by and against the purchaser and his or her representatives, heirs and assigns, of the truth of the statements therein, of the title of the purchaser to the property therein described, and of the regularity and validity of all proceedings had in reference to the taxes or other legal charges for the non-payment of which the tax lien was sold and the sale thereof.

2. After two years from the issuance of such certificate or other written instrument, no evidence shall be admissible in any court to rebut such presumption unless the holder thereof shall have procured such certificate of sale or such other written instrument by fraud or had previous knowledge that it was fraudulently made or procured.

S 1170. Deed in lieu of foreclosure. Any tax district may, when authorized by resolution of its governing body and in lieu of prosecuting a proceeding to foreclose a tax lien on any parcel of real property pursuant to this article, accept a conveyance of the interest of any person having any right, title, interest, claim, lien or equity of redemption in or to such parcel.

S 1172. Severability of provisions. The powers granted and the duties imposed by this article and the applicability thereof to any persons, tax districts or circumstances shall be construed to be independent and severable and if any one or more sections, clauses, sentences or parts of this article, or the applicability thereof to any persons, tax districts or circumstances shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof or the applicability thereof to other

persons, tax districts or circumstances, but shall be confined in its operation to the specific provisions so held unconstitutional and invalid and to the persons, tax districts and circumstances affected thereby.

S 1174. Title of the state not affected. Notwithstanding any other provision of this article or of section thirteen hundred thirteen of the real property actions and proceedings law, real property of the state shall not be sold in any proceeding for the foreclosure of a tax lien pursuant to this article, nor shall any judgment in any such proceeding or any conveyance made pursuant to any such judgment be valid or effectual to bar or foreclose the state with respect to, or to divest the state of, any estate held by the state in or to any real property involved in any such proceeding.

S 1176. Review of list of delinquent taxes by state board; parcels in which state has an interest. 1. Each list of delinquent taxes filed pursuant to section eleven hundred twenty-two of this article shall be submitted to the state board for identification of state lands.

2. Upon reviewing the list, the state board shall in so far as possible notify the enforcing officer of any parcel listed thereon which belongs to the state. The enforcing officer shall withdraw such parcels from foreclosure in the manner provided by section eleven hundred thirty-eight of this article and shall furnish the state board with a verified and itemized statement showing the amount of taxes due against each such parcel, the purposes for which levied, the date of the levy, the assessment upon which levied and the year in which such assessment was made. Subject to the provisions of title two of article five of this chapter, the taxes upon such parcels, without interest or penalties, shall be audited and paid by the comptroller out of any funds available for the payment of taxes on state lands.

S 1178. Certain lands in forest preserve to be offered for sale to state. Within twenty days after the expiration of the time for redemption provided in section eleven hundred ten of this article, the enforcing officer of each tax district containing part of the forest preserve as defined in the environmental conservation law shall file with the department of environmental conservation a certified statement listing all parcels situated in the forest preserve which have not been redeemed. The tax district shall sell and convey to the state any parcel listed thereon selected by such department within six months from the filing of such statement upon the payment of the aggregate amount due thereon. Upon the requisition and certificate of the department of environmental conservation, the comptroller shall draw his or her warrant for the payment of such amounts from moneys appropriated and available therefor. After the expiration of such six months, the tax district may dispose of the remaining parcels as provided in section eleven hundred sixty-six of this title.

S 1180. Despoliation of lands subject to delinquent tax liens. 1. Neither the owner, occupant nor any other person shall have the right to despoil any lands subject to a delinquent tax lien by removing buildings or mobile homes, other than separately assessed mobile homes, or by cutting, removing or destroying timber or other valuable products, growing, existing or being thereon at the time of the filing of the list of delinquent taxes pursuant to section eleven hundred twenty-two of this article.

