

1 **NYSAC 2024 Fall Seminar**
2 **Standing Committee on Taxation and Finance**
3 **Resolution #2**

4
5 **Resolution Urging Governor Hochul to Veto S.967-A (Ryan)/A.1489-A**
6 **(Thiele), Legislation that Would Lower the Penalty Interest Rate in Tax**
7 **Delinquency Situations and Shift Higher Costs to Other Taxpayers**
8

9 **WHEREAS**, on May 25, 2023, the U.S. Supreme Court ruled in *Tyler v. Hennepin*
10 *County* that certain property tax enforcement provisions carried out by states will need
11 to change, specifically, returning any surplus to the prior owner after appropriate
12 delinquent taxes, penalties, fees and administrative expenses are reimbursed to the
13 enforcing entity; and

14
15 **WHEREAS**, the adopted SFY 2025 Budget fully addressed the issue of appropriate
16 interest rate levels in tax delinquency foreclosures as part of reform efforts to satisfy the
17 *Tyler v Hennepin Decision*, by ensuring surplus proceeds from a tax foreclosure sale are
18 appropriately returned to the prior owner(s), while building upon the robust
19 comprehensive services and protections counties provide to taxpayers facing, or in,
20 delinquency; and

21
22 **WHEREAS**, the adopted reforms to New York's In-Rem tax foreclosure process
23 provide a robust process for the distribution of surplus; establishes parameters for
24 determining surplus; ensures that a court will determine the order and priority of
25 returning surplus funds; provides protections for lienholders; provides legal protections
26 to municipalities by establishing that a property sold via a public auction represents the
27 full value of the property; and defines a process for nonpublic sales; and

28
29 **WHEREAS**, the adopted reforms also establish mechanisms for counties to be
30 reimbursed for delinquent taxes, penalties and interest; mailing costs; costs of
31 publication of notices; the cost of recording and filing legal documents; reasonable and
32 necessary costs of any search of the public record and notice requirements; and defines
33 other amounts owed to the tax district by virtue of a judgment lien, mortgage lien, or
34 any other lien; and

35
36 **WHEREAS**, the adopted reforms recognize that counties, as required under state law,
37 must act as tax enforcement officers when property taxes are unpaid and become
38 delinquent including the reimbursement of unpaid property taxes to school districts and
39 towns, as well as many villages that counties voluntarily hold harmless; and

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41 **WHEREAS**, these hold harmless responsibilities often extend for many years as
42 defined under state law and practice; and

1 **WHEREAS**, in calendar year 2022, nearly \$450 million in delinquent school district,
2 town, and village taxes were turned over to counties for further collection efforts, with
3 counties making these jurisdictions whole for their unpaid taxes as long as necessary;
4 and

5
6 **WHEREAS**, counties will experience higher costs under the new foreclosure process
7 because of requirements under the *Tyler v. Hennepin Decision* under which all tax
8 foreclosure sales will, financially, be breakeven at best with many generating losses for
9 the tax enforcing jurisdiction; and

10
11 **WHEREAS**, the majority of locally levied county taxes are used to pay for state
12 mandated services and programs, and the SFY 2025 State Budget provides no additional
13 state funding to assist counties with losses that will increase because of the *Tyler v.*
14 *Hennepin Decision*; and

15
16 **WHEREAS**, the lower interest rate proposed in S967-A and A.1489-A is not defined
17 and leaves the final decision up to the Department of Taxation and Finance, which could
18 allow rates to be capped at no more than one-third of the current ceiling for the penalty
19 interest rate, and below the average mortgage interest rate available to homeowners
20 today and several multiples lower than the interest rate on a typical revolving credit
21 products; and

22
23 **WHEREAS**, a key source of revenue during tax delinquency foreclosures for counties
24 necessary to hold schools, towns and villages harmless for any unpaid property taxes
25 has come from interest payments and surplus funds from foreclosure sales (which are
26 no longer available under the *Tyler v Hennepin Decision*); and

27
28 **WHEREAS**, in subsequent years the increased revenue loss to counties from the U.S.
29 Supreme Court decision and lower interest rates proposed in S.967-A and A.1489-A,
30 along with higher administrative costs imposed by the aforementioned legislation that
31 would require tax enforcement districts to apply different penalty interest rates to
32 thousands of parcels based on their designation as residential, abandoned, commercial
33 or other; and

34
35 **WHEREAS**, these higher costs will need to be added to the following year's tax levy
36 raising property taxes on all property owners that already paid their property taxes in
37 full in the prior year, worsening the housing affordability crisis for all.

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39 **NOW, THEREFORE, BE IT RESOLVED**, the New York State Association of
40 Counties (NYSAC) opposes S.967-A/A.1489-A and recommends Governor Hochul to
41 veto this legislation; and

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43 **BE IT FURTHER RESOLVED**, copies of this resolution be sent to the counties of
44 New York State encouraging them to enact similar resolutions; and

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2 **BE IT FURTHER RESOLVED**, NYSAC shall forward copies of this resolution to
3 Governor Kathy Hochul, the New York State Legislature and all others deemed
4 necessary and proper.