

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1996**

No. 37

Introduced by Council Members Spigner, Fields, Henry and White (by the request of the Mayor).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to tax lien foreclosure by action in rem.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 11-354 of the administrative code of the city of New York, as amended by local law number 26 for the year 1996, is amended to read as follows:

(a) Notwithstanding any other provision of law and notwithstanding any omission to hold a tax lien sale, whenever any tax, assessment, sewer rent, sewer surcharge, water rent, any charge that is made a lien subject to the provisions of this chapter or *chapter four of this title*, or interest and penalties thereon, has been due and unpaid for a period of at least one year from the date on which the tax, assessment or other legal charge represented thereby became a lien, or in the case of any class one property or any class two property that is a residential condominium or residential cooperative, as such classes of property are defined in subdivision one of section eighteen hundred two of the real property tax law, or in the case of a multiple dwelling owned by a company organized pursuant to article XI of the private housing finance law with the consent and approval of the department of housing preservation and development, for a period of at least three years from the date on which the tax, assessment or other legal charge became a lien, the city, as owner of a tax lien, may maintain an action in the supreme court to foreclose such lien. Such action shall be governed by the procedures set forth in section 11-335 of this chapter; provided, however, that such parcel shall only be sold to the highest responsible bidder. Such purchaser shall be deemed qualified as a responsible bidder pursuant to such criteria as are established in rules promulgated by the commissioner of finance after consultation with the commissioner of housing preservation and development.

§2. Section 11-401 of the administrative code of the city of New York is amended to read as follows:

§11-401 Definitions. Whenever used in this chapter, the following terms shall mean:

1. "Tax lien." [Any unpaid tax, assessment, sewer rent, sewer surcharge or water rent and interest or penalty thereon, which is a lien on real property whether or not the same be evidenced by a transfer of tax lien or any other written instrument] *The lien arising as a result of the nonpayment of taxes, assessments, sewer rents, sewer surcharges, water*

rents, any other charges that are made a lien subject to the provisions of this chapter or chapter three of this title, interest and penalties thereon, and the right of the city to receive such amounts.

2. "Court." The supreme court.

3. "Class." Any class of real property defined in subdivision one of section eighteen hundred two of the real property tax law, and any subclassification of class two real property where such subclassification is established by rule of the commissioner of finance promulgated pursuant to this subdivision.

4. "Distressed property." Any parcel of class one or class two real property that is subject to a tax lien or liens with a lien or liens to value ratio, as determined by the commissioner of finance, equal to or greater than fifteen percent and that meets one of the following two criteria:

- i. such parcel has an average of five or more hazardous or immediately hazardous violations of record of the housing maintenance code per dwelling unit; or
- ii. such parcel is subject to a lien or liens for any expenses incurred by the department of housing preservation and development for the repair or the elimination of any dangerous or unlawful conditions therein, pursuant to section 27-2144 of this code, in an amount equal to or greater than one thousand dollars.

§3. The administrative code of the city of New York is amended by adding a new section 11-401.1 to read as follows:

§11-401.1 Procedures for distressed property. a. The commissioner of finance shall, not less than sixty days preceding the date of the sale of a tax lien or tax liens, submit to the commissioner of housing preservation and development a description by block and lot, or by such other identification as the commissioner of finance may deem appropriate, of any parcel of class one or class two real property on which there is a tax lien that may be foreclosed by the city. The commissioner of housing preservation and development shall determine, and direct the commissioner of finance, not less than ten days preceding the date of the sale of a tax lien or tax liens, whether any such parcel is a distressed property as defined in subdivision four of section 11-401 of this chapter. Any tax lien on a parcel so determined to be a distressed property shall not be included in such sale. In connection with a subsequent sale of a tax lien or tax liens, the commissioner of finance may, not less than sixty days preceding the date of the sale, resubmit to the commissioner of housing preservation and development a description by block and lot, or by such other identification as the commissioner of finance may deem appropriate, of any parcel of class one or class two real property that was previously determined to be a distressed property pursuant to this paragraph and on which there is a tax lien that may be included in such sale. The commissioner of housing preservation and development shall determine, and direct the commissioner of finance, not less than ten days preceding the date of the sale, whether such parcel remains a distressed property. If the commissioner of housing preservation and development determines that the parcel is not a distressed property, then the tax lien on the parcel may be included in the sale.

b. The commissioner of housing preservation and development may periodically review whether a parcel of class one or class two real property that is subject to subdivision c of this section or subdivision j of section 11-412.1 of this chapter remains a distressed property. If the commissioner determines that the parcel is not a distressed property as defined in subdivision four of section 11-401 of this chapter, then the parcel shall not be subject to such subdivisions.

c. Any parcel so determined to be a distressed property shall be subject to an in rem foreclosure action, or in the case where the commissioner of finance does not commence such action the commissioner of housing preservation and development shall evaluate

such parcel and take such action as he or she deems appropriate under the programs, existing at the time of such evaluation, that are designed to encourage the rehabilitation and preservation of existing housing, and shall monitor or cause to be monitored the status of the property. The commissioner of housing preservation and development, in his or her discretion, shall cause an inspection to be conducted on any parcel so determined to be a distressed property. In addition, the commissioner of housing preservation and development shall submit to the council a list of all parcels so determined to be a distressed property within thirty days from the date such parcels are identified as a distressed property.