2. The tax district shall not enter upon or exercise acts of ownership on such land, until the expiration of the redemption period. The tax district may at any time before obtaining title, cause to be served a notice on any person despoiling such lands or interested in making such despoliation, either personally or by leaving the same at the residence of such person, or with any member of his or her family of suitable age and discretion. The notice shall describe the lands subject to the delinquent tax lien, shall state that such lands are subject to a delinquent tax lien and that an action or proceeding to recover the value of the buildings, timber or other products destroyed or removed therefrom after the date of filing will be instituted against all persons concerned in such despoliation.

3. If such lands are not redeemed, every person despoiling such lands or interested in making such despoliation upon whom service of the notice has been made, shall be liable to pay to the tax district the full value of any buildings, timber or other products cut or destroyed or removed therefrom, from the date of the filing of the list of delinquent taxes to the termination of such action or proceeding, and may be restrained by injunction from committing any waste thereon.

S 1182. Cancellation or reduction of interest, penalties and other charges. If the governing body of any tax district shall determine that it is for the best interests of the tax district, it shall have the power, by resolution, to authorize the enforcing officer to permit the cancellation in whole or in part of any interest, penalties or other charges imposed by law to which the tax district or any other municipal corporation shall be lawfully entitled; provided, however, that in cases where such interest, penalties, or other charges, if collected by the tax district, belong to a municipal corporation therein, no reduction or remission in whole or in part of such interest, penalties, or other charges shall be made without the consent of the municipal corporation affected, which consent may be given by resolution adopted after a public hearing.

S 1184. Payment of delinquent taxes in installments. 1. Definitions. As used in this section:

(a) "Eligible delinquent taxes" means the delinquent taxes, including interest, penalties and other charges, which have accrued against a parcel as of the date on which an installment agreement is executed.

(b) "Eligible owner" means an owner of real property who is eligible to or has entered into an installment agreement.

(c) "Farm property" means property which qualifies as farm property pursuant to section eleven hundred eleven of this article.

(d) "Installment agreement" means a written agreement between an eligible owner and the enforcing officer providing for the payment of eligible delinquent taxes in installments pursuant to the provisions of this section and the local law adopted hereunder.

(e) "Residential property" means property which qualifies as residential property pursuant to section eleven hundred eleven of this article.

2. Installment payment of eligible delinquent taxes. The governing body of a tax district is hereby authorized and empowered to enact and amend a local law providing for the installment payment of eligible delinquent taxes. Such installment payment of eligible delinquent taxes shall be made available to each eligible owner on a uniform basis pursuant to the provisions of this section and the local law. Such installment payment of eligible delinquent taxes shall commence upon the signing of an agreement between the enforcing officer and the eligible owner. The agreement shall be kept on file in the office of the enforcing officer.

3. The local law enacted pursuant to this section shall provide:

(a) the maximum term of installment agreements, which shall not exceed twenty-four months;

(b) the payment schedule, which shall be monthly, bi-monthly quarterly or semi-annually;

(c) the required initial down payment, if any, which shall not exceed twenty-five percent of the eligible delinquent taxes;

(d) the properties to which the local law shall apply, which shall be either (i) residential property, (ii) both residential and farm property, or (iii) all properties within such tax district; and

(e) other terms and conditions consistent with the provisions of this section.

4. A property owner shall not be eligible to enter into an agreement pursuant to this section where:

(a) there is a delinquent tax lien on the same property for which the application is made or on another property owned by such person and such delinquent tax lien is not eligible to be made part of the agreement pursuant to this section;

(b) such person is the owner of another parcel within the tax district on which there is a delinquent tax lien, unless such delinquent tax lien is eligible to be and is made part of the agreement pursuant to this section;

(c) such person was the owner of property on which there existed a delinquent tax lien and which lien was foreclosed within three years of the date on which an application is made to execute an agreement pursuant to this section; or

(d) such person defaulted on an agreement executed pursuant to this section within three years of the date on which an application is made to execute an agreement pursuant to this section.

5. A property owner shall be eligible to enter into an agreement pursuant to this section no earlier than thirty days after the delivery of the return of unpaid taxes to the enforcing officer.

