

STATE OF NEW YORK

3128

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. FAHY -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to authorizing the city of Albany to add unpaid housing code violation penalties, costs and fines to such city's annual tax levy

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 901-a to read as follows:

3 § 901-a. Collection of unpaid housing code violation penalties in the
4 city of Albany; levy. 1. Authorization. In addition to and not in limi-
5 tation of any power otherwise granted by law, the city of Albany is
6 hereby authorized to collect any unpaid housing, building and fire code
7 violation penalties, costs and fines through placement by the city's
8 treasurer on the city's annual tax levy in accordance with the
9 provisions of this section.

10 2. Eligibility. In order to be eligible for placement on the city of
11 Albany's annual tax levy such unpaid code violation penalties, costs and
12 finances shall have been adjudicated and imposed through a judgment in a
13 court of competent jurisdiction on an owner of real property within the
14 city and recorded by the county clerk, as certified by the city's corpo-
15 ration counsel and have remained unpaid for one year after the final
16 adjudication and exhaustion of all appeals relating to the imposition of
17 the fines for a code violation preceding the placement on the city's tax
18 levy.

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

22 4. Levy. Such code violation penalty, cost or fine as set forth in a
23 copy of the judgment certified by the corporation counsel shall be set
24 down in the annual tax levy under the heading uncollected fines and

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

LBD07029-01-1

1 penalties and in accordance with this section shall be levied, enforced
2 and collected in the same manner, by the same proceedings, at the same
3 time, under the same penalties and having the same lien upon the proper-
4 ty assessed as the general city tax and as a part thereof.

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

14 6. Tax year. Any unpaid code violations shall be placed on the tax
15 roll the city of Albany is currently in and shall not be placed on a
16 list, roll or levy of delinquent taxes.

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

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

26 9. Payment plan. Nothing in this section shall preclude an owner or
27 landlord from entering into a payment plan with the city of Albany for
28 past amounts due for code violations.

29 10. Curing code violations. (a) If all of the violations for which the
30 penalties, fees and costs have been assessed are cured, removed or
31 corrected prior to the expiration of the period for redemption set forth
32 by the city of Albany for the city's annual tax levy, the property shall
33 be removed from the levy and auction and the balance of the amount owed
34 shall be placed as a lien on the property pursuant to applicable laws
35 for debt collection and an action for foreclosure of the property shall
36 not be maintained for the amount owed.

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

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

48 11. Payment prior to auction. (a) If the balance owed for code
49 violations placed on the tax levy is paid prior to the expiration of the
50 period for redemption set forth by the city of Albany for the city's
51 annual tax levy and there is no balance due for unpaid real property
52 taxes, the property may not be auctioned, and the property shall be
53 removed from the tax levy.

54 (b) The owner shall have the right to pay the full balance prior to
55 the expiration of the period for redemption set forth by the city of
56 Albany for the city's annual tax levy in order to redeem the property.

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

14 13. Balance due. If after an auction a balance is due for code
15 violations, the city of Albany may proceed with any action against the
16 former owner pursuant to applicable laws.

17 14. Exclusions. The provisions of this section shall not apply if the
18 city of Albany sells their tax liens in a tax lien sale.

19 § 2. This act shall take effect immediately.