

# STATE OF NEW YORK

9504--A

## IN ASSEMBLY

March 10, 2022

Introduced by M. of A. HUNTER, GRIFFIN -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law and the real property tax law, in relation to authorizing certain municipalities in a pilot emergency repair program to add unpaid emergency repair charges and housing code violation penalties, costs and fines to such municipalities' annual tax levy in accordance with applicable law; and providing for the repeal of certain provisions upon the expiration thereof

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

1 Section 1. Subdivision 3 of section 54-g of the state finance law, as  
2 added by chapter 707 of the laws of 1981, is amended to read as follows:

3 3. The secretary of state, with assistance from the division of hous-  
4 ing and community renewal, shall establish a pilot program with partic-  
5 ipating municipalities for an emergency repair program. The secretary of  
6 state shall only select municipalities designated as a city for such  
7 pilot program. The emergency repair program shall require a municipality  
8 awarded participation to enact a local law to enable the municipality to  
9 repair immediately hazardous code violations in buildings where the  
10 owner has not undertaken such repairs in a reasonable time. The munici-  
11 pality shall bill the owner for such repair costs and in the event  
12 payment is not received within thirty days, the secretary shall reim-  
13 burse the municipality for such repairs. Any subsequent recovery of  
14 monies due from the owner for such repairs shall be forwarded to the  
15 state. The secretary of state in conjunction with the division of hous-  
16 ing and community renewal shall file a report annually to evaluate the  
17 effectiveness of the emergency repair pilot program with the legislature  
18 and the governor. Such report shall include recommendations as to wheth-  
19 er the program shall be continued or modified in any way and the reasons  
20 therefor.

21 4. The terms used in this section shall have the meanings ascribed to  
22 them in section fifty-four of this article.

23 § 2. The real property tax law is amended by adding a new section 903  
24 to read as follows:

25 § 903. Collection of unpaid housing code violation penalties; levy. 1.  
26 Authorization. In addition to and not in limitation of any power other-

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

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1 wise granted by law, municipalities participating in the emergency  
2 repair program pursuant to section fifty-four-g of the state finance  
3 law, are hereby authorized to collect any unpaid emergency repair charg-  
4 es, housing, building and fire code violation penalties, costs and fines  
5 through placement by the municipality's commissioner of finance, treas-  
6 urer, or other public official charged with the duties of overseeing tax  
7 collections on the municipality's annual tax levy in accordance with the  
8 provisions of this section.

9 2. Eligibility. In order to be eligible for placement on the munici-  
10 pality's annual tax levy such unpaid emergency repair charges, code  
11 violation penalties, costs and fines shall have been adjudicated and  
12 imposed through a judgment in a court of competent jurisdiction on an  
13 owner of real property within the municipality and recorded by the coun-  
14 ty clerk, as certified by the municipal counsel to the commissioner of  
15 finance, treasurer or other public official charged with the duties of  
16 overseeing tax collections and have remained unpaid for one year after  
17 the final adjudication and exhaustion of all appeals relating to the  
18 imposition of the fines for a code violation preceding the placement on  
19 the municipality's tax levy.

20 3. Minimum amount owed. To qualify for placement on the tax levy the  
21 amount owed for unpaid emergency repair charges and/or the code  
22 violations shall be at least five percent of the amount of the tax  
23 assessed value of the property.

24 4. Levy. Such unpaid emergency repair charges and/or code violation  
25 penalty, cost or fine as set forth in a copy of the judgment certified  
26 by the municipal counsel to the commissioner of finance, treasurer or  
27 other public official charged with the duties of overseeing tax  
28 collections shall be set down in the annual tax levy under the heading  
29 uncollected fines and penalties and in accordance with this section  
30 shall be levied, enforced and collected in the same manner, by the same  
31 proceedings, at the same time, under the same penalties and having the  
32 same lien upon the property assessed as the general municipal tax and as  
33 a part thereof.

34 5. Notice. The municipality shall notify all owners or known inter-  
35 ested parties of record of the placement of the unpaid emergency repair  
36 charges and/or code violations on the municipal tax levy as uncollected  
37 fines and penalties within thirty days of placement, pursuant to section  
38 three hundred eight of the civil practice law and rules. The notice  
39 shall include the date or dates of such violations, the description of  
40 the violations, the amount owed, a statement detailing the foreclosure  
41 process that will occur if the violations remain unpaid, the process to  
42 claim any surplus funds and the contact information for the municipal  
43 office in charge of receiving payments.

44 6. Tax year. Any unpaid emergency repair charges and/or code  
45 violations shall be placed on the tax roll the municipality is currently  
46 in and shall not be placed on a list, roll or levy of delinquent taxes.

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

50 8. Tenants. Prior to the placement of any property with unpaid emer-  
51 gency repair charges and/or code violations on the tax levy, the munici-  
52 pality shall develop a program to assist tenants residing in a dwelling  
53 at risk for tax foreclosure due to unpaid emergency repair charges  
54 and/or code violations. Such program shall include housing counseling  
55 assistance or other support in relocating the tenants to suitable hous-  
56 ing prior to the tax foreclosure.

1 9. Payment plan. Nothing in this section shall preclude an owner from  
2 entering into a payment plan with a municipality for past amounts due  
3 for emergency repair charges and/or code violations.

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

12 (b) The determination of whether or not the code violations have been  
13 cured shall be made by the local municipal enforcing officer in charge  
14 of ensuring compliance with applicable housing, building, and fire codes  
15 such as a code enforcement officer or through a certification by the  
16 owner filed with the code enforcement officer. An appeal of this deter-  
17 mination may be made to the municipality's zoning board of appeals or  
18 other local administrative body as provided for in local law. The final  
19 determination made by the administrative body shall be reviewable pursu-  
20 ant to article seventy-eight of the civil practice law and rules.

21 (c) This section shall not be applicable to any cause of action  
22 brought for money due based on the curing of emergency repair charges  
23 and/or code violations under any form for receivership or a mechanics  
24 lien.

25 11. Payment prior to auction. (a) If the balance owed for emergency  
26 repair charges and/or code violations placed on the tax levy is paid  
27 prior to the expiration of the period for redemption pursuant to section  
28 eleven hundred ten of this chapter and there is no balance due for  
29 unpaid real property taxes, the property may not be auctioned, and the  
30 property shall be removed from the tax levy.

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

34 12. Surplus. Any surplus funds remaining after the sale of a property  
35 at a tax foreclosure for unpaid code violations shall be returned to the  
36 former owner of the property in a manner provided under local law. This  
37 provision shall not apply to a sale of a property at a tax foreclosure  
38 due to unpaid taxes. If a property has: (a) unpaid taxes; and (b) unpaid  
39 emergency repair charges and/or unpaid code violations on the same tax  
40 levy and is auctioned at a tax foreclosure, the amount of the surplus  
41 funds returned to the former owner shall be proportionate to the amount  
42 of unpaid emergency repair charges and/or code violations owed in the  
43 total amount of debt owed to the municipality. For the purpose of this  
44 section, "surplus funds" shall mean the balance of money received after  
45 auction of a property at a tax foreclosure sale minus the amount owed  
46 for emergency repair charges, code violations and the costs and attor-  
47 neys fees incurred in the collection of the fees by the municipalities.

48 13. Balance due. If after an auction a balance is due for emergency  
49 repair charges and/or code violations, the municipality may proceed with  
50 any action against the former owner pursuant to applicable laws.

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

53 § 3. This act shall take effect immediately; provided, however,  
54 section one of this act shall expire and be deemed repealed May 1, 2026.