6. The amount due under an installment agreement shall be the eligible delinquent taxes plus the interest that is to accrue on each installment payment up to and including the date on which each payment is to be made. The agreement shall provide that the amount due shall be paid, as nearly as possible, in equal amounts on each payment due date. Each installment payment shall be due on the last day of the month in which it is to be paid.

7. Interest and penalties. Interest on the total amount of eligible delinquent taxes, less the amount of the down payment made by the eligible owner, if any is required, shall be that amount as determined pursuant to section nine hundred twenty-four-a of this chapter, or such other law as may be applicable. The rate of interest in effect on the date the agreement is signed shall remain constant during the period of the agreement. If an installment is not paid on or before the date it is due, interest shall be added at the applicable rate for each month or portion thereof until paid. In addition, if an installment is not paid by the end of the fifteenth calendar day after the payment due date, a late charge of five percent of the overdue payment shall be added.

8. Default. (a) The eligible owners shall be deemed to be in default of the agreement upon:

(i) non-payment of any installment within thirty days from the payment due date;

(ii) non-payment of any tax, special ad valorem levy or special assessment which is levied subsequent to the signing of the agreement by the tax district, and which is not paid prior to the receipt of the return of unpaid taxes by the enforcing officer; or

(iii) default of the eligible owner on another agreement made and executed pursuant to this section.

(b) In the event of a default, the tax district shall have the right to require the entire unpaid balance, with interest and late charges, to be paid in full. The tax district shall also have the right to enforce the collection of the delinquent tax lien pursuant to the applicable sections of law, special tax act, charter or local law.

(c) Where an eligible owner is in default and the tax district does not either require the eligible owner to pay in full the balance of the delinquent taxes or elect to institute foreclosure proceedings, the tax district shall not be deemed to have waived the right to do so.

9. Notification of potential eligible owners. (a) Within forty-five days after receiving the return of unpaid taxes from the collecting officer, or as soon thereafter as is practicable, the enforcing officer shall notify, by first class mail, all potential eligible owners of their possible eligibility to make installment payments on such tax delinquencies. The enforcing officer shall add one dollar to the amount of the tax lien for such mailing, if the local law provided for such a charge.

(b) The failure to mail any such notice, or the failure of the addressee to receive the same, shall not in any way affect the validity of taxes or interest prescribed by law with respect thereto.

(c) The enforcing officer shall not be required to notify the eligible owner when an installment is due.

10. Where an installment agreement so provides, the lien or liens to which the agreement relates may be sold to the state of New York municipal bond bank agency, or a tax lien entity created thereby, pursuant to title five of this article. In case of such a sale, the rights and duties of the tax district under the agreement shall be assumed by the tax lien purchaser. The tax lien purchaser shall continue to allow the owner or owners to make installment payments in the amounts and at the times called for by the agreement, as they did prior to the sale to the tax lien purchaser. However, such payments shall be made to the tax lien purchaser or its tax collection agent, rather than to the tax district, unless the tax district and the tax lien purchaser have agreed otherwise.

11. The provisions of this section shall not affect the tax lien against the property except that the lien shall be reduced by the payments made under an installment agreement, and that the lien shall not be foreclosed during the period of installment payments provided that such installment payments are not in default.

Real Property Tax Law

Article 11. Procedures for Enforcement of Collection of Delinquent Taxes

Title 5. Sales of Delinquent Tax Liens

S 1190. Contracts for the sale of delinquent tax liens. 1. (a) Notwithstanding any general or special law to the contrary, a tax district may enter into a contract to sell some or all of the delinquent tax liens held by it to the state of New York municipal bond bank agency created pursuant to section twenty-four hundred thirty-three of the public authorities law, hereinafter referred to as the "bond bank", or to one or more tax lien entities created by the bond bank pursuant to section twenty-four hundred thirty-five-b of the public authorities law. A tax district may enter into such a contract whether or not it is otherwise subject to the provisions of this article; provided, however, that any county, city or town that is not subject to the provisions of this article pursuant to subdivision two of section eleven hundred four of this article may continue to enforce the collection of delinquent taxes, including through the sale of tax liens, pursuant to a county charter, city charter, administrative code or special law.