§4. Section 11-404 of the administrative code of the city of New York is amended to read as follows:

§11-404 Foreclosure by action in rem. a. Whenever it shall appear that a tax lien or tax liens has or have been due and unpaid for a period of at least one year from the date on which the tax, assessment or other legal charge represented thereby became a lien, such tax lien or tax liens, except as provided in subdivision b of this section or otherwise provided by this chapter, may be summarily foreclosed in the manner provided in this chapter, notwithstanding the provisions of any general, special or local law and notwithstanding any omission to hold a [tax] sale of a tax lien or tax liens proper to such foreclosure. [Ownership by the city of a transfer of tax lien or of a tax sale certificate] A bill of arrears or [of] any other instrument evidencing such tax lien or tax liens shall be evidence of the fact that the tax [, assessment or other legal charge] lien or tax liens represented thereby has not or have not been paid to the city or [assigned] sold by it.

b. A tax lien on [a parcel on which the only improvement is a dwelling containing no more than two dwelling units, including condominium units, and on which the annual tax is no more than two thousand seven hundred fifty dollars] any class one property or any class two property that is a residential condominium or residential cooperative, as such classes of property are defined in subdivision one of section eighteen hundred two of the real property tax law, and on any multiple dwelling owned by a company organized pursuant to article XI of the private housing finance law with the consent and approval of the department of housing preservation and development, shall not be foreclosed in the manner provided in this chapter until such tax lien has been due and unpaid for a period of at least three years from the date on which the tax, assessment or other legal charge represented thereby became a lien.

§5. Subdivision a of section 11-405 of the administrative code of the city of New York is amended to read as follows:

a. The commissioner of finance from time to time shall prepare a list, to be known as a "list of delinquent taxes", of all parcels, or all parcels within a particular class or classes, that are within a particular borough or portion of a borough of the city and on which there are tax liens subject to foreclosure pursuant to this chapter. Every such list shall bear a caption containing the in rem action number of the city's tax foreclosure proceeding, the borough [, and] or the section or sections of the borough, or where the action covers less than all parcels in an entire borough[,] or section of a borough, the particular class or classes, and shall contain a statement of the rate or rates at which interest and penalties will be computed for the various liens it includes.

§6. Paragraphs 4 and 5 of subdivision c of section 11-405 of the administrative code of the city of New York are renumbered to be paragraphs 7 and 8, respectively, and such subdivision c is amended by adding three new paragraphs 4, 5 and 6 to read as follows:

(4) Notwithstanding paragraph one, two or three of this subdivision, with respect to installment agreements duly made, executed and filed on or after the date on which this paragraph takes effect, the commissioner of finance may also exclude or thereafter remove

from such list any parcel that is (i) (A) a residential building containing not more than five residential units, (B) a residential condominium unit, (C) a residential building held in a cooperative form of ownership or (D) owned by a company organized pursuant to article XI of the state private housing finance law with the consent and approval of the department of housing preservation and development, and (ii) as to which an agreement has been duly made, executed and filed with such commissioner for the payment of the delinquent taxes, assessments or other legal charges, and the interest and penalties thereon, in installments. The first installment thereof shall be paid upon the filing of the installment agreement with the commissioner and shall be in an amount equal to not less than ten percent of the total amount of such delinquent taxes, assessments or other legal charges and the interest and penalties thereon. The remaining installments, which shall be three times the number of unpaid quarters of real estate taxes or the equivalent thereof, but which shall in no event exceed thirty-two in number, shall be payable quarterly on the first days of July, October, January and April. For the purposes of calculating the number of such remaining installments, unpaid real estate taxes that are due and payable on other than a quarterly basis shall be deemed to be payable on a quarterly basis.

(5) Notwithstanding paragraph one, two or three of this subdivision, with respect to installment agreements duly made, executed and filed on or after the date on which this paragraph takes effect, the commissioner of finance may also exclude or thereafter remove from such list any parcel of class one or class two real property, other than a parcel described in paragraph four of this subdivision, as to which an agreement has been duly made, executed and filed with such commissioner for the payment of the delinquent taxes, assessments or other legal charges, and the interest and penalties thereon, in installments. The first installment thereof shall be paid upon the filing of the installment agreement with the commissioner and shall be in an amount equal to not less than fifteen percent of the total amount of such delinquent taxes, assessments or other legal charges and the interest and penalties thereon. The remaining installments, which shall be twice the number of unpaid quarters of real estate taxes or the equivalent thereof, but which shall in no event exceed thirty-two in number, shall be payable quarterly on the first days of July, October, January and April. For the purposes of calculating the number of such remaining installments, unpaid real estate taxes that are due and payable on other than a quarterly basis shall be deemed to be payable on a quarterly basis.

(6) Notwithstanding paragraph one, two or three of this subdivision, with respect to installment agreements duly made, executed and filed on or after the date on which this paragraph takes effect, the commissioner of finance may also exclude or thereafter remove from such list any parcel of class three or class four real property as to which an agreement has been duly made, executed and filed with such commissioner for the payment of the delinquent taxes, assessments or other legal charges, and the interest and penalties thereon, in installments. The first installment thereof shall be paid upon the filing of the installment agreement with the commissioner and shall be in an amount equal to not less than fifteen percent of the total amount of such delinquent taxes, assessments or other legal charges and the interest and penalties thereon. The remaining installments, which shall be twice the number of unpaid quarters of real estate taxes or the equivalent thereof, but which shall in no event exceed twenty in number, shall be payable quarterly on the first days of July, October, January and April. For the purposes of calculating the number of such remaining installments, unpaid real estate taxes that are due and payable on other than a quarterly basis shall be deemed to be payable on a quarterly basis.

§7. Subdivision b of section 11-406 of the administrative code of the city of New York is amended to read as follows:

b. Such notice shall clearly indicate that it is a notice of foreclosure of tax liens; the borough *or the section or sections of the borough* in which the properties subject to foreclosure are located and where the area affected by the action [is] *includes less than all parcels in an entire borough* [said area shall be delineated by the sections] *or section of a borough, the particular class or classes* contained therein, and by a general description which need not contain measurements and direction; where and when the list of delinquent taxes was filed; the general nature of the information contained in the list; that the filing of the list constitutes commencement of a foreclosure action by the city in the supreme court for the particular county and a notice of pendency of action against each parcel listed; that such action is against the property only and no personal judgment will be entered; that the list will be available for inspection at the city collector's central office and at the borough office of the city collector in the borough in which said property is located until a specified date at least ten weeks after the date of first publication; that until such date a parcel may be redeemed by paying all taxes and charges contained in said list of delinquent taxes together with interest and penalties thereon; that during said period of redemption and for an additional period of twenty days after said last date for redemption any person having any interest in or lien upon a parcel on the list may file with the appropriate county clerk and serve upon the corporation counsel a verified answer setting forth in detail the full name of said answering party, the nature and amount of his or her interest or lien and any legal defense against foreclosure; and that in the absence of redemption or answer a judgment of foreclosure may be taken by default.

