

# STATE OF NEW YORK

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2837

2023-2024 Regular Sessions

## IN ASSEMBLY

January 27, 2023

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Introduced by M. of A. ZEBROWSKI, VANEL -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to requiring the disclosure of income and expense statements upon a petition for an article 7 proceeding and imposes staggered dates for submissions of appraisal reports

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

1 Section 1. Subdivisions 1 and 2 of section 718 of the real property  
2 tax law, subdivision 1 as amended by chapter 186 of the laws of 2002,  
3 and subdivision 2 as added by chapter 693 of the laws of 1995, para-  
4 graphs (a) and (b) of subdivision 2 as amended by chapter 503 of the  
5 laws of 1996, are amended to read as follows:

6 1. Where a proceeding is commenced pursuant to this article to review  
7 the assessment of a parcel of real property which contains one, two or  
8 three family dwelling residential real property, including such dwell-  
9 ings used in part for nonresidential purposes, but which are used prima-  
10 rily for residential purposes, and farm dwellings, or a parcel of real  
11 property which contains residential real property consisting of more  
12 than three dwelling units held in condominium form of ownership, or a  
13 parcel of real property which contains land used in agricultural  
14 production which is eligible for an agricultural assessment pursuant to  
15 section three hundred five or three hundred six of the agriculture and  
16 markets law, where the owner of such land has filed an annual applica-  
17 tion for an agricultural assessment, and farm buildings and structures  
18 thereon, as defined in subdivision two of section four hundred eighty-  
19 three of this chapter, or any parcel of real property located in a city  
20 with a population of one million or more, unless a note of issue is  
21 filed and the proceeding is placed on the court calendar within [~~four~~]  
22 two years from the last date provided by law for the commencement of the  
23 proceeding, the proceeding thereon shall be deemed to have been aban-

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

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1 doned and an order dismissing the petition shall be entered without  
2 notice and such order shall constitute a final adjudication of all  
3 issues raised in the proceeding, except where the parties otherwise  
4 stipulate or a court or judge otherwise orders on good cause shown with-  
5 in such [~~four-year~~] two-year period.

6 2. Where a proceeding is commenced pursuant to this article to review  
7 the assessment of a parcel of real property which solely contains prop-  
8 erty which is not subject to the provisions of subdivision one of this  
9 section, a note of issue shall be filed in accordance with this subdivi-  
10 sion.

11 (a) Where a real property assessment challenge commenced under this  
12 article has been pending for at least [~~two-years~~] six months from the  
13 date of the commencement of the proceeding, either party may demand, by  
14 serving and filing a written demand, that the parties file a written  
15 appraisal of the property which is the subject of the proceeding [~~and~~  
16 ~~serve same~~]. The demand shall be in writing and served by personal  
17 delivery or certified mail, return receipt requested. The court shall  
18 fix the date for submission of the appraisal reports for the petitioner  
19 within one hundred twenty days of service of such demand, and the court  
20 shall fix the date for submission of the appraisal reports for the  
21 respondent ninety days subsequent to the date for submission of the  
22 appraisal reports for the petitioner. Upon the filing of the appraisal  
23 reports by the petitioner, the court shall notify the respondent in  
24 writing that the petitioners' appraisal reports have been received and  
25 the date by which the respondent must submit their appraisal reports.  
26 Upon the receipt of appraisal reports, the court shall simultaneously  
27 distribute all appraisal reports to all parties. [~~The demand shall be in~~  
28 ~~writing and served by personal delivery or certified mail, return~~  
29 ~~receipt requested. Both parties shall thereafter file an appraisal or~~]

30 (b) The court may, at any time, order the submission of appraisal  
31 reports and fix a date for such submission for the petitioner within one  
32 hundred twenty days, and the court shall fix for submission of the  
33 appraisal reports for the respondent ninety days subsequent to the date  
34 for submission of the appraisal reports for the petitioner. Upon the  
35 filing of the appraisal reports by the petitioner, the court shall noti-  
36 fy the respondent in writing that the petitioners' appraisal reports  
37 have been received and the date by which the respondent must submit  
38 their appraisal reports. Upon the receipt of appraisal reports, the  
39 court shall simultaneously distribute all appraisal reports to all  
40 parties.

