§ 216. Powers of commissioner upon neglect or refusal of officials to perform duties. 1. Whenever it appears to the satisfaction of the commissioner that any assessor or other public officer, employee or board of assessment review whose duties relate directly to real property tax administration has failed to comply with the provisions of this chapter or any other law relating to such duties, or the rules and regulations of the commissioner made pursuant thereto, after a hearing on the facts, the commissioner may issue an order directing such assessor, officer, employee or board of assessment review to comply with such law, rule or regulation.

2. If any assessor or other public officer, employee or board of assessment review whose duties relate directly to real property tax administration shall willfully and intentionally refuse or neglect to perform any duty or do any act required by or pursuant to this chapter, in addition to any other penalty provided by law, such assessor, public officer, employee or member of a board of assessment review shall forfeit to the municipal corporation of which such assessor, public officer, employee or member is an officer a sum not to exceed fifty dollars for each willful and intentional violation, which may be recovered by the commissioner.

3. Where a property owner is, in a proceeding conducted pursuant to this section, found to be directly affected by the violation of state law or rule, the commissioner in its order shall establish procedures by which an assessor, officer, employee or board of assessment review whose duties relate directly to real property tax administration, whether or not a party to the proceeding, shall remedy the failure to comply with such state law or rules with respect to an assessment roll filed not more than three years prior to the commencement of the proceeding. Such remedy may include reconvening the board of assessment review, identifying the class of persons eligible to complain when the board of assessment review reconvenes, and issuing instructions to such board of assessment review on the law and any documentation required of eligible complainants in relation to the findings of the commissioner. A copy of such order shall be mailed to such assessor, officer, employee or board of assessment review and to each municipal corporation which utilizes

such assessment roll. Such order shall, where appropriate, require the assessing unit to mail a copy of the order to each eligible complainant whose name and address is readily ascertainable from the record of the proceeding.

4. (a) Where the commissioner has ordered the board of assessment review to reconvene to receive complaints, a copy of the order shall be mailed by the assessing unit to each eligible complainant, which mailing shall be accompanied by the form prescribed by the commissioner for complaints on tentative assessments or such other form as may be prescribed for such purpose. Included with such order and form shall be a notice stating the date, time and place at which the board of assessment review will reconvene. This material shall be mailed to the eligible complainant no later than fifteen days prior to the meeting of the board of assessment review. On the date and time specified in such notice, the board of assessment review will reconvene to hear any complaints filed pursuant to such order and shall have the powers and duties set forth in section five hundred twenty-five of this chapter, except that it may receive only complaints with respect to assessments of those parcels to which the commissioner's order applies. A petition for review of the assessment of such property pursuant to either title one or one-A of article seven of this chapter may be filed no later than thirty days after the determination of the board of assessment review is mailed to the petitioner, notwithstanding the provisions of section seven hundred two or seven hundred thirty of this chapter.

(b) The assessor shall correct the assessment roll upon receipt of the verified statement of changes from the board of assessment review. If the assessor no longer has custody of the assessment roll when such verified statement is received, he or she shall forward a copy of such verified statement and a copy of the commissioner's order to the person having custody of the assessment roll or tax roll, which person shall thereupon make the appropriate corrections. The assessor shall also forward a copy of the verified statement of changes to the clerk of each tax levying body which levies taxes on such assessment roll.

(c) Where a tax, special assessment or special ad valorem levy has been paid prior to the correction of the tax roll pursuant to this section and the order of the board of assessment review results in a

reduction of the tax liability of a parcel, the tax levying body shall refund to the person who paid such tax, special assessment or special ad valorem levy the amount which exceeds the tax, special assessment, or special ad valorem levy due upon the corrected tax roll. Any such refund shall be a charge upon each municipal corporation or special district to the extent that the taxes, special assessments or special ad valorem levies were levied on its behalf or as is otherwise provided by law with respect to Nassau and Suffolk counties; provided, however, that no application need be made by the petitioner for such refund. The verified statement of changes provided to the clerk of the tax district shall constitute an application for refund for the purposes of this section. Where a refund is not made within ninety days of the receipt of the verified statement of changes, interest in the amount of one percent per month shall be added to the amount to be refunded for each month or part thereof in excess of ninety days and paid to the property owner.

(d) Where taxes, special assessments or special ad valorem levies have been levied prior to the correction of the tax roll pursuant to this section and the verified statement of changes of the board of assessment review results in an increase in the tax liability of a parcel or the imposition of a tax liability upon a parcel, the additional tax, special assessment, or special ad valorem levy shall be levied, collected and accounted for as provided in the commissioner's order.

(e) The provisions of title three of article five of this chapter shall apply as far as practicable to the correction of an assessment roll or tax roll and, if applicable, to a refund of taxes pursuant to this section; provided however that no application, except as provided herein, need be made for such correction or refund.

5. If an assessor, or other public officer, employee or board of assessment review whose duties relate directly to real property tax administration fails or refuses to comply with the commissioner's order within ten days after service of such order or within such time as is prescribed by the commissioner for compliance with its order, the commissioner may commence a special proceeding pursuant to article four of the civil practice law and rules to compel compliance with such order. Such special proceeding shall be commenced by the counsel to the department of taxation and finance, except that the attorney general of

the state shall commence such proceeding on behalf of the department if he or she deems it necessary.