

# STATE OF NEW YORK

8146--A

## IN SENATE

January 26, 2022

Introduced by Sens. SKOUFIS, HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- 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 munic-  
11 ipality 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:

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

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1 § 903. Collection of unpaid housing code violation penalties; levy. 1.  
2 Authorization. In addition to and not in limitation of any power other-  
3 wise granted by law, municipalities participating in the emergency  
4 repair program pursuant to section fifty-four-g of the state finance  
5 law, are hereby authorized to collect any unpaid emergency repair charg-  
6 es, housing, building and fire code violation penalties, costs and fines  
7 through placement by the municipality's commissioner of finance, treas-  
8 urer, or other public official charged with the duties of overseeing tax  
9 collections on the municipality's annual tax levy in accordance with the  
10 provisions of this section.

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

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

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

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

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

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

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

1 assistance or other support in relocating the tenants to suitable hous-  
2 ing prior to the tax foreclosure.

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

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

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

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

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

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

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

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

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

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