STATE OF NEW YORK

3492--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 27, 2021

Introduced by M. of A. ZEBROWSKI, GALEF, VANEL -- read once and referred to the Committee on Real Property Taxation -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, do enact as follows:

Section 1. Subdivisions 1 and 2 of section 718 of the real property tax law, subdivision 1 as amended by chapter 186 of the laws of 2002, and subdivision 2 as added by chapter 693 of the laws of 1995, paragraphs (a) and (b) of subdivision 2 as amended by chapter 503 of the laws of 1996, are amended to read as follows:

1. Where a proceeding is commenced pursuant to this article to review the assessment of a parcel of real property which contains one, two or three family dwelling residential real property, including such dwellings used in part for nonresidential purposes, but which are used primarily for residential purposes, and farm dwellings, or a parcel of real property which contains residential real property consisting of more than three dwelling units held in condominium form of ownership, or a parcel of real property which contains land used in agricultural production which is eligible for an agricultural assessment pursuant to section three hundred five or three hundred six of the agriculture and markets law, where the owner of such land has filed an annual application for an agricultural assessment, and farm buildings and structures thereon, as defined in subdivision two of section four hundred eighty-three of this chapter, or any parcel of real property located in a city with a population of one million or more, unless a note of issue is

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

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filed and the proceeding is placed on the court calendar within [~~four~~] two years from the last date provided by law for the commencement of the proceeding, the proceeding thereon shall be deemed to have been abandoned and an order dismissing the petition shall be entered without notice and such order shall constitute a final adjudication of all issues raised in the proceeding, except where the parties otherwise stipulate or a court or judge otherwise orders on good cause shown within such [~~four-year~~] two-year period.

2. Where a proceeding is commenced pursuant to this article to review the assessment of a parcel of real property which solely contains property which is not subject to the provisions of subdivision one of this section, a note of issue shall be filed in accordance with this subdivision.

(a) Where a real property assessment challenge commenced under this article has been pending for at least [~~two years~~] six months from the date of the commencement of the proceeding, either party may demand, by serving and filing a written demand, that the parties file a written appraisal of the property which is the subject of the proceeding [~~and serve same~~]. The demand shall be in writing and served by personal delivery or certified mail, return receipt requested. The court shall fix the date for submission of the appraisal reports for the petitioner within one hundred twenty days of service of such demand, and the court shall fix the date for submission of the appraisal reports for the respondent ninety days subsequent to the date for submission of the appraisal reports for the petitioner. Upon the filing of the appraisal reports by the petitioner, the court shall notify the respondent in writing that the petitioners' appraisal reports have been received and the date by which the respondent must submit their appraisal reports. Upon the receipt of appraisal reports, the court shall simultaneously distribute all appraisal reports to all parties. [~~The demand shall be in writing and served by personal delivery or certified mail, return receipt requested. Both parties shall thereafter file an appraisal or~~]

(b) The court may, at any time, order the submission of appraisal reports and fix a date for such submission for the petitioner within one hundred twenty days, and the court shall fix for submission of the appraisal reports for the respondent ninety days subsequent to the date for submission of the appraisal reports for the petitioner. Upon the filing of the appraisal reports by the petitioner, the court shall notify the respondent in writing that the petitioners' appraisal reports have been received and the date by which the respondent must submit their appraisal reports. Upon the receipt of appraisal reports, the court shall simultaneously distribute all appraisal reports to all parties.

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

[~~(b)~~] (d) Upon the serving and filing the appraisals pursuant to a demand made under paragraph (a) of this subdivision or by order of the court pursuant to paragraph (b) of this subdivision, the court shall schedule a conference with the parties to be held within [~~ninety~~]

forty-five days to discuss settlement, resolve disclosure and decide other pretrial issues.

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

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

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

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

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

(b) Within thirty days of commencing a proceeding pursuant to section seven hundred four of this article, the petitioner shall serve upon the respondent a statement that the property is not income producing or an income and expense statement for the property for each tax year under review; provided that the provisions of this paragraph shall not apply to proceedings in a city with a population of one million or more.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to proceedings commenced on and after the effective date of this act pursuant to section 704 of the real property tax law. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.