

1 **NYSAC 2023 Legislative Conference**  
2 **Standing Committee on Taxation and Finance**  
3 **Resolution #4**

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5 **Resolution In Opposition to the Governor’s Budget Proposal to Replace the**  
6 **Current In Rem Tax Delinquency Foreclosure Process as Presented**

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8 **WHEREAS**, the Governor’s budget proposes to replace the current In Rem tax  
9 delinquency foreclosure process that has been in place for over 30 years; and

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11 **WHEREAS**, the proposal essentially disregards 30+ years of case law related to the  
12 existing system; and

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14 **WHEREAS**, the proposal, as drafted, generates dozens of procedural, legal and  
15 possible constitutional issues that are not addressed in the legislation; with many that  
16 revolve around how to settle proceeds among varying interests in certain circumstances,  
17 such as

- 18 • Divorce cases
- 19 • Deceased
- 20 • Bad title, or multiple owners
- 21 • Validating liens – determining if it was paid or not, is it a legitimate lien
- 22 • Liens are filed on a person, not a property, common names are problematic
- 23 • The process may eliminate due process between the original owner and the
- 24 mortgagee
- 25 • May eliminate mortgage refinancing incentives, where a mortgagee does not
- 26 work with an owner to lower mortgage costs
- 27 • What if liens are discovered after settlement
- 28 • What happens if bankruptcy is declared after a settlement
- 29 • Does the proposal run afoul of Article VIII, Section 1 of the Constitution; and

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31 **WHEREAS**, the proposal also requires counties and other municipalities that  
32 administer tax delinquency foreclosures, to effectively become agents of private for-  
33 profit banks and other lienholders to settle their accounts as well; and

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35 **WHEREAS**, the proposal is too broadly structured as it applies to all parcels and could  
36 become subject to abuse; and

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38 **WHEREAS**, as structured the proposal guarantees that a county will incur significant  
39 new costs because it does not allow a county to balance surplus sales against sales  
40 made at a loss during the calendar year, and the county will never be able to recover the  
41 cost of holding multiple taxing jurisdictions harmless for delinquent taxes. These  
42 unreimbursed delinquencies and sales that result in a loss will need to be assessed  
43 against county property taxpayers in following years; and

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45 **WHEREAS**, care needs to be taken when changing longstanding legislation, especially  
46 without debate, since unintended consequences may occur; and

1 **WHEREAS**, the legislation fails to address deficiencies as the counties are the state  
2 mandated guarantor of unpaid property taxes from towns, villages, school districts and  
3 various other special districts.

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5 **NOW, THEREFORE, BE IT RESOLVED**, the New York State Association of  
6 Counties (NYSAC) opposes the In Rem tax delinquency foreclosure changes proposed in  
7 the Governor’s budget; and  
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9 **BE IT FURTHER RESOLVED**, county officials responsible for implementing these  
10 state law changes want to partner with the state to develop a workable solution to the  
11 problem the Governor raises in this proposal and NYSAC encourages the Governor and  
12 State Legislature to pull this legislation from the budget so it can be amended to, at a  
13 minimum,

- 14 • Narrow the scope by applying it only to owner occupied parcels,
- 15 • Remove provisions requiring the settlement of other outstanding liens as it forces  
16 a public servant to act as an agent of what is usually a for-profit entity that has its  
17 own existing staff to settle liens,
- 18 • Clarify what are included as administrative costs,
- 19 • Require the state to become the guarantor of unpaid taxes for all taxing  
20 jurisdictions that experience tax delinquencies under the proposed process,
- 21 • Establish an effective date that is no earlier than January 2025 so necessary  
22 amendments can be incorporated and state regulations can be put in place and  
23 stakeholders can be educated on the changes; and  
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25 **BE IT FURTHER RESOLVED**, counties believe the state should established and fund  
26 with state resources a grant program similar to the federal Homeowners Assistance  
27 Fund to help homeowners that fall behind in paying their property taxes so they can  
28 avoid tax foreclosure; and  
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30 **BE IT FURTHER RESOLVED**, that copies of this resolution be sent to the counties  
31 of New York State encouraging member counties to enact similar resolutions; and  
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33 **BE IT FURTHER RESOLVED**, the New York State Association of Counties shall  
34 forward copies of this resolution to Governor Kathy Hochul, the New York State  
35 Legislature and all others deemed necessary and proper.