

# STATE OF NEW YORK

9504

## IN ASSEMBLY

March 10, 2022

Introduced by M. of A. HUNTER -- read once and referred to the Committee on Local Governments

AN ACT to amend the state finance law and the real property tax law, in relation to authorizing certain municipalities in a pilot emergency repair program to add unpaid emergency repair charges and housing code violation penalties, costs and fines to such municipalities' annual tax levy in accordance with applicable law; and providing for the repeal of certain provisions upon the expiration thereof

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

1 Section 1. Subdivision 3 of section 54-g of the state finance law, as  
2 added by chapter 707 of the laws of 1981, is amended to read as follows:

3 3. Beginning November first, two thousand twenty-two, the secretary of  
4 state shall receive additional funding from the state to support a pilot  
5 program for activities related to the administration and enforcement of  
6 the fire prevention and building codes. The secretary of state, with  
7 assistance from the division of housing and community renewal, shall  
8 establish a pilot program with participating municipalities for an emer-  
9 gency repair program. The secretary of state shall only select munici-  
10 palities designated as a city for such pilot program. The emergency  
11 repair program which shall be funded for a minimum of three years and  
12 shall require a municipality awarded participation to enact a local law  
13 to enable the municipality to repair immediately hazardous code  
14 violations in buildings where the owner has not undertaken such repairs  
15 in a reasonable time. The municipality shall bill the owner for such  
16 repair costs and in the event payment is not received within thirty  
17 days, the secretary shall reimburse the municipality for such repairs.  
18 Any subsequent recovery of monies due from the owner for such repairs  
19 shall be forwarded to the state. The secretary of state in conjunction  
20 with the division of housing and community renewal shall file a report  
21 annually to evaluate the effectiveness of the emergency repair pilot  
22 program with the legislature and the governor. Such report shall include  
23 recommendations as to whether the program shall be continued or modified  
24 in any way and the reasons therefor.

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

LBD14417-02-2

1     4. The terms used in this section shall have the meanings ascribed to  
2 them in section fifty-four of this article.

3     § 2. The real property tax law is amended by adding a new section 903  
4 to read as follows:

5     § 903. Collection of unpaid housing code violation penalties; levy. 1.  
6 Authorization. In addition to and not in limitation of any power other-  
7 wise granted by law, municipalities participating in the emergency  
8 repair program pursuant to section fifty-four-g of the state finance  
9 law, are hereby authorized to collect any unpaid emergency repair charg-  
10 es, housing, building and fire code violation penalties, costs and fines  
11 through placement by the municipality's commissioner of finance, treas-  
12 urer, or other public official charged with the duties of overseeing tax  
13 collections on the municipality's annual tax levy in accordance with the  
14 provisions of this section.

15     2. Eligibility. In order to be eligible for placement on the munici-  
16 pality's annual tax levy such unpaid emergency repair charges, code  
17 violation penalties, costs and fines shall have been adjudicated and  
18 imposed through a judgment in a court of competent jurisdiction on an  
19 owner of real property within the municipality and recorded by the coun-  
20 ty clerk, as certified by the municipal counsel to the commissioner of  
21 finance, treasurer or other public official charged with the duties of  
22 overseeing tax collections and have remained unpaid for one year after  
23 the final adjudication and exhaustion of all appeals relating to the  
24 imposition of the fines for a code violation preceding the placement on  
25 the municipality's tax levy.

26     3. Minimum amount owed. To qualify for placement on the tax levy the  
27 amount owed for unpaid emergency repair charges and/or the code  
28 violations shall be at least five percent of the amount of the tax  
29 assessed value of the property.

30     4. Levy. Such unpaid emergency repair charges and/or code violation  
31 penalty, cost or fine as set forth in a copy of the judgment certified  
32 by the municipal counsel to the commissioner of finance, treasurer or  
33 other public official charged with the duties of overseeing tax  
34 collections shall be set down in the annual tax levy under the heading  
35 uncollected fines and penalties and in accordance with this section  
36 shall be levied, enforced and collected in the same manner, by the same  
37 proceedings, at the same time, under the same penalties and having the  
38 same lien upon the property assessed as the general municipal tax and as  
39 a part thereof.

