

# STATE OF NEW YORK

3851

2021-2022 Regular Sessions

## IN ASSEMBLY

January 28, 2021

Introduced by M. of A. NORRIS -- 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 Lockport 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 905-a to read as follows:

3 § 905-a. Collection of unpaid housing code violation penalties; city  
4 of Lockport; levy. 1. Authorization. In addition to and not in limita-  
5 tion of any power otherwise granted by law, the city of Lockport is  
6 hereby authorized to collect any unpaid housing, building and fire code  
7 violation penalties, costs and fines through placement by the city trea-  
8 surer on the city's annual tax levy in accordance with the provisions of  
9 this section.

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

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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 tax levy of such municipality and as a part thereof.

5 5. Notice. The city of Lockport shall notify all owners or known  
6 interested parties of record of the placement of the code violations on  
7 the city 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 Lockport 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 Lockport 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 Lockport 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 pursuant  
32 to section eleven hundred ten of this chapter, the property shall be  
33 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 Lockport's enforcing officer in  
39 charge of ensuring compliance with applicable housing, building, and  
40 fire codes such as a code enforcement officer. An appeal of this deter-  
41 mination may be made to the city's zoning board of appeals or other  
42 local administrative body as provided for in local law. The final deter-  
43 mination made by the administrative body shall be reviewable pursuant to  
44 article seventy-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 mechanic's 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 pursuant to section eleven hundred ten of this  
51 chapter and there is no balance due for unpaid real property taxes, the  
52 property may not be auctioned, and the property shall be removed from  
53 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 pursuant to section eleven  
56 hundred ten of this chapter 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 as provided under local law.  
4 This provision shall not apply to a sale of a property at a tax foreclo-  
5 sure due to unpaid taxes. If a property has both unpaid taxes and unpaid  
6 code violations on the same tax levy and is auctioned at a tax foreclo-  
7 sure the amount of the surplus funds returned to the former owner shall  
8 be proportionate to the amount of unpaid code violations owed in the  
9 total amount of debt owed to the city of Lockport. For the purpose of  
10 this section, "surplus funds" shall mean the balance of money received  
11 after auction of a property at a tax foreclosure sale minus the amount  
12 owed for code violations and the costs and attorneys' fees incurred in  
13 the 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 Lockport 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 to any  
18 municipality that sells their tax liens in a tax sale.

19 § 2. This act shall take effect immediately.