STATE OF NEW YORK

967

2023-2024 Regular Sessions

IN ASSEMBLY

January 11, 2023

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to notice of certain proceedings to convey title to abandoned commercial and industrial real property to a city, town, or village; and to repeal certain provisions of such law relating thereto

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

Section 1. Paragraph (b) of subdivision 1 of section 1981 of the real property actions and proceedings law, as added by a chapter of the laws of 2022 amending the real property actions and proceedings law relating to authorizing special proceedings to convey title to abandoned commercial and industrial real property to a city, town, or village, as proposed in legislative bills numbers S. 9470 and A. 5337-A, is amended to read as follows:

(b) In the case of a vacant commercial or industrial real property, it is not sealed or continuously guarded as required by law or it was sealed or is continuously guarded by a person other than the owner, a mortgagee, lienor or agent thereof, and either of the following facts exists:

(i) A vacate order of the department or other governmental agency currently prohibits occupancy of the commercial or industrial real property; or

(ii) The tax on such premises has been due and unpaid for a period of at least one year; or

(iii) The property has had a zoning, building or property maintenance code violation [~~which~~] **that** has **the potential to injure or endanger the health and safety of others or to unreasonably annoy others and that has** been continuously outstanding and not remediated for a period of at least one year from the date the original order to correct or notice of violation was served upon the property owner pursuant to subdivision

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

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four of section three hundred eight of the civil practice law and rules if the owner is a natural person, or pursuant to section three hundred ten, three hundred ten-a, three hundred eleven or three hundred eleven-a of the civil practice law and rules if the owner is a partnership, limited partnership, corporation or limited liability company, respectively; or

§ 2. Subdivisions 2, 3 and 4 of section 1982 of the real property actions and proceedings law, as added by a chapter of the laws of 2022 amending the real property actions and proceedings law relating to authorizing special proceedings to convey title to abandoned commercial and industrial real property to a city, town, or village, as proposed in legislative bills numbers S. 9470 and A. 5337-A, are amended to read as follows:

2. The department shall serve upon the owner of the commercial or industrial real property, a copy of the certification. Service shall be made personally or by posting in a conspicuous place upon the commercial or industrial real property and mailing a copy by [~~registered or~~] certified mail to the last known owner at such owner's last known address. The copy of the certification shall be accompanied by a notice stating that proceedings pursuant to this article may be instituted unless the owner notifies the department that the property has not been abandoned. Such notification shall be made by a showing that the conditions upon which the findings in such certification are based do not exist or have been corrected. Such showing shall be made not later than thirty days after the date of such notice.

3. Within five days of the service of notice on the owner, a copy of the certification shall be served on each mortgagee, lienor and lessee of record, personally or by [~~registered~~] **certified** mail **or overnight courier** to the address set forth in the recorded instrument or, if no address appears therein, to the person at whose request the instrument was recorded. Such copy shall, in the case of a mortgagee or lienor, be accompanied by a notice that proceedings pursuant to this article may be instituted unless the mortgagee or lienor, within [~~fifteen~~] **forty-five** days of **receipt of** such mailing, either commences proceedings to foreclose the mortgage or lien or enters into an agreement with the department to bring the building into compliance with the applicable provisions of law.

4. If the name or address of

(a) the last owner of record, or

(b) any owner, mortgagee, lienor, or claimant as shown on records maintained by any city official required by any local law to maintain records of persons entitled to notice or process in connection with the maintenance of in rem foreclosure actions, or

(c) the person listed as the owner of the property on the latest completed assessment roll, is different from that referred to in subdivisions two and three of this section, a copy of the notice to the owner, or to a mortgagee or lienor, whichever is applicable, shall also be sent to such person at such address by [~~registered~~] **certified** mail **or overnight courier**.

§ 3. Section 1982-a of the real property actions and proceedings law, as added by a chapter of the laws of 2022 amending the real property actions and proceedings law relating to authorizing special proceedings to convey title to abandoned commercial and industrial real property to a city, town, or village, as proposed in legislative bills numbers S. 9470 and A. 5337-A, is REPEALED.

§ 4. Subdivisions 4 and 5 of section 1984 of the real property actions and proceedings law, as added by a chapter of the laws of 2022 amending the real property actions and proceedings law relating to authorizing special proceedings to convey title to abandoned commercial and industrial real property to a city, town, or village, as proposed in legislative bills numbers S. 9470 and A. 5337-A, are amended to read as follows:

4. The provisions of section three hundred seventeen of the civil practice law and rules shall not apply to a proceeding instituted pursuant to this article. A motion or action to set aside a judgment in a proceeding instituted pursuant to this article on the grounds either that there was a failure to comply with the provisions of this article as to notice or that a defect in the proceeding prejudiced a substantial right of a party may be instituted within [~~ninety~~] **one hundred twenty** days after the deed vesting title in a city has been recorded, but not thereafter.

5. The right, title and interest of a purchaser or incumbrancer of a property as to which a deed vesting title in a city, town, or village has been recorded pursuant to a judgment obtained through this article shall not be affected or impaired by a motion or action instituted more than [~~ninety~~] **one hundred twenty** days after such deed vesting title in a city, town, or village has been recorded.

§ 5. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2022 amending the real property actions and proceedings law relating to authorizing special proceedings to convey title to abandoned commercial and industrial real property to a city, town, or village, as proposed in legislative bills numbers S. 9470 and A. 5337-A, takes effect; provided that the amendments to article 19-B of the real property actions and proceedings law made by this act shall not affect the expiration of such article and shall expire and be deemed repealed therewith.