

# STATE OF NEW YORK

1334

2023-2024 Regular Sessions

## IN SENATE

January 11, 2023

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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

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

13 (i) A vacate order of the department or other governmental agency  
14 currently prohibits occupancy of the commercial or industrial real prop-  
15 erty; or

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

18 (iii) The property has had a zoning, building or property maintenance  
19 code violation [~~which~~] that has the potential to injure or endanger the  
20 health and safety of others or to unreasonably annoy others and that has  
21 been continuously outstanding and not remediated for a period of at  
22 least one year from the date the original order to correct or notice of  
23 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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1 four of section three hundred eight of the civil practice law and rules  
2 if the owner is a natural person, or pursuant to section three hundred  
3 ten, three hundred ten-a, three hundred eleven or three hundred eleven-a  
4 of the civil practice law and rules if the owner is a partnership,  
5 limited partnership, corporation or limited liability company, respec-  
6 tively; or

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

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

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

38 4. If the name or address of  
39 (a) the last owner of record, or  
40 (b) any owner, mortgagee, lienor, or claimant as shown on records  
41 maintained by any city official required by any local law to maintain  
42 records of persons entitled to notice or process in connection with the  
43 maintenance of in rem foreclosure actions, or  
44 (c) the person listed as the owner of the property on the latest  
45 completed assessment roll, is different from that referred to in subdi-  
46 visions two and three of this section, a copy of the notice to the  
47 owner, or to a mortgagee or lienor, whichever is applicable, shall also  
48 be sent to such person at such address by [~~registered~~] certified mail or  
49 overnight courier.

50 § 3. Section 1982-a of the real property actions and proceedings law,  
51 as added by a chapter of the laws of 2022 amending the real property  
52 actions and proceedings law relating to authorizing special proceedings  
53 to convey title to abandoned commercial and industrial real property to  
54 a city, town, or village, as proposed in legislative bills numbers S.  
55 9470 and A. 5337-A, is REPEALED.

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

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

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

23 § 5. This act shall take effect on the same date and in the same  
24 manner as a chapter of the laws of 2022 amending the real property  
25 actions and proceedings law relating to authorizing special proceedings  
26 to convey title to abandoned commercial and industrial real property to  
27 a city, town, or village, as proposed in legislative bills numbers S.  
28 9470 and A. 5337-A, takes effect; provided that the amendments to arti-  
29 cle 19-B of the real property actions and proceedings law made by this  
30 act shall not affect the expiration of such article and shall expire and  
31 be deemed repealed therewith.