

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2013**

No. 52

Introduced by Council Members Recchia and Palma (by request of the Mayor).

A LOCAL LAW

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

Be it enacted by the Council as follows:

Section 1. Title 11 of the administrative code of the city of New York is amended by adding a new section 11-207.1 to read as follows:

§ 11-207.1 Information related to estimate of assessed valuation and notice of property value.

a. Not later than the fifteenth day of February, the commissioner of finance shall submit the following information relating to the estimate of the assessed valuation of real property for the ensuing fiscal year to the mayor and to the council, and publish such information on the website of the department:

(1) a distribution by relevant geographies and buildings types of the factors used in determining market values such as incomes, expenses, and rates of capitalization. The distribution should provide, at a minimum, the first, second and third quartiles of such factors;

(2) specific formulas, data sources, and values used to determine the rates of capitalization for real property valuation;

(3) *average values and changes of incomes and expenses, as reflected on the statements required to be filed pursuant to section 11-208.1 of this code;*

(4) *a statistical summary of the changes in the total market value and assessed value for each property tax class and property category from the assessment roll of the previous year;*

(5) *a statistical summary of equalization and non-equalization changes from the assessment roll of the previous year; and*

(6) *the method of valuation used for each property listed on the estimate of the assessed valuation of real property subject to taxation for the ensuing fiscal year, and the information used to determine such valuation.*

b. The notice of property value sent by the department to an owner of real property shall inform such owner how to access additional information on the website of the department regarding valuation of the subject real property, including the factors used by the department to determine the market value of such real property. The notice of property value shall include the address of such website. Such information shall be made available at least thirty days prior to the final date for filing any appeal.

§2. Subdivision a of section 11-208.1 of the administrative code of the city of New York, as added by local law number 63 for the year 1986, is amended to read as follows:

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] *June*, 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] *May* preceding the date the statement shall be filed.

(3) Notwithstanding the provisions 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] *the entire year for which the income and expense statement is required pursuant to the provisions of paragraph one or paragraph two of this subdivision, then an income and expense statement shall not be required for such year. Such owner is, however, subject to the requirements of paragraph four of subdivision d of this section.*

(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, *or in the case of residential class two properties held in the cooperative or condominium form of ownership, by a period not to exceed sixty days. The filing of the income and expense statement within the time prescribed by this paragraph shall be considered timely filed.*

§3. Paragraph 1 of subdivision d of section 11-208.1 of the administrative code of the city of New York, as amended by local law number 63 for the year 1986, is amended to read as follows:

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] *imposed* by the commissioner after notice and an opportunity to be heard, *and an opportunity to cure the failure to file. The penalties prescribed in this paragraph shall be a lien on such income-producing property when entered by the commissioner in the records in which charges against the property are to be entered, and shall continue to be, until paid, a lien on such property. Such lien shall be a tax lien within the meaning of sections 11-319 and 11-401 of this code and may be collected, sold, enforced or foreclosed in the manner provided in chapters two, three and four of title eleven of this code or may be satisfied in accordance with the provisions of section thirteen hundred fifty-four of the real property actions and proceedings law. If any such penalties are not paid within thirty days from the date of entry,*

it shall be the duty of the commissioner to receive interest thereon at the rate of interest applicable to such property for a delinquent tax on real property, to be calculated to the date of payment from the date of entry. The penalties prescribed in this paragraph may also be collected in an action brought against the owner of the income-producing property in a court of competent jurisdiction. The institution of any such action shall not suspend or bar the right to pursue any other remedy provided by law for the recovery of such penalties.

§4. Subdivision d of section 11-208.1 of the administrative code of the city of New York is amended by adding new paragraphs 4, 5, 6, 7, and 8 to read as follows:

(4) An owner of real property who is not required to submit an income and expense statement pursuant to paragraph three of subdivision a of this section or the rules promulgated by the commissioner of finance pursuant to subdivision g of this section shall submit to the department, annually on or before the first day of June, or on such other schedule as determined by rule of the commissioner, a claim of exclusion from the filing requirement in a form approved by the commissioner. The commissioner may for good cause shown extend the time for submitting a claim of exclusion by a period not to exceed thirty days, or in the case of residential class two properties held in the cooperative or condominium form of ownership, by a period not to exceed sixty days. The filing of the claim of exclusion within the time prescribed by this paragraph shall be considered timely filed. In the event that an owner who is required to submit a claim of exclusion fails to submit such claim within the time prescribed by this paragraph or by the rules of the commissioner, such owner shall be subject to a penalty. Such penalty shall be imposed by the commissioner after notice and an opportunity to be heard, and an opportunity to cure the failure to submit a claim of exclusion, and shall be collected and enforced, including the imposition of interest for late payment, in the same manner as the penalties for failure to file an income and

expense statement as provided in paragraph one of this subdivision. Such penalty shall not exceed the following amounts:

(i) one hundred dollars for failure to submit a claim of exclusion in one year;

(ii) five hundred dollars for failure to submit a claim of exclusion in two consecutive years;

(iii) one thousand dollars for failure to submit a claim of exclusion in three consecutive years or more.

(5) Notwithstanding paragraph four of this subdivision, an owner of real property described in the categories below is not required to submit a claim of exclusion:

(i) property that has an assessed valuation of forty thousand dollars or less;

(ii) residential property containing ten or fewer dwelling units;

(iii) property classified in class one or two as defined in article eighteen of the real property tax law containing six or fewer dwelling units and one retail store; or

(iv) special franchise property that is assessed pursuant to article six of the real property tax law.

(6) The department shall inform owners of income producing property, other than owners of the property described in paragraph five of this subdivision, of the requirement to file an income and expense statement, or, if applicable, a claim of exclusion, on the property tax bill for payment of the installment of real property tax that is due and payable on the first day of January and on the notice of property value. Such notification shall also inform the owner of such property that a penalty and interest may be imposed on such owner for failure to submit such claim, and that any penalties or interest imposed on such owner shall constitute a lien on such property.

(7) No later than thirty days prior to the imposition of a penalty prescribed in

paragraphs one and four of this subdivision, the commissioner shall publish on the website of the department a list of all property for which an income and expense statement, or, if applicable, a claim of exclusion, required to be filed pursuant to the provisions of this section was not timely filed. Such list shall contain the borough, block, lot, address, zip code, and tax class of the property. No later than the first day of February of each calendar year, the commissioner shall publish on the website of the department a list of all property for which an income and expense statement or, if applicable, a claim of exclusion, required to be filed pursuant to the provisions of this section was not timely filed. Such list shall contain the borough, block, lot, address, zip code, and tax class of the property, the penalty amount imposed by the department for failure to comply with the provisions of this section, and, to the extent practicable, the number of consecutive years the property owner has failed to file an income and expense statement, or, if applicable, a claim of exclusion.

(8) In cases where the closing or finalizing of the sale of real property precedes the publication of the lists described in paragraph seven of this subdivision or the first property tax bill to reflect a penalty imposed on such property for the failure to file an income and expense statement or, if applicable, a claim of exclusion, required to be filed pursuant to this section, the commissioner may waive such penalty and cancel any lien imposed as a result of such penalty, as may be described in guidelines prescribed by the commissioner, upon request of the owner of such property.

§5. This local law shall take effect immediately and shall apply to income and expense statements that are required to be filed on or after June 1, 2014.

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 June 27, 2013 and approved by the Mayor on July 9, 2013.

MICHAEL M. McSWEENEY, City Clerk Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 52 of 2013, Council Int. No. 906-A of 2012) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.