(b) The interest rate applicable to all delinquent tax liens sold pursuant to this section shall be as prescribed by section nine hundred twenty-four-a of this chapter or such higher rate as is applicable to such delinquent tax liens in the tax district which is selling its held delinquent tax liens to the bond bank, as of the date of the tax lien sale. Such rate shall be applied to the total amount due as of the date of the tax lien sale, including interest, penalties, and charges.

2. (a) At least thirty days prior to the date on which a sale of delinquent tax liens is scheduled to occur, the enforcing officer shall cause a notice to be mailed, by either ordinary first class mail or certified mail, to: (i) the owner or owners of each affected parcel as appearing on the tax roll, or, if a parcel has been transferred after the applicable taxable status date, to the new owner or owners as reported pursuant to section five hundred seventy-four of this chapter or a comparable law; and (ii) to any other person who has filed a declaration of interest pursuant to section eleven hundred twenty-six of this article, or a comparable instrument pursuant to a comparable law, which has not expired. Failure to provide notice, or failure of the addressee to receive notice pursuant to this subdivision shall not in any way affect the validity of any sale of a tax lien or tax liens pursuant to this chapter, the validity of the taxes or interest prescribed by law with respect thereto.

(b) Such notice shall identify the affected parcel and be in substantially the following form:
"The real property identified in this notice is subject to a delinquent tax lien held by _____ (enter name of tax district) for _____ (identify fiscal year). According to our records, you own or have an interest in that property. You are hereby advised that on or after _____ (enter expected date of sale), the delinquent tax lien on this property will be sold to _____ (enter name of purchaser). To pay the delinquent taxes prior to the sale, contact _____ (enter the name, title, business address and telephone number of enforcing officer of the tax district)."

(c) Where appropriate, the notice may also include language substantially as follows:
"Following the sale, the purchaser of the lien will have the right to collect and enforce the delinquent taxes against your property, and, if necessary, to hire a private collection agency to assist it in securing payment of the amount due. To pay the delinquent taxes on or after the sale, you will have to contact _____ (enter name of tax lien purchaser or its tax collection agent) directly."

(d) Where the property in question is subject to an installment agreement executed pursuant to section eleven hundred eighty-four of this article, the notice shall further include language substantially as follows: "The sale of the tax liens on your property will not affect

your right to continue making installment payments in the amounts and at the times called for by your agreement with _____ (enter name of tax district). However, following the sale, the tax lien purchaser will assume the rights of the tax district under the agreement, and future installment payments should be made to _____ (enter name of tax lien purchaser or its tax collection agent) directly."

3. Upon a sale of delinquent tax liens pursuant to this section, the enforcing officer shall issue and deliver to the purchaser one or more certificates identifying the affected parcels and the total amount due on each as of the date of the sale, including interest, penalties, and charges. The enforcing officer shall retain a copy of each such certificate in his or her office, and shall maintain records that will enable interested parties to determine which liens have been sold, to whom, and the total amount due on such liens when they were sold. When the enforcing officer is duly notified by the tax lien purchaser or its successor in interest that a lien has been redeemed, he or she shall update those records to reflect such redemption. The purchaser of such tax lien may record the certificates evidencing the purchase and sale of the liens in the office of the county recording officer for the tax district. The tax district shall have no further rights or responsibilities relative to delinquent tax liens which have been sold pursuant to this section, except as may otherwise be provided in the contract for the sale of delinquent tax liens.