§8. The section heading of section 11-409 of the administrative code of the city of New York is amended to read as follows:

§11-409 Severance and trial of issues where answer is interposed; *installment agreements authorized after action commenced.*

§9. Subdivision f of section 11-409 of the administrative code of the city of New York is amended to read as follows:

f. All answers interposed in an action hereunder and all affidavits and other papers pertaining to any litigation involving such answers or to any proceeding brought pursuant to this chapter involving less than an entire action shall bear a caption containing the in rem action number of the city's tax foreclosure proceeding, the borough [affected, the] *or the section or sections of the borough affected, and if the action covers less than [the] all parcels in an entire borough [,] or section of a borough, the particular class or classes,* and the serial, section, block and lot numbers of the parcel or parcels in issue.

§10. Subdivision h of section 11-409 of the administrative code of the city of New York, as amended by local law number 38 for the year 1987, is amended to read as follows:

h. A party who has interposed an answer as to any parcel included in an in rem tax foreclosure action, or any other party interested in such parcel, shall have the right, at any time prior to the final disposition of a motion to strike said answer, to pay all taxes, assessments and other legal charges and interest owing on said parcel. An answering party who makes such payment shall not be required to pay any penalty. Where such payment is made by other than an answering party after the expiration of the period of redemption, there shall be paid to the commissioner of finance an additional amount equal to the penalty payable under subdivision c of section 11-407 of this chapter. Where all delinquent taxes, assessments and other legal charges together with lawful interest thereon and [penalty] *penalties*, where required, are paid, the commissioner of finance shall issue a certificate of withdrawal as to said parcel pursuant to the provisions of section 11-413 of this chapter. Said parties may also pay such taxes, assessments and other legal charges and interest by an installment agreement. Where such agreement is requested before the

preparation of the aforesaid in rem judgment roll is commenced, the terms of said agreement shall be consistent with the provisions of [the preceding] subdivision *g* or *i* of this section, whichever is applicable. Where such agreement is requested after judgment of foreclosure has been entered in the in rem action in which the aforesaid answer was interposed, said agreement shall require a first installment of fifty percent of all taxes, assessments and other legal charges and interest owing on said parcel, a penalty of five percent of all such taxes, assessments and other legal charges and interest, which penalty may not exceed one thousand dollars, and the payment of the balance of such taxes, assessments and other legal charges and interest in four equal quarterly installments together with all current taxes, assessments and other legal charges that accrue during such period. The request of an answering party for an installment agreement shall constitute a withdrawal of such party's answer. An installment agreement requested by an interested party other than the answering party shall require the consent of said answering party which shall also constitute a withdrawal of such party's answer. The severance provided for in this section shall be continued during the term of all installment agreements entered into pursuant to the provisions of this subdivision. Where a default has occurred as to a parcel served pursuant to this subdivision, the corporation counsel shall cause to be entered a supplemental judgment of foreclosure as to such parcel immediately on notification by the commissioner of finance of such default. Where such installment agreement is paid in full, the commissioner of finance shall discontinue the in rem action from which said parcel was severed by issuing a certificate of withdrawal as to said parcel pursuant to the provisions of section 11-413 of this chapter.

§11. Section 11-409 of the administrative code of the city of New York is amended by adding a new subdivision *i* to read as follows:

i. (1) Notwithstanding subdivision g of this section, this subdivision shall apply with respect to installment agreements made, executed and filed with the commissioner of finance on or after the date on which this subdivision takes effect. An installment agreement pursuant to this subdivision may be made, executed and filed with such commissioner during the period beginning on the date on which an action is commenced as provided in subdivision d of section 11-405 of this chapter with respect to the parcel that is the subject of such agreement and ending on the date on which such commissioner is advised by the corporation counsel that the preparation of the judgment of foreclosure in such in rem action has been commenced. Notwithstanding anything to the contrary, and except to the extent provided in paragraph two of this subdivision, the provisions of paragraphs one through six of subdivision c of section 11-405 of this chapter shall not apply to any installment agreement requested on or after the date on which this subdivision takes effect and on or after the date on which an action is commenced as provided in subdivision d of such section 11-405 with respect to the parcel that is the subject of such requested agreement.

(2) An agreement entered into pursuant to this subdivision shall provide for the payment in installments of the delinquent taxes, assessments and other legal charges, and the interest and penalties thereon, due and owing as of the date on which such agreement is requested. Unless an eligible owner or other interested person requests an agreement pursuant to the provisions of paragraph three of this subdivision, the terms of such agreement with respect to a parcel shall be the same as the terms that would be applicable to such parcel under paragraph four, five or six, as the case may be, of subdivision c of section 11-405 of this chapter, except that, for purposes of the agreement pursuant to this paragraph, the amount of the first installment shall be equal to: (i) fifteen percent of the total amount due in the case of a parcel described in such paragraph four; (ii) twenty percent of the total amount due in the case of a parcel described in such paragraph five;

and (iii) twenty-five percent of the total amount due in the case of a parcel described in such paragraph six.

