

STATE OF NEW YORK

1475--B

2017-2018 Regular Sessions

IN ASSEMBLY

January 12, 2017

Introduced by M. of A. ZEBROWSKI, SKOUFIS -- read once and referred to the Committee on Real Property Taxation -- recommitted to the Committee on Real Property Taxation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to authorizing certain municipalities to add unpaid housing code violation penalties, costs and fines to such municipalities' annual tax levy in accordance with applicable law

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

Section 1. The real property tax law is amended by adding a new section 903 to read as follows:

§ 903. Collection of unpaid housing code violation penalties; levy. 1. Authorization. In addition to and not in limitation of any power otherwise granted by law, municipalities in the county of Rockland, including the county of Rockland, are hereby authorized to collect any unpaid housing, building and fire code violation penalties, costs and fines through placement by the municipality's commissioner of finance, treasurer, or other public official charged with the duties of overseeing tax collections on the municipality's annual tax levy in accordance with the provisions of this section.

2. Eligibility. In order to be eligible for placement on the municipality's annual tax levy such unpaid code violation penalties, costs and fines shall have been adjudicated and imposed through a judgment in a court of competent jurisdiction on an owner of real property within the municipality and recorded by the county clerk, as certified by the municipal counsel to the commissioner of finance, treasurer or other public official charged with the duties of overseeing tax collections

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

LBD01991-06-8

1 and have remained unpaid for one year after the final adjudication and
2 exhaustion of all appeals relating to the imposition of the fines for a
3 code violation preceding the placement on the municipality's tax levy.

4 3. Minimum amount owed. To qualify for placement on the tax levy the
5 amount owed for unpaid code violations must be at least five percent of
6 the amount of the tax assessed value of the property.

7 4. Levy. Such code violation penalty, cost or fine as set forth in a
8 copy of the judgment certified by the municipal counsel to the commis-
9 sioner of finance, treasurer or other public official charged with the
10 duties of overseeing tax collections shall be set down in the annual tax
11 levy under the heading uncollected fines and penalties and in according
12 with this section shall be levied, enforced and collected in the same
13 manner, by the same proceedings, at the same time, under the same penal-
14 ties and having the same lien upon the property assessed as the general
15 municipal tax and as a part thereof.

16 5. Notice. The municipality shall notify all owners or known inter-
17 ested parties of record of the placement of the code violations on the
18 municipal tax levy as uncollected fines and penalties within thirty days
19 of placement, pursuant to section three hundred eight of the civil prac-
20 tice law and rules. The notice shall include the date or dates of such
21 violations, the description of the violations, the amount owed, a state-
22 ment detailing the foreclosure process that will occur if the violations
23 remain unpaid, the process to claim any surplus funds and the contact
24 information for the municipal office in charge of receiving payments.

25 6. Tax year. Any unpaid code violations shall be placed on the tax
26 roll the municipality is currently in and shall not be placed on a list,
27 roll or levy of delinquent taxes.

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

31 8. Tenants. Prior to the placement of any property with unpaid code
32 violations on the tax levy, the municipality shall develop a program to
33 assist tenants residing in a dwelling at risk for tax foreclosure due to
34 unpaid code violations. Such program shall include housing counseling
35 assistance or other support in relocating the tenants to suitable hous-
36 ing prior to the tax foreclosure.

37 9. Payment plan. Nothing in this section shall preclude an owner or
38 landlord from entering into a payment plan with a municipality for past
39 amounts due for code violations.

40 10. Curing code violations. (a) If all of the violations for which the
41 penalties, fees and costs have been assessed are cured, removed or
42 corrected prior to the expiration of the period for redemption pursuant
43 to section eleven hundred ten of this chapter, the property shall be
44 removed from the levy and auction and the balance of the amount owed
45 shall be placed as a lien on the property pursuant to applicable laws
46 for debt collection and an action for foreclosure of the property shall
47 not be maintained for the amount owed. In the village of Upper Nyack,
48 the time period for redemption shall be the same time period set forth
49 by the village of Upper Nyack for the village's annual tax levy.

50 (b) The determination of whether or not the code violations have been
51 cured shall be made by the local municipal enforcing officer in charge
52 of ensuring compliance with applicable housing, building, and fire codes
53 such as a code enforcement officer. An appeal of this determination may
54 be made to the municipality's zoning board of appeals or other local
55 administrative body as provided for in local law. The final determi-

1 nation made by the administrative body shall be reviewable pursuant to
2 article seventy-eight of the civil practice law and rules.

3 (c) This section shall not be applicable to any cause of action
4 brought for money due based on the curing of code violations under any
5 form for receivership or a mechanics lien.

6 11. Payment prior to auction. (a) If the balance owed for code
7 violations placed on the tax levy is paid prior to the expiration of the
8 period for redemption pursuant to section eleven hundred ten of this
9 chapter and there is no balance due for unpaid real property taxes, the
10 property may not be auctioned, and the property shall be removed from
11 the tax levy. In the village of Upper Nyack the time period for redemp-
12 tion shall be the same time period set forth by the village of Upper
13 Nyack for the village's annual tax levy.

14 (b) The owner shall have the right to pay the full balance prior to
15 the expiration of the period for redemption pursuant to section eleven
16 hundred ten of this chapter in order to redeem the property. In the
17 village of Upper Nyack the time period for redemption shall be the same
18 time period set forth by the village of Upper Nyack for the village's
19 annual tax levy.

20 12. Surplus. Any surplus funds remaining after the sale of a property
21 at a tax foreclosure for unpaid code violations shall be returned to the
22 former owner of the property in a manner provided under local law. This
23 provision shall not apply to a sale of a property at a tax foreclosure
24 due to unpaid taxes. If a property has both unpaid taxes and unpaid code
25 violations on the same tax levy and is auctioned at a tax foreclosure
26 the amount of the surplus funds returned to the former owner shall be
27 proportionate to the amount of unpaid code violations owed in the total
28 amount of debt owed to the municipality. For the purpose of this
29 section, "surplus funds" shall mean the balance of money received after
30 auction of a property at a tax foreclosure sale minus the amount owed
31 for code violations and the costs and attorneys fees incurred in the
32 collection of the fees by the municipalities.

33 13. Balance due. If after an auction a balance is due for code
34 violations, the municipality may proceed with any action against the
35 former owner pursuant to applicable laws.

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

38 § 2. This act shall take effect immediately.