

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3772

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 3772.

This bill would revise the “tax sale law,” R.S.54:5-1 et seq., and the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), to bring those laws into compliance with the recent United States Supreme Court decision in Tyler v. Hennepin County, Minnesota, et al., 143 S. Ct. 1369 (2023) concerning the ability of a property owner, whose right to redeem a tax lien on their property has been foreclosed by the holder of a tax sale certificate, to receive any of the owner’s equity remaining in the property after the tax lien foreclosure.

Under current State law, the holder of a tax sale certificate, after six months, in the case of a municipality that holds the tax sale certificate or in the case of the holder of a tax sale certificate on a property that is abandoned, or after two years, in the case of a third party lienholder, may file suit in Superior Court to foreclose the right of the property owner to redeem the tax lien. Upon the foreclosure, the lienholder will receive title to the property and all of the equity remaining in the property, leaving the former property owner with no funds from the foreclosure with which to purchase another property.

In the Tyler decision, the Supreme Court determined that Hennepin County could not keep the equity in the property beyond the amount it was owed for overdue property taxes and interest thereon. Under the Court’s ruling, that excess equity was considered as property that could not be taken from the former property owner consistent with the takings clause restrictions of the 5th Amendment of the United States Constitution.

This bill would amend current law to permit a property owner to require a judicial sale as in the manner of the foreclosure of a mortgage of the property by the county sheriff in the same manner as mortgage foreclosures are subject to a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction of the property through the office of the county sheriff. The property owner would have to make a motion to the Superior Court for either

a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property by the office of the county sheriff within 45 days of receiving the complaint for foreclosure or, in the case of an in rem foreclosure, within 45 days of receiving the complaint for foreclosure or the publication of the notice of foreclosure as required by law, whichever date is later. The property owner would be advised of this information, in boldface type, with the service of the complaint for foreclosure.

This bill would not require a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property through the office of the county sheriff if the property owner does not make a demand for one. This would save the lien holder from incurring substantial costs associated with a judicial sale as in the manner of the foreclosure of a mortgage or Internet auction of the property through the office of the county sheriff. Many owners have no equity in their property to protect during a tax lien foreclosure. However, any property owner who wants a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property through the office of the county sheriff will be able to obtain one by simply requesting one from the court.