(3) Instead of an agreement pursuant to paragraph two of this subdivision, an eligible owner or other interested party may request an agreement pursuant to the following provisions:

(i) With respect to a parcel that is owned by a company organized pursuant to article XI of the state private housing finance law with the consent and approval of the department of housing preservation and development, such agreement shall provide for the payment in installments of the delinquent taxes, assessments and other legal charges, and the interest and penalties thereon, due and owing as of the date on which such agreement is requested. The first installment thereof shall be paid upon the filing of the installment agreement with the commissioner of finance shall be in amount at least equal to, at the applicant's election, either thirty-five percent or fifty percent of the total amount of such delinquent taxes, assessments or other legal charges and the interest and penalties thereon. The remaining installments, which shall be three times the number of unpaid quarters of real estate taxes or the equivalent thereof, but which shall in no event exceed thirty-two in number, shall be payable quarterly on the first days of July, October, January and April, together with interest at the rate or rates determined as provided in subparagraph (iv) of this paragraph. For the purposes of calculating the number of such remaining installments, unpaid real estate taxes that are due and payable on other than a quarterly basis shall be deemed to be payable on a quarterly basis.

(ii) With respect to a parcel, other than a parcel described in subparagraph (i) of this paragraph, that is a residential building containing not more than five residential units, a residential condominium unit or a residential building held in a cooperative form of ownership, such agreement shall provide for the payment in installments of the delinquent taxes, assessments and other legal charges, and the interest and penalties thereon, due and owing as of the date on which such agreement is requested. The first installment thereof shall be paid upon the filing of the installment agreement with the commissioner of finance and shall be in an amount at least equal to, at the applicant's election, either twenty-five percent or fifty percent of the total amount of such delinquent taxes, assessments or other legal charges and the interest and penalties thereon. The remaining installments, which shall be three times the number of unpaid quarters of real estate taxes or the equivalent thereof, but which shall in no event exceed twenty in number, shall be payable quarterly on the first days of July, October, January and April together with interest at the rate or rates determined as provided in subparagraph (iv) of this paragraph. For the purposes of calculating the number of such remaining installments, unpaid real estate taxes that are due and payable on other than a quarterly basis shall be deemed to be payable on a quarterly basis.

(iii) With respect to any parcel of class one or class two real property, other than a parcel described in subparagraph (i) or (ii) of this paragraph, such agreement shall provide for the payment in installments of the delinquent taxes, assessments and other legal charges, and the interest and penalties thereon, due and owing as of the date on which such agreement is requested. The first installment thereof shall be paid upon the filing of the installment agreement with the commissioner of finance and shall be in an amount at least equal to, at the applicant's election, either thirty-five percent or fifty percent of the total amount of such delinquent taxes, assessments or other legal charges and the interest and penalties thereon. The remaining installments, which shall be twice the number of unpaid quarters of real estate taxes or the equivalent thereof, but which shall in no event exceed twenty in number, shall be payable quarterly on the first days of July, October, January and April, together with interest at the rate or rates determined as provided in

subparagraph (iv) of this paragraph. For the purposes of calculating the number of such remaining installments, unpaid real estate taxes that are due and payable on other than a quarterly basis shall be deemed to be payable on a quarterly basis.

(iv) (A) Notwithstanding any higher rate of interest prescribed pursuant to applicable law, and unless a lower rate of interest is applicable to a delinquent amount owing on a parcel that is the subject of an agreement pursuant to this paragraph, the interest payable together with the remaining installments due under such agreement shall be:

(I) with respect to an agreement for which a twenty-five percent or thirty-five percent down payment was made, calculated at a rate equal to the sum of (a) the rate prescribed for the applicable period pursuant to subdivision l of section 11-224 of this title in the case of a parcel for which the real property taxes are not held in escrow and (b) one-half of the difference between such rate and the rate prescribed for such period pursuant to subdivision g of section 11-224 of this title; or

(II) with respect to an agreement for which a fifty percent down payment was made, calculated at a rate equal to the rate prescribed for the applicable period pursuant to subdivision l of section 11-224 of this title in the case of a parcel for which the real property taxes are not held in escrow.

(B) If a default occurs in any agreement executed pursuant to this paragraph as to either quarterly installments or current taxes, assessments or other legal charges, the rates of interest determined under this subparagraph shall thereupon cease to be applicable and the commissioner of finance shall thereafter charge, collect and receive interest in the manner and at the rates otherwise prescribed pursuant to law.

(4) The corporation counsel, when submitting an in rem judgment roll pursuant to the provisions of this chapter, may request a severance as to any parcel as to which, before the preparation of said in rem judgment roll is commenced, an agreement was duly made, executed and filed with the commissioner of finance for the payment of all delinquent taxes, assessments and other legal charges and interest and penalties in installments as provided in this subdivision, and there has been no default in such agreement as to either quarterly installments or current taxes, assessments or other legal charges. Where such an agreement is entered into subsequent to the last date for redemption specified in subdivision a of section 11-407 of this chapter, there shall be paid to the commissioner of finance at the time such agreements executed an amount equal to the penalty that would have been payable under subdivision c of section 11-407 of this chapter had the person executing the agreement made a late redemption payment. Such amount shall be in addition to any installment payments required to be made under the agreement and shall not be credited against any such installment payments. Where a default occurs in such agreement as to either quarterly installments or current taxes, assessments or other legal charges, all payments made under the agreement shall be forfeited and the city shall be entitled to obtain a judgment hereunder as to the parcel as to which the default occurred. Where such default occurred before the submission of the judgment roll, the parcels as to which such default occurs shall be included in said judgment roll amount the parcels to be acquired by the city or by a third party. Where such default has occurred as to a parcel severed pursuant to this subdivision, the corporation counsel shall cause to be entered a supplemental judgment of foreclosure as to such parcel immediately on notification by the commissioner of finance of such default. Where such installment agreement is paid in full, the commissioner of finance shall discontinue the in rem action from which such parcel was severed by issuing a certificate of withdrawal as to such parcel pursuant to the provisions of section 11-413 of this chapter.

