

# STATE OF NEW YORK

7346--A

Cal. No. 943

## IN SENATE

January 9, 2018

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- 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

AN ACT to amend the real property tax law, in relation to authorizing the city of Buffalo to add unpaid housing code violation penalties, costs and fines to the city's 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 905 to read as follows:

§ 905. Collection of unpaid housing code violation penalties; levy. 1. Authorization. In addition to and not in limitation of any power otherwise granted by law, the the city of Buffalo is hereby authorized to collect any unpaid housing, building and fire code violation penalties, costs and fines through placement by the city's commissioner of finance on the city's annual tax levy in accordance with the provisions of this section.

2. Eligibility. In order to be eligible for placement on the city of Buffalo'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 city and recorded by the county clerk, as certified by the city's corporation counsel to the commissioner of finance and have remained unpaid for one year after the final adjudication and exhaustion of all appeals relating to the imposition of the fines for a code violation preceding the placement on the city's tax levy.

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

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

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1     4. Levy. Such code violation penalty, cost or fine as set forth in a  
2 copy of the judgment certified by the corporation counsel to such  
3 commissioner of finance shall be set down in the annual tax levy under  
4 the heading uncollected fines and penalties and in according with this  
5 section shall be levied, enforced and collected in the same manner, by  
6 the same proceedings, at the same time, under the same penalties and  
7 having the same lien upon the property assessed as the tax levy of such  
8 municipality and as a part thereof.

9     5. Notice. The city of Buffalo shall notify all owners or known inter-  
10 ested parties of record of the placement of the code violations on the  
11 city tax levy as uncollected fines and penalties within thirty days of  
12 placement, pursuant to section three hundred eight of the civil practice  
13 law and rules. The notice shall include the date or dates of such  
14 violations, the description of the violations, the amount owed, a state-  
15 ment detailing the foreclosure process that will occur if the violations  
16 remain unpaid, the process to claim any surplus funds and the contact  
17 information for the city's office in charge of receiving payments.

18     6. Tax year. Any unpaid code violations shall be placed on the tax  
19 roll the city of Buffalo is currently in and shall not be placed on a  
20 list, roll or levy of delinquent taxes.

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

24     8. Tenants. Prior to the placement of any property with unpaid code  
25 violations on the tax levy, the city of Buffalo shall develop a program  
26 to assist tenants residing in a dwelling at risk for tax foreclosure due  
27 to unpaid code violations. Such program shall include housing counseling  
28 assistance or other support in relocating the tenants to suitable hous-  
29 ing prior to the tax foreclosure.

30     9. Payment plan. Nothing in this section shall preclude an owner or  
31 landlord from entering into a payment plan with the city of Buffalo for  
32 past amounts due for code violations.

33     10. Curing code violations. (a) If all of the violations for which the  
34 penalties, fees and costs have been assessed are cured, removed or  
35 corrected prior to the expiration of the period for redemption pursuant  
36 to section eleven hundred ten of this chapter, the property shall be  
37 removed from the levy and auction and the balance of the amount owed  
38 shall be placed as a lien on the property pursuant to applicable laws  
39 for debt collection and an action for foreclosure of the property shall  
40 not be maintained for the amount owed.

41     (b) The determination of whether or not the code violations have been  
42 cured shall be made by the city of Buffalo's enforcing officer in charge  
43 of ensuring compliance with applicable housing, building, and fire codes  
44 such as a code enforcement officer. An appeal of this determination may  
45 be made to the city's zoning board of appeals or other local administra-  
46 tive body as provided for in local law. The final determination made by  
47 the administrative body shall be reviewable pursuant to article seven-  
48 ty-eight of the civil practice law and rules.

49     (c) This section shall not be applicable to any cause of action  
50 brought for money due based on the curing of code violations under any  
51 form for receivership or a mechanic's lien.

52     11. Payment prior to auction. (a) If the balance owed for code  
53 violations placed on the tax levy is paid prior to the expiration of the  
54 period for redemption pursuant to section eleven hundred ten of this  
55 chapter and there is no balance due for unpaid real property taxes, the

1 property may not be auctioned, and the property shall be removed from  
2 the tax levy.

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

6 12. Surplus. Any surplus funds remaining after the sale of a property  
7 at a tax foreclosure for unpaid code violations shall be returned to the  
8 former owner of the property in a manner as provided under local law.  
9 This provision shall not apply to a sale of a property at a tax foreclo-  
10 sure due to unpaid taxes. If a property has both unpaid taxes and unpaid  
11 code violations on the same tax levy and is auctioned at a tax foreclo-  
12 sure the amount of the surplus funds returned to the former owner shall  
13 be proportionate to the amount of unpaid code violations owed in the  
14 total amount of debt owed to the city of Buffalo. For the purpose of  
15 this section, "surplus funds" shall mean the balance of money received  
16 after auction of a property at a tax foreclosure sale minus the amount  
17 owed for code violations and the costs and attorneys' fees incurred in  
18 the collection of the fees by the city.

19 13. Balance due. If after an auction a balance is due for code  
20 violations, the city of Buffalo may proceed with any action against the  
21 former owner pursuant to applicable laws.

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

24 § 2. This act shall take effect immediately.