4. The bond bank or its tax lien entity may, at its discretion, accept partial payments and may enter into installment agreements with owners on such terms and conditions as the tax lien purchaser shall deem advisable, without regard to any restrictions that might be applicable if such purchaser were a tax district. Where a property is subject to more than one delinquent tax lien, the liens shall be redeemed in the manner set forth in section eleven hundred twelve of this article, provided, however, that payments made on a tax lien shall be applied first to pay any reasonable costs incurred in the collection of the tax lien including reasonable attorneys' fees, legal costs, allowances and disbursements, next to pay accrued interest due on the tax lien, and finally to pay the principal of the tax lien, until the entire amount of the lien has been paid.

S 1192. Additional powers of tax districts in connection with the sale of delinquent tax liens. 1. Notwithstanding any general or special law to the contrary, a contract for the sale of tax liens from a tax district to the bond bank or its tax lien entity shall, consistent with the provisions of title eighteen of article eight of the public authorities law, contain such terms, provisions and conditions as, in the judgment of the tax district shall be necessary or desirable. Each such contract shall specify the amount to be made available to a tax district from the proceeds of an issue of tax lien collateralized securities, which amount may be more or less than the face amount of the tax liens sold to the bond bank or its tax lien entity, and any other amounts which may be made available to the tax district on a contingent basis under the terms of the contract. In addition, each contract may require such tax district, subject to appropriation by the appropriate legislative body of such tax district, to make provisions for the payment of such other fees, charges, costs and other amounts as the tax district shall in its judgment determine to be necessary or desirable.

2. Any contract entered into pursuant to subdivision one of this section shall provide that the obligation of the tax district executing such contract to fund or pay the amounts therein provided for shall not constitute a debt of such tax district within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available and that no liability shall be incurred by such tax district beyond the moneys available for such purpose, and that any such payment obligation of such tax district other than the timely payment of any moneys collected and due to the bond bank or its tax lien entity as a result of the redemption of tax liens which are the subject of such contract, is subject to appropriation by the appropriate legislative body of such tax district.

3. A tax district may sell, and contract to sell, tax liens, and all or part of any other amounts which may be made available to the tax district on a contingent basis under the terms of the

purchase and sale agreement, to the bond bank or its tax lien entity at such price or prices, upon such terms and conditions and in such manner, as the tax district shall deem advisable. A tax district may also sell, or contract to sell, real property acquired by the tax district pursuant to any tax enforcement proceeding and not yet disposed of by such tax district, to the bond bank or its tax lien entity in connection with the sale or proposed sale of tax liens to the bond bank or its tax lien entity.

4. As a condition of sale of tax liens to the bond bank or its tax lien entity, each tax district shall agree (a) to promptly pay, as directed by the bond bank, any moneys collected by the tax district in connection with the redemption and cancellation of such tax liens, (b) to pay, subject to appropriation by the appropriate legislative body of such tax district, any amounts due and owing to the bond bank or its tax lien entity as a result of the sale of such tax liens, (c) to make such covenants, representations, and warranties with respect to the tax liens sold as required to effectuate the sale of such tax liens and facilitate the marketing of tax lien collateralized securities issued by the bond bank or its tax lien entity and (d) to accept a note or other instrument issued by the bond bank or its tax lien entity to evidence any contingent amounts payable under the terms of the contract.

5. In connection with the sale or proposed sale of tax liens to the bond bank or its tax lien entity, a tax district may, notwithstanding the provisions of any general or special law to the contrary, pay (a) such fixed or annual charges as may be prescribed from time to time by the bond bank for or with respect to the purchase by the bond bank or its tax lien entity of the tax liens of such tax district, and (b) all charges or expenses necessary for the conversion or reconversion of any of its tax liens into such form as may be required by the bond bank in connection with any sale or other disposition of such tax liens.

6. A contract to sell tax liens pursuant to this section may require the tax district to repurchase a delinquent tax lien under the conditions specified therein. If a delinquent tax lien should be repurchased by the tax district, the tax district may resume the enforcement of the delinquent tax lien pursuant to the locally applicable procedures.

S 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.