

# STATE OF NEW YORK

328

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

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

AN ACT to amend the real property tax law, in relation to requiring the  
disclosure of income and expense statements upon a petition for an  
article 7 proceeding and imposes staggered dates for submissions of  
appraisal reports

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

1 Section 1. Subdivision 2 of section 718 of the real property tax law,  
2 as added by chapter 693 of the laws of 1995, paragraphs (a) and (b) as  
3 amended by chapter 503 of the laws of 1996, is amended to read as  
4 follows:  
5 2. Where a proceeding is commenced pursuant to this article to review  
6 the assessment of a parcel of real property which solely contains prop-  
7 erty which is not subject to the provisions of subdivision one of this  
8 section, a note of issue shall be filed in accordance with this subdivi-  
9 sion.  
10 (a) Where a real property assessment challenge commenced under this  
11 article has been pending for at least two years from the date of the  
12 commencement of the proceeding, either party may demand, by serving a  
13 written demand, that the parties file a written appraisal of the proper-  
14 ty which is the subject of the proceeding [~~and serve same~~]. The demand  
15 shall be in writing and served by personal delivery or certified mail,  
16 return receipt requested. The court shall fix the date for submission  
17 of the appraisal reports for the petitioner within one hundred twenty  
18 days of service of such demand, and the court shall fix the date for  
19 submission of the appraisal reports for the respondent ninety days  
20 subsequent to the date for submission of the appraisal reports for the  
21 petitioner. Upon the filing of the appraisal reports by the petitioner,  
22 the court shall notify the respondent in writing that the petitioners'

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

LBD04161-01-1

1 appraisal reports have been received and the date by which the respond-  
2 ent must submit their appraisal reports. Upon the receipt of appraisal  
3 reports, the court shall simultaneously distribute all appraisal reports  
4 to all parties. [~~The demand shall be in writing and served by personal~~  
5 delivery or certified mail, return receipt requested. Both parties shall  
6 thereafter file an appraisal or]

7 (b) The court may, at any time, order the submission of appraisal  
8 reports and fix a date for such submission for the petitioner within one  
9 hundred twenty days, and the court shall fix for submission of the  
10 appraisal reports for the respondent ninety days subsequent to the date  
11 for submission of the appraisal reports for the petitioner. Upon the  
12 filing of the appraisal reports by the petitioner, the court shall noti-  
13 fy the respondent in writing that the petitioners' appraisal reports  
14 have been received and the date by which the respondent must submit  
15 their appraisal reports. Upon the receipt of appraisal reports, the  
16 court shall simultaneously distribute all appraisal reports to all  
17 parties.

18 (c) Should either party fail to file such petition by the date for  
19 submission fixed by the court, either party may show good cause as to  
20 why such demand or order cannot be complied with within such time peri-  
21 od. Either party may move to dismiss the proceeding by reason of the  
22 other party's failure to prosecute the proceeding and file the appraisal  
23 pursuant to the demand or order. Unless the party shows good cause for  
24 failing to file the appraisal, the court may in its discretion either  
25 dismiss or grant the petition and such order shall constitute a final  
26 adjudication of all issues raised in the proceeding.

27 [~~(b)~~] (d) Upon the serving and filing the appraisals pursuant to a  
28 demand made under paragraph (a) of this subdivision or by order of the  
29 court pursuant to paragraph (b) of this subdivision, the court shall  
30 schedule a conference with the parties to be held within ninety days to  
31 discuss settlement, resolve disclosure and decide other pretrial issues.

32 [~~(e)~~] (e) After completion of the pretrial conference required by this  
33 subdivision, the respondent may serve and file a written demand that  
34 petitioner file a note of issue within thirty days of service of the  
35 demand therefor. The demand shall be in writing and served by personal  
36 delivery or certified mail, return receipt requested. Should the peti-  
37 tioner fail to file a note of issue within thirty days of the service of  
38 demand, the proceeding shall be deemed to have been abandoned, an order  
39 dismissing the petition shall be entered without notice and such order  
40 shall constitute a final adjudication of all issues raised in the  
41 proceeding, unless the court or judge otherwise orders on good cause  
42 shown.

43 [~~(d)~~] (f) Should the respondent fail to demand that the petitioner  
44 file a note of issue pursuant to paragraph [~~(e)~~] (e) of this subdivision  
45 within four years from the date of the commencement of the proceeding,  
46 and a note of issue has not otherwise been filed, the proceeding shall  
47 be deemed to have been abandoned and an order dismissing the petition  
48 shall be entered without notice and such order shall constitute a final  
49 adjudication of all issues raised in the proceeding, except where the  
50 parties otherwise stipulate or a court or judge otherwise orders on good  
51 cause shown within such four-year period.

52 § 2. Section 706 of the real property tax law, as amended by chapter  
53 714 of the laws of 1982, is amended to read as follows:

54 § 706. Grounds for review; contents of petition. 1. The grounds for  
55 reviewing an assessment shall be that the assessment to be reviewed is  
56 excessive, unequal or unlawful, or that real property is misclassified.

1 2. (a) A proceeding to review an assessment shall be founded upon a  
2 petition setting forth the respect in which the assessment is excessive,  
3 unequal or unlawful, or the respect in which real property is misclassi-  
4 fied and stating that the petitioner is or will be injured thereby. Such  
5 petition shall be duly verified by the petitioner, an officer thereof,  
6 or by an agent thereof who has been authorized in writing to verify and  
7 file such petition and whose authorization is made a part of such peti-  
8 tion. Such petition must show that a complaint was made in due time to  
9 the proper officers to correct such assessment. Two or more persons  
10 having real property assessed upon the same roll who assert the same  
11 grounds for review presenting a common question of law or fact, may  
12 unite in the same petition.

13 (b) The petitioner shall include with such petition a statement that  
14 the property is not income producing or an income and expense statement  
15 for the property for each tax year in the proceeding.

16 § 3. This act shall take effect on the one hundred twentieth day after  
17 it shall have become a law. Effective immediately the addition, amend-  
18 ment and/or repeal of any rule or regulation necessary for the implemen-  
19 tation of this act on its effective date are authorized to be made and  
20 completed on or before such date.