

New York



**FROM: ANDREA LEVINE
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**RE: AMENDMENTS TO NEW YORK STATE REAL PROPERTY TAX
LAW SECTION 1125(1)**

DATE: OCTOBER 31, 2006

On July 26, 2006, Chapter 415 of the Laws of 2006 was enacted into law. This Chapter amends Section 1125(1) of the New York State Real Property Tax Law, which addresses personal notice of commencement of a tax foreclosure proceeding.

Currently, Section 1125(1)(a) provides that notice to owners is to be made by certified mail. Other parties with an interest in the property are served by first class mail. Section 1125(1)(b) of the statute now requires all parties entitled to notice, owners and others, receive notice by certified mail and ordinary first class mail. Notice is deemed received unless both mailings are returned within 45 days after being mailed. If that occurs, the enforcing officer must try to obtain an alternative address from the postal service.

If an alternative address is located, then notice must be made again, by certified and first class mail. The owner may redeem the parcel or serve a duly verified answer to the petition of foreclosure until either the 30th day after the mailing or the date specified in the notice of foreclosure as the last date for redemption, whichever is later.

If no alternative address is located, then in the case of an owner, a copy of the notice must be posted on the property which is the subject to the tax lien. In the case of a non-owner, the enforcing officer must post the notice in his or her office and in the office of the clerk of the court in which the petition of foreclosure is filed. The party to whom this notice is sent may redeem the parcel or serve a duly verified answer to the petition of foreclosure until either the 30th day after posting or delivery, or the date specified in the notice of foreclosure as the last date of redemption, whichever is later.

If the owner is listed as “unknown” on the tax roll and the name of the owner cannot be found in the public record, the notice shall be mailed to the property address by ordinary first class mail addressed to “occupant” and a copy of the notice shall be posted on the property which is the subject of the tax lien.

Section 1125(1)(c) provides specific requirements for the posting of the notice. The notice must either be affixed to the door of a residential or commercial structure on the premises, or attached to a vertical object such as a tree, post or stake, plainly visible from the road. If at the time of posting, the enforcing officer finds an occupant of suitable age and discretion at the property, the notice may be delivered to that person in addition to or instead of the posting. Please review Section 1125(1)(c) for the requirements for posting.

Section 1125(1)(d) requires that any party entitled to notice pursuant to this section to notify the enforcing officer when his or her or its addresses changes. There is no specific form required, but the party must affirmatively state in writing that its address will change. If the foreclosure proceeding is challenged on grounds of lack of notice the court will take into consideration the failure to provide notification of a change of address.

Section 1125(1)(e) defines the public record as “the books maintained by the recording officer of the county in which the property is located ... the books kept by surrogate’s court of the county in which the property is located ... and the tax rolls in possession of the enforcing officer dated from the applicable lien date forward”.

This new statute will become effective on November 23, 2006 and will apply to tax foreclosure proceedings commenced on or after this date.

A full copy of the sponsor’s memo is attached [hereto](#) for your review.

