

1 **NYSAC 2023 Fall Seminar**  
2 **Standing Committee on Taxation and Finance**  
3 **Resolution #2**

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5 **Resolution In Support of Modernizing New York State’s In Rem Tax**  
6 **Delinquency Foreclosure Process to Comply with the Tyler vs. Hennepin**  
7 **County Supreme Court Decision and Prioritizes the Needs of All Property**  
8 **Taxpayers**

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

15  
16 **WHEREAS**, New York state officials, county and other local government tax  
17 enforcement officers are reviewing the implications of the Court’s decision, we must  
18 ensure any redrafting of current state laws meet the standards set by the decision and  
19 that we preserve the procedures and systems in place today that work well and will  
20 facilitate the critical task of tax enforcement for the benefit of all taxpayers; and

21  
22 **WHEREAS**, county property tax enforcement responsibilities are required under state  
23 law with counties following the complex and regimented rules and procedures of the  
24 state; and

25  
26 **WHEREAS**, under current state law counties are financially liable to hold school  
27 districts and towns (and often villages and some cities) harmless from any delinquent  
28 property taxes that they assess and are unpaid; and

29  
30 **WHEREAS**, these hold harmless responsibilities often extend for many years as  
31 defined under state law and practice; and

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33 **WHEREAS**, the majority of locally levied county taxes are used to pay for state  
34 mandated services and programs, but the state currently provides no financial  
35 assistance or liability protections to counties under this state defined tax enforcement  
36 process; and

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38 **WHEREAS**, in any economic downturn, or unfavorable real estate market, the liability  
39 and expense for county taxpayers will grow immensely in the absence of state financing  
40 and protections; and

41  
42 **WHEREAS**, the U.S. Supreme Court decision requires counties to return any surplus  
43 to the prior owner and will eliminate a key funding offset for counties as surpluses  
44 derived from some tax foreclosure auctions are used to offset losses on other parcels and  
45 to hold other taxing jurisdictions harmless during the multi-year tax foreclosure  
46 process; and

1  
2 **WHEREAS**, in subsequent years the increased revenue loss for counties from current  
3 state law and the U.S. Supreme Court decision will need to be levied again and spread  
4 out among all other property owners that pay their property taxes increasing their costs  
5 and worsening the housing affordability crisis for all; and  
6

7 **WHEREAS**, some counties and other tax enforcement jurisdictions also provide  
8 financial assistance to landbanks by transferring tax foreclosed properties for minimal  
9 cost which appears to not satisfy the Supreme Court decision; and  
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11 **WHEREAS**, the primary role of landbanks is to stabilize neighborhoods, prevent  
12 blight, provide affordable housing opportunities, and return tax delinquent properties to  
13 the tax rolls; and  
14

15 **WHEREAS**, some In Rem reform proposals proposed in New York have sought to  
16 replace current privately funded lienholders administrative and legal staff with publicly  
17 funded county administrative and legal staff, which could lead to the unjust enrichment  
18 of for-profit banks and other lienholders that currently administer, fund and enforce  
19 their own property lien rights.  
20

21 **NOW, THEREFORE, BE IT RESOLVED**, the New York State Association of  
22 Counties (NYSAC) supports In Rem tax foreclosure reforms that:

- 23 • Require the state to become the guarantor of unpaid taxes for all taxing  
24 jurisdictions that experience tax delinquencies under the new process,
- 25 • Ensure reforms include robust and flexible definitions of administrative  
26 expenses,
- 27 • Provide liability protections to counties and tax enforcement officials that are  
28 carrying out state property tax enforcement laws,
- 29 • Do not include provisions that require tax enforcement officials to settle all  
30 outstanding liens as it forces a public servant to act as an agent of what is usually  
31 a for-profit entity that has its own existing staff to settle liens,
- 32 • Require the court system to distribute any surplus funds to prior owner(s) under  
33 a specified timetable,
- 34 • Ensure the state provides direct fiscal assistance to landbanks so they can  
35 maintain their primary housing goals under state law; and  
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37 **BE IT FURTHER RESOLVED**, copies of this resolution be sent to the counties of  
38 New York State encouraging member counties to enact similar resolutions; and  
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40 **BE IT FURTHER RESOLVED**, the New York State Association of Counties shall  
41 forward copies of this resolution to Governor Kathy Hochul, the New York State  
42 Legislature and all others deemed necessary and proper.