§12. Subdivision b of section 11-412 of the administrative code of the city of New York, as amended by chapter 525 of the laws of 1980, is amended to read as follows:

b. The court shall make a final judgment awarding to the city the possession of any parcel described in the list of delinquent taxes not redeemed or withdrawn as provided in this chapter and as to which no answer is interposed as provided herein. In addition thereto, such judgment shall contain a direction to the commissioner of finance to prepare, execute and cause to be recorded a deed conveying to the city full and complete title to such lands [subject only to tax liens accrued or accruing subsequent to those contained in the list of delinquent taxes]. Upon the execution of such deed, the city shall be seized of an estate in fee simple absolute in such land and all persons, including the state of New York, infants, incompetents, absentees and non-residents who may have had any right, title, interest, claim, lien or equity of redemption in or upon such lands shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption, except as otherwise provided in section 11-424 of this chapter. The appointment and tenure of receivers, trustees or any other persons, including administrators under article seven-A of the real property actions and proceedings law, appointed by an order of a court to manage real property, shall terminate when title to such property vests in the city pursuant to the provisions of this chapter. After such termination, said receivers, trustees or administrators shall be accountable to the courts that appointed them for the faithful performance of their fiduciary obligations during the term of their appointment and to the city for any rents and income received by them for any period subsequent to the date of the vesting of title in the city.

If the city serves a tenant in possession of a dwelling unit with notice of termination of tenancy on grounds other than nonpayment of rent, the acceptance of rent for the first forty-five days after termination of tenancy by anyone other than an employee of the department designated by the department to receive such rent shall not be deemed or construed as a waiver of the city's right to initiate and prosecute a proceeding to terminate the tenancy for good cause.

§13. The administrative code of the city of New York is amended by adding a new section 11-412.1 to read as follows:

§11-412.1 Special procedures relating to final judgment and release of class one and class two real property. Notwithstanding any other provision of law to the contrary:

a. The court shall determine upon proof and shall make a finding upon such proof whether there has been due compliance by the city with the applicable provisions of this chapter.

b. (1) The court shall make a final judgment authorizing the award of possession of any parcel of class one or class two real property described in the list of delinquent taxes not redeemed or withdrawn as provided in this chapter and as to which no answer is interposed as provided herein, and authorizing the commissioner of finance to prepare, execute and cause to be recorded a deed conveying either to the city or to a third party deemed qualified and designated by the commissioner of housing preservation and development full and complete title to such lands. Any such conveyance to a third party shall be for an existing use.

(2) Such third party shall be deemed qualified and shall be designated pursuant to such criteria as are established in rules promulgated by the commissioner of housing preservation and development, provided, however, that such criteria shall include but not be limited to: residential management experience; financial ability; rehabilitation experience; ability to work with government and community organizations; neighborhood ties; and that the commissioner shall consider whether the third party is a responsible legal tenant, not-for-profit organization or neighborhood-based-for-profit individual or

organization. The commissioner shall not deem qualified any third party who has been finally adjudicated by a court of competent jurisdiction, within seven years of the date on which such third party would otherwise be deemed qualified, to have violated any section of articles one hundred fifty, one hundred seventy-five, one hundred seventy-six, one hundred eighty, one hundred eighty-five or two hundred of the penal law or any similar laws of another jurisdiction, or who has been suspended or debarred from contracting with the city or any agency of the city pursuant to section 335 of the charter during the period of such suspension or debarment. The rules promulgated by the commissioner pursuant to this paragraph may establish other bases for disqualification of a third party.

c. Following the expiration of the four-month period prescribed in subdivision d of this section, but not more than eight months after the date on which, pursuant to subdivision b of this section, the final judgment authorizing the award of possession of a parcel of class one or class two real property was entered, the commissioner of finance may execute a deed, pursuant to subdivision b of this section, with respect to such parcel. The owner of said parcel shall continue to have all of the rights, liabilities, responsibilities, duties and obligations of an owner of such parcel, including, but not limited to, maintaining such parcel in compliance with the housing maintenance, building and fire codes, and all other applicable laws, unless and until the commissioner of finance has prepared and executed a deed conveying to the city or to a third party full and complete title to such parcel. Upon the execution of such deed, the city or the third party shall be seized of an estate in fee simple absolute in such land and all persons, including the state of New York, infants, incompetents, absentees and non-residents who may have had any right, title, interest, claim, lien or equity of redemption in or upon such lands shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption, except as otherwise provided in subdivisions e and f of this section. The appointment and tenure of receivers, trustees or any other persons, including administrators under article seven-A of the real property actions and proceedings law, appointed by an order of a court to manage real property, shall terminate when title to such property vests in the city or a third party pursuant to the provisions of this chapter. After such termination, said receivers, trustees or administrators shall be accountable to the courts that appointed them for the faithful performance of their fiduciary obligations during the term of their appointment and to the city or such third party for any rents and income received by them for any period subsequent to the date of the vesting of title in the city or such third party.

If the city serves a tenant in possession of a dwelling unit with notice of termination of tenancy on grounds other than nonpayment of rent, the acceptance of rent for the first forty-five days after termination of tenancy by anyone other than an employee of the department designated by the department to receive such rent shall not be deemed or construed as a waiver of the city's right to initiate and prosecute a proceeding to terminate the tenancy for good cause.