40     5. Notice. The municipality shall notify all owners or known inter-  
41 ested parties of record of the placement of the unpaid emergency repair  
42 charges and/or code violations on the municipal tax levy as uncollected  
43 fines and penalties within thirty days of placement, pursuant to section  
44 three hundred eight of the civil practice law and rules. The notice  
45 shall include the date or dates of such violations, the description of  
46 the violations, the amount owed, a statement detailing the foreclosure  
47 process that will occur if the violations remain unpaid, the process to  
48 claim any surplus funds and the contact information for the municipal  
49 office in charge of receiving payments.

50     6. Tax year. Any unpaid emergency repair charges and/or code  
51 violations shall be placed on the tax roll the municipality is currently  
52 in and shall not be placed on a list, roll or levy of delinquent taxes.

53     7. Owner occupied. Notwithstanding any other applicable provisions of  
54 law, nothing in this section shall be applied to a residential dwelling  
55 that is owner-occupied or is the primary residence of a homeowner.

1     8. Tenants. Prior to the placement of any property with unpaid emer-  
2 gency repair charges and/or code violations on the tax levy, the munici-  
3 pality shall develop a program to assist tenants residing in a dwelling  
4 at risk for tax foreclosure due to unpaid emergency repair charges  
5 and/or code violations. Such program shall include housing counseling  
6 assistance or other support in relocating the tenants to suitable hous-  
7 ing prior to the tax foreclosure.

8     9. Payment plan. Nothing in this section shall preclude an owner from  
9 entering into a payment plan with a municipality for past amounts due  
10 for emergency repair charges and/or code violations.

11     10. Curing code violations. (a) If all of the violations for which the  
12 penalties, fees and costs have been assessed are cured, removed or  
13 corrected prior to the expiration of the period for redemption pursuant  
14 to section eleven hundred ten of this chapter, the property shall be  
15 removed from the levy and auction and the balance of the amount owed  
16 shall be placed as a lien on the property pursuant to applicable laws  
17 for debt collection and an action for foreclosure of the property shall  
18 not be maintained for the amount owed.

19     (b) The determination of whether or not the code violations have been  
20 cured shall be made by the local municipal enforcing officer in charge  
21 of ensuring compliance with applicable housing, building, and fire codes  
22 such as a code enforcement officer or through a certification by the  
23 owner filed with the code enforcement officer. An appeal of this deter-  
24 mination may be made to the municipality's zoning board of appeals or  
25 other local administrative body as provided for in local law. The final  
26 determination made by the administrative body shall be reviewable pursu-  
27 ant to article seventy-eight of the civil practice law and rules.

28     (c) This section shall not be applicable to any cause of action  
29 brought for money due based on the curing of emergency repair charges  
30 and/or code violations under any form for receivership or a mechanics  
31 lien.

32     11. Payment prior to auction. (a) If the balance owed for emergency  
33 repair charges and/or code violations placed on the tax levy is paid  
34 prior to the expiration of the period for redemption pursuant to section  
35 eleven hundred ten of this chapter and there is no balance due for  
36 unpaid real property taxes, the property may not be auctioned, and the  
37 property shall be removed from the tax levy.

38     (b) The owner shall have the right to pay the full balance prior to  
39 the expiration of the period for redemption pursuant to section eleven  
40 hundred ten of this chapter in order to redeem the property.

41     12. Surplus. Any surplus funds remaining after the sale of a property  
42 at a tax foreclosure for unpaid code violations shall be returned to the  
43 former owner of the property in a manner provided under local law. This  
44 provision shall not apply to a sale of a property at a tax foreclosure  
45 due to unpaid taxes. If a property has: (a) unpaid taxes; and (b) unpaid  
46 emergency repair charges and/or unpaid code violations on the same tax  
47 levy and is auctioned at a tax foreclosure, the amount of the surplus  
48 funds returned to the former owner shall be proportionate to the amount  
49 of unpaid emergency repair charges and/or code violations owed in the  
50 total amount of debt owed to the municipality. For the purpose of this  
51 section, "surplus funds" shall mean the balance of money received after  
52 auction of a property at a tax foreclosure sale minus the amount owed  
53 for emergency repair charges, code violations and the costs and attor-  
54 neys fees incurred in the collection of the fees by the municipalities.

1 13. Balance due. If after an auction a balance is due for emergency  
2 repair charges and/or code violations, the municipality may proceed with  
3 any action against the former owner pursuant to applicable laws.

4 14. Exclusions. The provisions of this section shall not apply to any  
5 municipality that sells their tax liens in a tax lien sale.

6 § 3. This act shall take effect immediately; provided, however,  
7 section one of this act shall expire and be deemed repealed May 1, 2026.