

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1986**

No. 63

Introduced by Council Member DeMarco (by request of the Mayor); also Council Members Maloney and Messinger.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring from owners of income-producing property income and expense statements for real property assessment purposes.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings. On October second, nineteen hundred eighty-six, a judgment was entered by a justice of the New York state supreme court which invalidated local law number twenty-four for the year nineteen hundred eighty-six, relating to requiring from owners of income producing property income and expense statements for real property assessment purposes, on the ground that the requirements for notice of public hearing prior to mayoral approval of the measure set forth in former section 38b-1.0 of the administrative code of the city of New York were not met. While the corporation counsel advises that the judgment invalidating local law number twenty-four for such year is before the appellate courts and that, in his view, the mayor properly approved local law number twenty-four for such year, the council has determined that to exercise utmost caution in order to protect the fiscal health of the city it is prudent at this time to re-enact the provisions of local law twenty-four for such year and local law forty-one for such year which made certain modifications to such local law number twenty-four so as to remove any uncertainty that may exist as to their status.

§2. The administrative code of the city of New York is amended by adding a new section 11-208.1 to read as follows:

§11-208.1 Income and expense statements.-a Where real property is income-producing property, the owner shall be required to submit annually to the department not later than the first day of September a statement of all income derived from and all expenses attributable to the operation of such property as follows:

(1) Where the owner's books and records reflecting the operation of the property are maintained on a calendar year basis, the statement shall be for the calendar year preceding the date the statement shall be filed.

(2) Where the owner's books and records reflecting the operation of the property are maintained on a fiscal year basis for federal income tax purposes, the statement shall be for the last fiscal year concluded as of the first day of August preceding the date the statement shall be filed.

(3) Notwithstanding the provision of paragraphs one and two of this subdivision, where the owner of the property has not operated the property and is without knowledge of the income and expenses of the operation of the property for a consecutive twelve month period concluded as of the first day of August preceding the date of the statement shall be filed, then the statement shall be for the period of ownership.

(4) The commissioner may for good cause shown extend the time for filing an income and expense statement by a period not to exceed thirty days.

b. Such statements shall contain the following declaration: "I certify that all information contained in this statement is true and correct to the best of my knowledge and belief. I understand that the willful making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render this statement null and void."

c. The form on which such statement shall be submitted shall be prepared by the commissioner and copies of such form shall be made available at the offices of the department in the county in which the property is located.

d.(1) In the event that an owner of income-producing property fails to file an income and expense statement within the time prescribed in subdivision a of this section (determined with regard to any extension of time for filing), such owner shall be subject to a penalty in an amount not to exceed three percent of the assessed value of such income-producing property determined for the current fiscal year in accordance with section fifteen hundred six of the charter provided, however, that if such statement is not filed by the thirty-first day of December, the penalty shall be in an amount not to exceed four percent of such assessed value. If, in the year immediately following the year in which an owner fails to file by the thirty-first of December, the owner again fails to file an income and expense statement within the time prescribed in subdivision a of this section (determined with regard to any extension of time for filing), such owner shall be subject to a penalty in an amount not to exceed five percent of the assessed value of such property determined for the current fiscal year. Such owner shall also be subject to a penalty of up to five percent of such assessed value in any year immediately succeeding a year in which a penalty of up to five percent could have been imposed, if in such succeeding year the owner fails to file an income and expense statement within the time prescribed in subdivision a of this section (determined with regard to any extension of time for filing). The penalties prescribed in this paragraph shall be determined by the commissioner after notice and an opportunity to be heard.

(2) The tax commission shall deny a hearing on any objection to the assessment of property for which an income and expense statement is required and has not been timely filed.

(3) Where an income and expense statement required under the provisions of this section has not been timely filed, the commissioner may compel by subpoena the production of the books and records of the owner relevant to the income and expenses of the property, and may also make application to any court of competent jurisdiction for an order compelling the owner to furnish the required income and expense statement.

e. As used in this section, the term "income-producing property" means property owned for the purpose of securing an income from the property itself, but shall not include property with an assessed value of forty thousand dollars or less, or residential property containing ten or fewer dwelling units or property classified in class one or class two as defined in article eighteen of the real property tax law containing six or fewer dwelling units and one retail store.

f. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, the president or a commissioner or employee of the tax commission, any person engaged or retained by the department or the tax commission on an independent contract basis, or any person, who, pursuant to this section, is permitted to inspect any income and expense statement or to whom a copy, an abstract or a portion of any such statement is furnished, to divulge or make known in any manner the amount of income and/or expense or any particulars set forth or disclosed in any such statement required under this section. The commissioner, the president of the tax commission, or any commissioner or officer or employee of the department or the tax commission charged with the custody of such

statements shall not be required to produce any income and expense statement or evidence of any contained in them in any action or proceeding in any court, except on behalf of the department or the tax commission. Nothing herein shall be construed to prohibit the delivery to an owner or his or her duly authorized representative of a certified copy of any statement filed by such owner pursuant to this section or to prohibit the publication of statistics so classified as to prevent the identification of particular statements and the items thereof, or the inspection by the legal representatives of the department or of the tax commission of the statement of any owner who shall bring an action to correct the assessment. Any violation of the provisions of this subdivision shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the department or the tax commission, the offender shall be dismissed from office.

g. The commissioner shall be authorized to promulgate rules and regulations necessary to effectuate the purposes of this section.

§3. The timely submission for the year nineteen hundred eighty-six of an income and expense statement to the commissioner of finance in accordance with local law number twenty-four for the year nineteen hundred eighty-six as enacted by the council shall be deemed as compliance with the provisions of this local law for the year nineteen hundred eighty-six. The commissioner of finance may use any income and expense statement submitted pursuant to local law number twenty-four for the year nineteen hundred eighty-six as so enacted including those submitted on forms prepared by the commissioner of finance in accordance with such local law for the purpose of fixing, diminishing or increasing the assessed value of real property to chapter fifty-eight of the New York city charter.

§4. Notwithstanding the provisions of subdivision a of section 11-208.1 of the administrative code of the city of New York as added by section two of this local law, any statement of income and expense required to be filed in the year nineteen hundred eighty-six pursuant to the provisions of this local shall be deemed timely filed if filed on or before the fifteenth day following the date of enactment of this local law.

§5. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§6. This local law shall take effect immediately and shall be retroactive to and deemed in full force and effect as of August first, nineteen hundred eighty-six.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on November 20, 1986, and approved by the Mayor on December 8, 1986.

CARLOS CUEVAS, City Clerk, Clerk of Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 63 of 1986, Council Int. No. 708) contains the correct text and:

Received the following vote at the meeting of the New York City Council on November 20, 1986: 34 for, 0 against.

Was approved by the Mayor on December 8, 1986.

Was returned to the City Clerk on December 8, 1986.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.