d. Within four months after the date on which, pursuant to subdivision b of this section, the final judgment authorizing the award of possession of a parcel of class one or class two real property was entered, any person claiming to have an interest in such parcel shall have the right to make a payment to the commissioner of finance consisting of all taxes, assessments and other legal charges owing on said parcel, the lawful interest thereon to the date of payment and a penalty of five percent of said payment of taxes, assessments and other legal charges and interest, which penalty may not exceed one thousand dollars. Such payment shall be made in cash or by certified or bank check. Within such four-month period, such interested person may also request an installment agreement from the commissioner of finance. Such agreement shall require, in addition to

full payment of the penalty specified in this subdivision at the time such agreement is entered into, the payment at such time of a first installment equal to fifty percent of all taxes, assessments and other legal charges, and the lawful interest thereon, then owing on such parcel, and the payment of the balance of such taxes, assessments and other legal charges and interest in four equal quarterly installments together with all current taxes, assessments and other legal charges that accrue during such period. Upon receipt of payment in full of the amount specified in the first sentence of this subdivision, the commissioner of finance shall direct the corporation counsel to prepare and cause to be entered an order discontinuing the in rem tax foreclosure action as to said property, canceling the notice of pendency of such action as to said property and vacating and setting aside the final judgment. Upon the execution of an installment agreement and payment of the amounts due at the time such agreement is executed as provided in this subdivision, the commissioner of finance shall direct the corporation counsel to prepare and cause to be entered an order vacating and setting aside the final judgment. The entry of either such order shall restore all parties, including owners, mortgagees and any and all lienors, receivers and administrators and encumbrancers, to the status they held immediately before such final judgment was entered. Where the commissioner of finance approves an application requesting an installment agreement pursuant to this subdivision, the order vacating and setting aside the final judgment shall provide that in the event of any default as to the payment of either quarterly installments or current taxes, assessments or other legal charges during the term of such agreement, all payments under said agreement shall be forfeited and the corporation counsel, immediately upon notification by the commissioner of finance of such default, shall cause to be entered as to such property a supplemental judgment of foreclosure in the in rem action which authorizes the commissioner of finance to prepare, execute and cause to be recorded a deed conveying either to the city or to a third party full and complete title to such lands. Upon the entry of such supplemental judgment, the provisions of subdivisions c through i of this section shall apply in the same manner as such subdivisions would have applied had no payment been made nor installment agreement executed during the four-month period specified in this subdivision.

e.1. If the commissioner of finance has prepared, executed and caused to be recorded a deed conveying to the city full and complete title to a parcel of class one or class two real property acquired by in rem tax foreclosure, the city's interest in such parcel may be released pursuant to this subdivision on the application of any party who has an interest in said parcel as either owner, mortgagee, lienor, or encumbrancer at the time of the city's acquisition thereof where such application is made at any time up to sixteen months from the date on which the deed by which the city acquired title to said parcel was recorded.

2. Any such application shall be made in writing to the commissioner of general services and shall be verified. It shall contain the information required pursuant to paragraph one of subdivision b of section 11-424 of this chapter, the documents required by subdivision c of such section, and shall be accompanied by the fees required by paragraphs three and six of subdivision b of such section. The fee required by paragraph three of subdivision b of section 11-424 of this chapter shall not be refundable.

3. The city's interest in any such parcel shall be released only after payment of the sums of money specified in subdivision d of section 11-424 of this chapter.

4. The provisions contained in subdivision g of section 11-424 of this chapter shall govern such an application, except as follows:

(a) where such provisions are inconsistent with the provisions contained in this subdivision, the provisions contained in this subdivision shall govern such application; and

(b) where the in rem foreclosure release board denies a written request for an installment agreement that was filed in connection with an application for release of the city's interest in a parcel of class one or class two real property and such application was filed within thirty days of the date of the city's acquisition of the property sought to be released, the board may, in its discretion, authorize a release of the city's interest, provided that the applicant thereafter pays all the amounts required to be paid pursuant to subdivision d of section 11-424 of this chapter within thirty days of the date on which a letter requesting such payment is mailed or delivered to such applicant.

5. Upon receipt of all the amounts required to be paid pursuant to this subdivision, the commissioner of finance shall direct the corporation counsel to prepare and cause to be entered an order discontinuing the in rem tax foreclosure action as to said property, canceling the notice of pendency of such action as to said property and vacating and setting aside the final judgment entered pursuant to subdivision b of this section and the deed executed and recorded pursuant to such final judgment as to said property. The entry of such order shall restore all parties, including owners, mortgagees and any and all lienors, receivers and administrators and encumbrancers, to the status they held immediately before the final judgment was entered, as if the in rem tax foreclosure had never taken place, and shall render said property liable for all taxes, deficiencies, management fees and liens which shall accrue subsequent to those paid in order to obtain the release provided for in this subdivision, or which were, for whatever reason, omitted from the payment made to obtain said release.

f. If the commissioner of finance has prepared, executed and caused to be recorded a deed conveying to the city full and complete title to a parcel of class one or class two real property acquired by in rem tax foreclosure and such parcel is entitled to an exemption under any of the provisions of article four of the real property tax law during all or part of the period covered by the tax items appearing on a list of delinquent taxes, the owner of such parcel may apply for a release of the city's interest in such exempt property under the provisions of subdivision e of this section during the period of time set forth in paragraph one of such subdivision and for an additional period up to ten years from the date on which the deed by which the city acquired title to said property was recorded. The application of such owner shall be accompanied by the nonrefundable fee required by paragraph four of subdivision b of section 11-424 of this chapter and shall contain, in addition to the statements, searches and proofs required by subdivision e of this section, a statement that an exemption under the real property tax law is being claimed. Such application shall also state either that it is accompanied by the written certificate of the comptroller setting forth the precise period during which said property, while owned by such application, and during the period after the city's acquisition up to the date of the certificate if said property was still being used for an exempt purpose after said acquisition, was entitled to an exemption and the exact nature and extent of such exemption or that an application for such written certificate has been filed with the comptroller. On issuing such written certificate, the comptroller shall cancel those tax items which have accrued during the period covered by the certificate to the extent the applicant is entitled to an exemption as set forth in the certificate. A release of the city's interest may be authorized only at the discretion of the in rem foreclosure release board and, except as otherwise provided in paragraph four of subdivision e of this section, subject to all the restrictions set forth in subdivision g of section 11-424 of this chapter. A release to an exempt applicant shall be effected only after said applicant has paid all of the amounts required to be paid by subdivision d of section 11-424 of this chapter, except for those tax items which have been canceled, in whole or in part, pursuant to the

comptroller's certificate, within thirty days of the date on which the letter requesting payment is mailed or delivered to the applicant.

