

# STATE OF NEW YORK

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1773--B

Cal. No. 266

2017-2018 Regular Sessions

## IN SENATE

January 10, 2017

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Introduced by Sens. CARLUCCI, CROCI, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

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:

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

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

12 2. Eligibility. In order to be eligible for placement on the munici-  
13 pality's annual tax levy such unpaid code violation penalties, costs and  
14 finances shall have been adjudicated and imposed through a judgment in a  
15 court of competent jurisdiction on an owner of real property within the

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

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1 municipality and recorded by the county clerk, as certified by the  
2 municipal counsel to the commissioner of finance, treasurer or other  
3 public official charged with the duties of overseeing tax collections  
4 and have remained unpaid for one year after the final adjudication and  
5 exhaustion of all appeals relating to the imposition of the fines for a  
6 code violation preceding the placement on the municipality's tax levy.

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

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

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

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

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

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

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

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

53 (b) The determination of whether or not the code violations have been  
54 cured shall be made by the local municipal enforcing officer in charge  
55 of ensuring compliance with applicable housing, building, and fire codes  
56 such as a code enforcement officer. An appeal of this determination may

1 be made to the municipality's zoning board of appeals or other local  
2 administrative body as provided for in local law. The final determi-  
3 nation made by the administrative body shall be reviewable pursuant to  
4 article seventy-eight of the civil practice law and rules.

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

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

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

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

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

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

40 § 2. This act shall take effect immediately.