

STATE OF NEW YORK

3492--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 27, 2021

Introduced by M. of A. ZEBROWSKI, GALEF, VANEL -- read once and referred to the Committee on Real Property Taxation -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to requiring the disclosure of income and expense statements upon a petition for an article 7 proceeding and imposes staggered dates for submissions of appraisal reports

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 1 and 2 of section 718 of the real property
2 tax law, subdivision 1 as amended by chapter 186 of the laws of 2002,
3 and subdivision 2 as added by chapter 693 of the laws of 1995, para-
4 graphs (a) and (b) of subdivision 2 as amended by chapter 503 of the
5 laws of 1996, are amended to read as follows:
6 1. Where a proceeding is commenced pursuant to this article to review
7 the assessment of a parcel of real property which contains one, two or
8 three family dwelling residential real property, including such dwell-
9 ings used in part for nonresidential purposes, but which are used prima-
10 rily for residential purposes, and farm dwellings, or a parcel of real
11 property which contains residential real property consisting of more
12 than three dwelling units held in condominium form of ownership, or a
13 parcel of real property which contains land used in agricultural
14 production which is eligible for an agricultural assessment pursuant to
15 section three hundred five or three hundred six of the agriculture and
16 markets law, where the owner of such land has filed an annual applica-
17 tion for an agricultural assessment, and farm buildings and structures
18 thereon, as defined in subdivision two of section four hundred eighty-
19 three of this chapter, or any parcel of real property located in a city
20 with a population of one million or more, unless a note of issue is

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 filed and the proceeding is placed on the court calendar within [~~four~~
2 two] years from the last date provided by law for the commencement of the
3 proceeding, the proceeding thereon shall be deemed to have been aban-
4 doned and an order dismissing the petition shall be entered without
5 notice and such order shall constitute a final adjudication of all
6 issues raised in the proceeding, except where the parties otherwise
7 stipulate or a court or judge otherwise orders on good cause shown with-
8 in such [~~four-year~~] two-year period.

9 2. Where a proceeding is commenced pursuant to this article to review
10 the assessment of a parcel of real property which solely contains prop-
11 erty which is not subject to the provisions of subdivision one of this
12 section, a note of issue shall be filed in accordance with this subdivi-
13 sion.

14 (a) Where a real property assessment challenge commenced under this
15 article has been pending for at least [~~two-years~~] six months from the
16 date of the commencement of the proceeding, either party may demand, by
17 serving and filing a written demand, that the parties file a written
18 appraisal of the property which is the subject of the proceeding [~~and~~
19 ~~serve same~~]. The demand shall be in writing and served by personal
20 delivery or certified mail, return receipt requested. The court shall
21 fix the date for submission of the appraisal reports for the petitioner
22 within one hundred twenty days of service of such demand, and the court
23 shall fix the date for submission of the appraisal reports for the
24 respondent ninety days subsequent to the date for submission of the
25 appraisal reports for the petitioner. Upon the filing of the appraisal
26 reports by the petitioner, the court shall notify the respondent in
27 writing that the petitioners' appraisal reports have been received and
28 the date by which the respondent must submit their appraisal reports.
29 Upon the receipt of appraisal reports, the court shall simultaneously
30 distribute all appraisal reports to all parties. [~~The demand shall be in~~
31 writing and served by personal delivery or certified mail, return
32 receipt requested. Both parties shall thereafter file an appraisal or

33 (b) The court may, at any time, order the submission of appraisal
34 reports and fix a date for such submission for the petitioner within one
35 hundred twenty days, and the court shall fix for submission of the
36 appraisal reports for the respondent ninety days subsequent to the date
37 for submission of the appraisal reports for the petitioner. Upon the
38 filing of the appraisal reports by the petitioner, the court shall noti-
39 fy the respondent in writing that the petitioners' appraisal reports
40 have been received and the date by which the respondent must submit
41 their appraisal reports. Upon the receipt of appraisal reports, the
42 court shall simultaneously distribute all appraisal reports to all
43 parties.

