

SPONSORS MEMO:**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S8217

SPONSOR: LITTLE

TITLE OF BILL:

An act to amend the real property tax law, in relation to personal notice of commencement of foreclosure proceedings

PURPOSE:

This legislation brings the state's uniform tax enforcement procedure, under Article 11 of the Real Property Tax Law, into compliance with an April 26, 2006 United States Supreme Court decision.

SUMMARY OF PROVISIONS:

Section 1.(a.) is amended by limiting its contents to the subject of parties that are entitled to receive notice, as defined by the public record. It transfers the discussion about the method of notification to a new subdivision 1.(b.).

Section 1.(b.) This amendment addresses the method of notification, and changes, and makes uniform, the requirement for providing notice to owners and other parties in interest. When the law was first adopted in 1995, notice was required to all parties by first class mail. A subsequent amendment was made to require notice to owners only by certified mail; first class mail remained as the method of providing notice to all others who had an interest in the property. This new amendment treats owners and others alike, once again, but requires notice simultaneously by both certified mail and ordinary first class mail, and provides that notice shall be deemed received unless both mailings are returned within 45 days after being mailed. In that event, the enforcing officer shall attempt to obtain an alternative address from the postal service. If a new address is found then notice must be made again, to the owner, by both certified and first class mail, and the owner may redeem or answer until either the 30th day after such mailing, or the date specified in the notice of foreclosure, whichever is later. Therefore, the owner to whom a second notice is sent, at a different address, after the first notice is returned by the postal service undelivered, may get the benefit of an additional period of time to redeem or file an answer. If no alternative address can be found, then a copy of the notice must be posted on the owner's property. Again, the time to redeem or answer may be extended as herein above. If an owner is listed as "unknown" on the tax roll, then the notice should be mailed to the property address addressed to "occupant".

Section 1.(c.) is new and describes the methods by which posting is to be done.

Section 1.(d.) is new and requires any party that is entitled to notice to notify the enforcing officer when his or its address changes. The intention of this provision is to provide the enforcing officer with an

up to date mailing address. It permits a court to take into consideration the failure of the party to abide by this provision when determining whether the tax district provided reasonable notice. This is consistent with leading NYS and federal case law following Jones v. Flowers.

Section 1(e.) is new and defines what constitutes the public record. It omits ancillary sources, pursuant to leading NYS and federal case law following Jones v. Flowers.

JUSTIFICATION:

This legislation brings the state's uniform tax enforcement procedure, under Art. 11 of the RPTL, into compliance with an April 26, 2006 United States Supreme Court decision. In the case, Jones v. Flowers, the Court held that when mailed notice of foreclosure is returned unclaimed, a tax district must take additional reasonable steps to attempt to provide notice to the property owner before selling his property, if it is practicable to do so. This bill builds upon current procedures and details steps to be taken to supplement mailed notice that is returned as undeliverable or other ineffective notice. Since this ruling will have an immediate impact upon the manner in which counties and other local taxing districts conduct real property tax foreclosure proceedings, whether under RPTL Article 11, or otherwise is important to make these changes.

LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect on the one hundred twentieth day after it shall have become a law, and shall apply to foreclosure proceedings commenced pursuant to title 3 of article 11 of the real property tax law on or after such date.