g. If the commissioner of finance has prepared, executed and caused to be recorded a deed conveying to the city or to a third party full and complete title to a parcel of class one or class two real property acquired by in rem tax foreclosure, the provisions contained in subdivisions f and i of section 11-424 of this chapter for the release of property so acquired shall not be available. If the commissioner of finance has prepared, executed and caused to be recorded a deed conveying to a third party full and complete title to a parcel of class one or class two real property acquired by in rem tax foreclosure, the provisions contained in subdivisions e and f of this section for the release of property so acquired shall not be available.

h. Every deed given pursuant to the provisions of this section shall be presumptive evidence that the action and all proceedings therein and all proceedings prior thereto from and including the assessment of the lands affected and all notices required by law were regular and in accordance with all provisions of law relating thereto. After four months from the date of entry of the final judgment authorizing the award of possession of any parcel of class one or class two real property pursuant to the provisions of this section, the presumption shall be conclusive. No action to set aside such deed may be maintained unless the action is commenced and a notice of pendency of the action is filed in the office of the property county clerk prior to the time that the presumption becomes conclusive as aforesaid. Should any lawsuit or proceeding be commenced to set aside a deed conveying to a third party a parcel of class one or class two real property pursuant to the provisions of this section, such third party shall send to the corporation counsel within ten days of their receipt a copy of any papers served on such third party in such lawsuit or proceeding.

i. If the commissioner of finance does not execute a deed conveying to the city or to a third party a parcel of class one or class two real property within eight months after the entry of final judgment authorizing the award of possession of such parcel pursuant to subdivision b of this section, the commissioner of finance shall direct the corporation counsel to prepare and cause to be entered an order discontinuing the in rem foreclosure action as to said property, canceling the notice of pendency of such action as to said property and vacating and setting aside said final judgment. The entry of such order shall restore all parties, including owners, mortgagees and any and all lienors, receivers and administrators and encumbrancers, to the status they held immediately before such final judgment was entered.

j. If the commissioner of finance directs the corporation counsel, pursuant to subdivision i of this section, to prepare and cause to be entered an order discontinuing the in rem foreclosure action with respect to a parcel of class one or class two real property determined to be distressed pursuant to section 11-401.1 of this chapter, the commissioner of housing preservation and development shall evaluate the parcel determined to be distressed and take such action as he or she deems appropriate under the programs, existing at the time of such evaluation, that are designed to encourage the rehabilitation and preservation of existing housing, and shall monitor or cause to be monitored the status of the property. The commissioner of housing preservation and development shall maintain a register of properties determined to be distressed.

§14. The administrative code of the city of New York is amended by adding a new section 11-412.2 to read as follows:

§11-412.2 Council review of conveyance to a third party. The commissioner of finance shall, prior to the execution of a deed conveying full and complete title of any parcel of class one or class two real property to a third party pursuant to subdivision c of section 11-412.1 of this chapter, notify the council of the proposed conveyance. Within

forty-five days of such notification, the council may act by local law disapproving the proposed conveyance. In the event the council does not act by local law within such forty-five day period, the council shall be deemed to have approved the proposed conveyance. During such forty-five day period or, if the city council acts by local law pursuant to this section, during the period of time from the notification of the council to the presentation to the mayor of such local law and during any additional period of time prescribed in section 37 of the charter, the eight-month period provided in subdivisions c and i of section 11-412.1 of this chapter shall be tolled.

§15. Paragraph 6 of subdivision b of section 11-424 of the administrative code of the city of New York, as amended by local law number 16 for the year 1991, is amended to read as follows:

6. In addition to the fees specified in paragraphs two, three and four of this subdivision, there shall be paid on the submission of any application which is subject to this section an amount *at least* equal to the lesser of nine hundred dollars or the sum specified in paragraph one of subdivision d of this section, which amount shall not be refundable, but shall be applied in reduction of the sum specified in paragraph one of subdivision d of this section; provided, however, that if a release requires the authorization of the in rem foreclosure release board, and such authorization is not given, such additional amount shall be refunded to the applicant.

§16. Subdivision g of section 11-424 of the administrative code of the city of New York, as amended by local law number 16 for the year 1991, is amended to read as follows:

g. If an application for a release of the city's interest in property acquired by in rem tax foreclosure, and the documents required by subdivision c of this section in support thereof, have been filed within the time allowed in paragraph one of subdivision a of this section, but more than four months after the date of the city's acquisition or if *an* application for such release has been authorized by a resolution of the council pursuant to paragraph two of subdivision a of this section and such application and the documents required by subdivision c of this section in support thereof have been filed, the in rem foreclosure release board may, in its discretion, authorize the release of the city's interest in said property pursuant to this section, [providing] *provided that* the application has been approved by the corporation counsel as to form, timeliness and eligibility of the applicant and [providing] *provided that* the city has not sold or otherwise disposed of said property and [providing] *provided, further, that* said property has not been condemned or assigned to any agency of the city and is not the subject of contemplated use for any capital or urban renewal project of the city. The corporation counsel shall effect such discretionary release only where the applicant, after the board's authorization of the release, has paid all the amounts required to be paid by subdivision d of this section within thirty days of the date on which a letter requesting *the* applicant to make such payment is mailed or delivered to the applicant. The in rem foreclosure release board may also, in its discretion, authorize a release of the city's interest in such property, pursuant to the above provisions, whenever an application for such release, approved as to form, timeliness and eligibility by the corporation counsel, has been filed at any time during the period allowed in subdivision a of this section in which the applicant has requested an installment agreement of the commissioner of general services for the payment of the amounts required to be paid by subdivision d of this section, *provided that* said commissioner has approved such request. The commissioner of general services shall not approve any such request unless the applicant shall have given notice by certified mail to each tenant located on the parcel, of the request and shall have given such commissioner an affidavit stating that such notice has been provided, within thirty days after the request.