44 (c) Should either party fail to file such appraisal report by the date
45 for submission fixed by the court, either party may show good cause as
46 to why such demand or order cannot be complied with within such time
47 period. Either party may move to dismiss the proceeding by reason of the
48 other party's failure to prosecute the proceeding and file the appraisal
49 pursuant to the demand or order. Unless the party shows good cause for
50 failing to file the appraisal, the court may in its discretion either
51 dismiss or grant the petition and such order shall constitute a final
52 adjudication of all issues raised in the proceeding.

53 [~~(b)~~] (d) Upon the serving and filing the appraisals pursuant to a
54 demand made under paragraph (a) of this subdivision or by order of the
55 court pursuant to paragraph (b) of this subdivision, the court shall
56 schedule a conference with the parties to be held within [~~ninety~~]

1 ~~forty-five~~ days to discuss settlement, resolve disclosure and decide
2 other pretrial issues.

3 ~~[(c)]~~ (e) After completion of the pretrial conference required by this
4 subdivision, the respondent may serve and file a written demand that
5 petitioner file a note of issue within thirty days of service of the
6 demand therefor. The demand shall be in writing and served by personal
7 delivery or certified mail, return receipt requested. Should the peti-
8 tioner fail to file a note of issue within thirty days of the service of
9 demand, the proceeding shall be deemed to have been abandoned, an order
10 dismissing the petition shall be entered without notice and such order
11 shall constitute a final adjudication of all issues raised in the
12 proceeding, unless the court or judge otherwise orders on good cause
13 shown.

14 ~~[(d)]~~ (f) Should the respondent fail to demand that the petitioner
15 file a note of issue pursuant to paragraph ~~[(c)]~~ (e) of this subdivision
16 within ~~four~~ two years from the date of the commencement of the
17 proceeding, and a note of issue has not otherwise been filed, the
18 proceeding shall be deemed to have been abandoned and an order dismiss-
19 ing the petition shall be entered without notice and such order shall
20 constitute a final adjudication of all issues raised in the proceeding,
21 except where the parties otherwise stipulate or a court or judge other-
22 wise orders on good cause shown within such ~~four-year~~ two-year period.

23 § 2. Section 706 of the real property tax law, as amended by chapter
24 714 of the laws of 1982, is amended to read as follows:

25 § 706. Grounds for review; contents of petition. 1. The grounds for
26 reviewing an assessment shall be that the assessment to be reviewed is
27 excessive, unequal or unlawful, or that real property is misclassified.

28 2. (a) A proceeding to review an assessment shall be founded upon a
29 petition setting forth the respect in which the assessment is excessive,
30 unequal or unlawful, or the respect in which real property is misclassi-
31 fied and stating that the petitioner is or will be injured thereby. Such
32 petition shall be duly verified by the petitioner, an officer thereof,
33 or by an agent thereof who has been authorized in writing to verify and
34 file such petition and whose authorization is made a part of such peti-
35 tion. Such petition must show that a complaint was made in due time to
36 the proper officers to correct such assessment. Two or more persons
37 having real property assessed upon the same roll who assert the same
38 grounds for review presenting a common question of law or fact, may
39 unite in the same petition.

40 (b) Within thirty days of commencing a proceeding pursuant to section
41 seven hundred four of this article, the petitioner shall serve upon the
42 respondent a statement that the property is not income producing or an
43 income and expense statement for the property for each tax year under
44 review; provided that the provisions of this paragraph shall not apply
45 to proceedings in a city with a population of one million or more.

46 § 3. This act shall take effect on the one hundred twentieth day after
47 it shall have become a law and shall apply to proceedings commenced on
48 and after the effective date of this act pursuant to section 704 of the
49 real property tax law. Effective immediately the addition, amendment
50 and/or repeal of any rule or regulation necessary for the implementation
51 of this act on its effective date are authorized to be made and
52 completed on or before such date.