41 (c) Should either party fail to file such appraisal report by the date  
42 for submission fixed by the court, either party may show good cause as  
43 to why such demand or order cannot be complied with within such time  
44 period. Either party may move to dismiss the proceeding by reason of the  
45 other party's failure to prosecute the proceeding and file the appraisal  
46 pursuant to the demand or order. Unless the party shows good cause for  
47 failing to file the appraisal, the court may in its discretion either  
48 dismiss or grant the petition and such order shall constitute a final  
49 adjudication of all issues raised in the proceeding.

50 [~~(b)~~] (d) Upon the serving and filing the appraisals pursuant to a  
51 demand made under paragraph (a) of this subdivision or by order of the  
52 court pursuant to paragraph (b) of this subdivision, the court shall  
53 schedule a conference with the parties to be held within [~~ninety~~]  
54 forty-five days to discuss settlement, resolve disclosure and decide  
55 other pretrial issues.

1    ~~(e)~~ (e) After completion of the pretrial conference required by this  
2 subdivision, the respondent may serve and file a written demand that  
3 petitioner file a note of issue within thirty days of service of the  
4 demand therefor. The demand shall be in writing and served by personal  
5 delivery or certified mail, return receipt requested. Should the peti-  
6 tioner fail to file a note of issue within thirty days of the service of  
7 demand, the proceeding shall be deemed to have been abandoned, an order  
8 dismissing the petition shall be entered without notice and such order  
9 shall constitute a final adjudication of all issues raised in the  
10 proceeding, unless the court or judge otherwise orders on good cause  
11 shown.

12    ~~(d)~~ (f) Should the respondent fail to demand that the petitioner  
13 file a note of issue pursuant to paragraph ~~(e)~~ (e) of this subdivision  
14 within ~~four~~ two years from the date of the commencement of the  
15 proceeding, and a note of issue has not otherwise been filed, the  
16 proceeding shall be deemed to have been abandoned and an order dismiss-  
17 ing the petition shall be entered without notice and such order shall  
18 constitute a final adjudication of all issues raised in the proceeding,  
19 except where the parties otherwise stipulate or a court or judge other-  
20 wise orders on good cause shown within such ~~four-year~~ two-year period.

21    § 2. Section 706 of the real property tax law, as amended by chapter  
22 714 of the laws of 1982, is amended to read as follows:

23    § 706. Grounds for review; contents of petition. 1. The grounds for  
24 reviewing an assessment shall be that the assessment to be reviewed is  
25 excessive, unequal or unlawful, or that real property is misclassified.

26    2. (a) A proceeding to review an assessment shall be founded upon a  
27 petition setting forth the respect in which the assessment is excessive,  
28 unequal or unlawful, or the respect in which real property is misclassi-  
29 fied and stating that the petitioner is or will be injured thereby. Such  
30 petition shall be duly verified by the petitioner, an officer thereof,  
31 or by an agent thereof who has been authorized in writing to verify and  
32 file such petition and whose authorization is made a part of such peti-  
33 tion. Such petition must show that a complaint was made in due time to  
34 the proper officers to correct such assessment. Two or more persons  
35 having real property assessed upon the same roll who assert the same  
36 grounds for review presenting a common question of law or fact, may  
37 unite in the same petition.

38    (b) Within thirty days of commencing a proceeding pursuant to section  
39 seven hundred four of this article, the petitioner shall serve upon the  
40 respondent a statement that the property is not income producing or an  
41 income and expense statement for the property for each tax year under  
42 review; provided that the provisions of this paragraph shall not apply  
43 to proceedings in a city with a population of one million or more.

44    § 3. This act shall take effect on the one hundred twentieth day after  
45 it shall have become a law and shall apply to proceedings commenced on  
46 and after the effective date of this act pursuant to section 704 of the  
47 real property tax law. Effective immediately the addition, amendment  
48 and/or repeal of any rule or regulation necessary for the implementation  
49 of this act on its effective date are authorized to be made and  
50 completed on or before such date.