Any false statement on such affidavit shall not in any way affect the validity of the agreement, be grounds for its cancellation or in any way affect the release of the city's interest in the parcel. Such agreement shall require, in addition to full payment of the amounts due under paragraphs two, three, four, five and six of subdivision d of this section, a first installment of fifty percent of the amount due under paragraph one of said subdivision d with the balance of said amount to be paid in four equal quarterly installments together with all current taxes, assessments or other legal charges that accrue during such period; provided, however, that: (i) whenever a request for an installment agreement is made of the commissioner of general services by a company organized pursuant to article XI of the private housing finance law with the consent and approval of the department of housing preservation and development or for a parcel which is an owner-occupied residential building of not more than five residential units, the commissioner of general services may, as to that portion of the amounts due under paragraph one of subdivision d of this section which became due prior to the acquisition by the article XI company of its interest in the property and as to the amount due under paragraph one of subdivision d of this section in the case of such an owner-occupied building, approve a reduction of such first installment to an amount not less than ten percent of the amount due under paragraph one of subdivision d of this section and an increase in the number of the following equal quarterly installments to a number which shall be equal to three times the number of unpaid quarters of real estate taxes or the equivalent thereof but which shall in no event exceed forty-eight, and (ii) notwithstanding the preceding clause, whenever an installment agreement is requested on or after the date on which this clause takes effect with respect to a parcel that, immediately prior to the city's acquisition thereof by in rem tax foreclosure, was owned by a company organized pursuant to article XI of the state private housing finance law with the consent and approval of the department of housing preservation and development, or with respect to a parcel that is a residential building containing not more than five residential units, a residential condominium unit or a residential building held in a cooperative form of ownership, the commissioner of general services may, as to the amount due under paragraph one of subdivision d of this section, approve an installment agreement containing the terms relating to the required percentage payment for the first installment and the required number of subsequent quarterly installments, that would be applicable to such parcel under paragraph two (but without regard to any reference therein to paragraph three) of subdivision i of section 11-409 of this chapter. For purposes of calculating the number of such following equal quarterly installments, unpaid real estate taxes or the equivalent which are, on and after July first, nineteen hundred eighty-two, due and payable on an other than quarterly basis, shall be deemed to be payable on a quarterly basis. Where the in rem foreclosure release board denies an application requesting an installment agreement, the board shall authorize a release of the city's interest, provided that the applicant thereafter pays all the amounts required to be paid by subdivision d of this section within thirty days of the date on which a letter requesting such payment is mailed or delivered to the applicant only when said application and the documents required by subdivision c of this section in support thereof were filed within thirty days of the date of the city's acquisition of the property sought to be released. Where the in rem foreclosure release board denies an application requesting an installment agreement which was filed more than thirty days after the date of the city's acquisition, the board may, in its discretion, authorize a release of the city's interest, provided that the applicant thereafter pays all the amounts required to be paid by subdivision d of this section within thirty days of the date on which a letter requesting such payment is mailed or delivered to the applicant. Where the in rem foreclosure release board approves an application requesting

an installment agreement, the order releasing the city's interest shall provide that in the event of any default as to the payment of either quarterly installments or current taxes, assessments or other legal charges during the term of such agreement, as set forth in the board's resolution, all payments made under said agreement shall be forfeited and the city shall be entitled to reacquire the property so released. The corporation counsel shall effect such reacquisition by causing to be entered as to such property a supplemental judgment of foreclosure in the in rem action by which said property was originally acquired immediately on notification by the commissioner of finance of such default.

§17. Section 11-424.1 of the administrative code of the city of New York, as added by local law number 16 for the year 1991, is amended to read as follows:

§11-424.1 In rem foreclosure release board. There shall be an in rem foreclosure release board consisting of the mayor, the speaker of the city council, the affected borough president, the corporation counsel and the commissioner of finance. For the purposes of this section, the affected borough president shall be the president of the borough in which a property proposed for release pursuant to this section is located. Members of the board may, by written authority filed with the board and with the city clerk, appoint delegates to act on their behalf as members of the board. The board shall have the power, acting by resolution, to authorize the release of the city's interest in property acquired by in rem tax foreclosure in accordance with [section] *sections 11-412.1 and 11-424* of the code based upon a determination, in its discretion, that such release would be in the best interests of the city. The board shall act after a meeting at which the public has been provided an opportunity to comment on the proposed action. A resolution of the board authorizing a release of the city's interest in any property shall be adopted only upon the affirmative vote of not less than a majority of all the members of the board. The board may consider any information it deems relevant to a determination. The board shall not be required to state the reasons for its determination.

§18. This local law shall take effect immediately and shall apply retroactively to all in rem proceedings pending on the effective date of this local law, provided, however, that sections six, eight, ten, eleven and sixteen of this local law shall take effect on the thirtieth day after it shall have become a law, and shall apply to installment agreements made, executed and filed on and after such thirtieth day, provided, further, however, that subdivision c of section 11-401.1 and subdivision j of section 11-412.1 of the administrative code of the city of New York, as added by sections three and thirteen, respectively, of this local law, shall take effect on the three hundred sixty-fifth day after it shall have become a law and provided, further, however, that this local law shall not apply to any sale of tax liens occurring in fiscal year 1996, unless this local law takes effect on or before May 5, 1996, provided further, however, that if this local law takes effect on or before May 5, 1996, the commissioner of finance may submit to the commissioner of housing preservation and development the information required by subdivision a of section 11-401.1 of the administrative code of the city of New York, as added by section three of this local law, less than 60 days preceding the date of the sale of a tax lien or tax liens.

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 May 2, 1996, and approved by the Mayor on May 14, 1996.

CARLOS CUEVAS, City Clerk, Clerk of the 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 37 of 1996, Council Int. No. 679-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on May 2, 1996: 50 for, 0 against.

Was approved by the Mayor on May 14, 1996.

Was returned to the City Clerk on May 14, 1996.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel