



Legislation Text

File #: Int 2444-2021, Version: *

Preconsidered Int. No. 2444

By Council Member Cornegy

A Local Law to amend the administrative code of the city of New York, in relation to the transfer of distressed properties to third parties and to repeal chapter four of title eleven of the administrative code of the city of New York

Be it enacted by the Council as follows:

Section 1. Chapter four of title eleven of the administrative code of the city of New York is REPEALED, and a new chapter four is added to read as follows:

CHAPTER 4
TAX LIEN FORECLOSURE BY ACTION IN REM

§ 11-401 Definitions.

§ 11-401.1 Procedures for distressed property.

§ 11-402 Applicability of procedure of foreclosure in rem.

§ 11-403 Jurisdiction.

§ 11-404 Foreclosure by action in rem.

§ 11-405 Preparation and filing of lists of delinquent taxes.

§ 11-406 Public notice of foreclosure.

§ 11-407 Redemption.

§ 11-408 Filing of affidavits.

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

§ 11-410 Preference over other actions.

§ 11-411 Presumption of validity.

§ 11-412 Final judgment.

§ 11-412.1 Special procedures relating to final judgment and release of class one and class two real property.

§ 11-412.2 Council review of conveyance to a third party.

§ 11-413 Withdrawal of parcels from foreclosure.

§ 11-414 Right of redemption not diminished.

§ 11-415 Priority of liens.

§ 11-416 Owner's registration; mailing tax bills and notices to registered owners or their designees.

§ 11-417 In rem registration; mailing notices to other interested persons.

§ 11-418 Writ of assistance.

§ 11-419 Consolidation of actions.

§ 11-420 Lands held for public use; right of sale.

§ 11-421 Certificate of sale as evidence.

§ 11-422 Deed in lieu of foreclosure.

§ 11-423 Sales and foreclosures of tax liens.

§ 11-424 Application to the city for release of property acquired by in rem tax foreclosure.

§ 11-424.1 In rem foreclosure release board.

§ 11-425 Disposition of proceeds of sales of properties acquired by city through tax enforcement foreclosure proceedings.

§ 11-426 Corrective action plans.

§ 11-427 Defaults.

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

Class. The term “class” means any class of real property defined in subdivision one of section 1802 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.

Court. The term “court” means the supreme court of the state of New York.

Distressed property. 1. The term “distressed property” means:

(a) any parcel of class one or class two real property that is identified for participation in the alternative enforcement program pursuant to subdivisions a, b and c of section 27-2153 of the code, that has been identified for participation in such program pursuant to subdivision d of section 27-2153, and that has not been released from such program pursuant to subdivision i of section 27-2153 of the code;

(b) any parcel of class one or class two real property that was discharged from the alternative enforcement program after an order to correct was issued but that was subsequently selected for inclusion in the alternative enforcement program during a subsequent round, and that has not been subsequently released from such program pursuant to subdivision i of section 27-2153 of the code; or

(c) any parcel of class one or class two real property that has greater than the eightieth percentile of normalized violations pursuant to paragraph 2 of this definition

2. The eightieth percentile of normalized violations, as described in subparagraph (c) of paragraph 1 of this definition, shall initially be defined as follows: a property with five or fewer units exceeds the eightieth percentile if it has 13 or more open hazardous and immediately hazardous violations; a property with more than

five units but fewer than 15 units exceeds the eightieth percentile if it has 17 or more open hazardous and immediately hazardous violations; and a property with 15 or more units exceeds the eightieth percentile if it has 17 or more open hazardous and immediately hazardous violations. Not later than December 31, 2025, and every fifth year thereafter, the commissioner of housing preservation and development shall determine the eightieth percentile of normalized violations for buildings with each such number of units; adjust by rule the number of violations applicable under this definition according to such determination; and publish such adjustments in the city record and on the website of the department of housing preservation and development.

Exempt property. The term “exempt property” means real property classified as class 1 or a dwelling unit in a condominium that is the primary residence of an owner of such property; real property receiving an exemption from taxation pursuant to section 11-245.3 or 11-245.3, or residential real property where such owner is receiving benefits in accordance with department of finance memorandum 05-3, or any successor memorandum thereto, relating to active duty military personnel, or has been allowed a credit pursuant to subsection (e) of section six hundred six of the tax law for the calendar year in which the date of the first lien sale occurs or for the calendar year immediately preceding such date; or real property classified as class 2 that is a residential cooperative owned by a company organized pursuant to article xi of the private housing finance law provided that such real property has not been eligible to benefit from an amnesty program for outstanding taxes, assessments, sewer rents, sewer surcharges, water rents or other municipal charges, the authority for which has been provided by the state, on or after December 31, 2020.

Extenuating Circumstances. The term "extenuating circumstances" means (i) the death of a party to a payment plan agreement; (ii) a loss of income to a party to the payment plan agreement due to his or her involuntary absence from the property for any consecutive period of six months or more for treatment of an illness, for military service, or pursuant to a court order, that results in a default of the payment plan agreement or inability to cure the default; or (iii) a loss of income to the signatory to the party to the payment plan agreement due to his or her unemployment for any consecutive period of six months or more that results in a

default of the payment plan agreement or inability to cure the default

Monitor. The term “monitor” shall mean an organization approved by the department of housing preservation and development and retained and paid by the property owner to oversee compliance with a corrective action plan pursuant to section 11-426.

Tax lien. The term “tax lien” means a lien arising as a result of the nonpayment of taxes, assessments, sewer rents, sewer surcharges, water rents, or 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.

§ 11-401.1 Procedures for distressed property. a. The commissioner of finance shall, not less than 90 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 30 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 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 90 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 subdivision 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 30 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 paragraph 10 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 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 may be subject to an in rem foreclosure action, unless it is an exempt property, 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. The commissioner of housing preservation shall ensure that the owner of each property that has been determined to be a distressed property is contacted in person and notified that such property is distressed and that it has a tax lien that may be foreclosed upon by the city. Each occupant of a distressed property must also be notified that the property has been determined to be distressed and that it has a tax lien that may be foreclosed upon by the city. 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 30 days from the date such parcels are identified as a distressed property.

d. The commissioner of finance, the commissioner of housing preservation and development and the commissioner of environmental protection shall collectively appoint a single ombudsperson who will be tasked with responding to inquiries from owners of distressed class one and two real property on which there is a tax lien that may be foreclosed by the city. This ombudsperson shall have a dedicated phone number and email

address and may also be contacted through 311.

e. Every time a hazardous and immediately hazardous violation is assessed against a property, the commissioner of housing preservation and development will send a notice to the property owner with the following, in language to be determined by commissioner: (i) that the property owner has a hazardous or immediately hazardous violation assessed against them; (ii) that, if the property owner has a tax lien that may be foreclosed by the city together with this violation the owner may fall within the definition of distressed for the purpose of section 11-412.2 of the code; (iii) that if the property owner does not cure these violations and pay any outstanding debts to the city they may have their property taken under 11-412.2 of the code; and (iv) if they have any questions they can reach the ombudsperson appointed under subdivision d of this section.

§ 11-402 Applicability of procedure of foreclosure in rem. a. The provisions of this chapter shall be applicable only to tax liens owned by the city.

b. The provisions of this chapter shall not affect any existing remedy or procedure for the enforcement or foreclosure of tax liens provided for in this code or any other law, but the remedy provided herein for foreclosure by action in rem shall be in addition to any other remedies or procedures provided by any general, special or local law.

c. The provisions of this chapter shall not affect pending actions or proceedings, provided, however, that any pending action or proceeding for the enforcement or foreclosure of tax liens may be discontinued, and a new action may be instituted pursuant to the provisions of this chapter, in respect to any such tax lien.

In accordance with section 6 of chapter 602 of the laws of 1993 and subdivision 2 of section 1104 of the real property tax law, it is hereby provided that the collection of delinquent taxes shall continue to be enforced pursuant to chapters 3 and 4 of title 11 of the administrative code and other related provisions of the charter and administrative code as such chapters three and four and such related provisions may from time to time be amended and that article xi of the real property tax law shall not be applicable to the city.

§ 11-403 Jurisdiction. The supreme court shall have jurisdiction of actions authorized by this chapter.

§ 11-404 Foreclosure by action in rem. Whenever a tax lien or tax liens on a class one or class two property that is not an exempt property as defined in section 11-401 is eligible to be sold by the city under the criteria set forth in section 11-319(a), (a-2), (a-4), or (a-6) of the code such tax lien or tax liens 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 sale of a tax lien or tax liens prior to such foreclosure. A bill of arrears or any other instrument evidencing such tax lien or tax liens shall be evidence of the fact that the tax lien or tax liens represented thereby has not or have not been paid to, or sold by, the city.

§ 11-405 Preparation and filing of lists of delinquent taxes. a. The commissioner of finance, together with the commissioner of environmental protection, may 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 section of a tax map or portion of a section of a tax map 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 or the section of a tax map or portion of a section of a tax map, and where the action covers less than all parcels in an entire borough or section of a tax map or portion of a section of a tax map, 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.

b. Every such list shall set forth the parcels it includes separately and number them serially. For each parcel it shall contain:

1. A brief description sufficient to identify the parcel, including section, block and lot numbers, and the street and street number, if any, or in the absence of such information the parcel or tract identification number shown on a tax map or on a map filed in the county clerk’s or register’s office;

2. A statement of the amounts and dates of all unpaid tax liens which are subject to foreclosure under this chapter and of those which have accrued thereafter; and

3. If the property is a distressed property as defined in section 11-401, a description of how the property qualifies as distressed.

c. 1. The commissioner of finance may exclude or thereafter remove from such list any parcels (i) as to which questions such commissioner deems meritorious have been raised regarding the validity of the liens (ii) as to which all the taxes and other charges which rendered said parcels eligible for inclusion in said list have been paid in full; or (iii) 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, interest and penalties in installments.

(a) Pursuant to a payment plan agreement with the department of finance and, if applicable, with the department of environmental protection in accordance with the rules prescribed by the New York city water board, the property owner shall be required to remit a payment equal to 20 percent of such delinquent taxes, assessments or other legal charges, interest and penalties together with a sworn statement, in a form to be determined by the commissioner of finance, that the property owner has the financial ability to (i) remediate all open hazardous or immediately hazardous violations of record of the housing maintenance code; (ii) continue to maintain the property so as to prevent the existence of further hazardous or immediately hazardous violations; and (iii) comply with the terms of the payment plan agreement. 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 120 in number, shall be payable quarterly on the first day of July, October, January and April.

(b) Pursuant to a payment plan agreement, if the property owner is unable to remit a payment equal to 20 percent of such delinquent taxes, the applicant shall submit a corrective action plan agreement pursuant to section 11-426 and agree to the appointment of a monitor as defined in section 11-401.

2. A parcel for which any such payment plan agreement or agreements have been filed with the commissioner shall be excluded or removed from the list of delinquent taxes before the commencement of the in rem action based upon such list only if the amounts paid pursuant to such agreement exceed the amount

required to pay all taxes and charges which render said parcel eligible for inclusion in the in rem action and there has been no default in such agreement prior to the commencement of said action as to either quarterly installments or current taxes, assessments or other legal charges.

3. As a condition to entering into any agreement under this section or section 11-409, the commissioner shall have received from the applicant, an affidavit stating that each occupant residing in the parcel has been notified by certified mail that an application for a payment plan agreement will be made and that a copy of a standard agreement form has been included with such notification. Any false statement in such affidavit shall not be grounds to cancel the agreement or affect its validity in any way.

4. The commissioner of finance, with assistance from the commissioner of housing preservation and development, may exclude or thereafter remove from such list any property that is distressed as defined in section 11-401, but where all of the hazardous or immediately hazardous violations of record of the housing maintenance code have been cleared.

d. Not less than 120 days preceding the filing of the list of delinquent taxes with the office of the clerk of the county in which the parcels listed herein are situated, the commissioner of finance shall post a notice online, and send via first class mail return receipt requested and first class mail to any person who has registered their mailing address or electronic mail address with the department of finance. The department of finance shall mail one copy to each dwelling unit of each property and post one copy in the common area of such property. Such notice shall include, to the extent such information is available, the borough, block and lot of any property to be included in such a list. Such notice shall include a conspicuous statement that the owner of the property may enter into a payment plan agreement for exclusion from the list of delinquent taxes to be filed. The department of finance and the department of environmental protection shall then, to the extent practicable, contact by telephone or electronic mail any person who (i) has registered their telephone number or electronic mail address with such departments and (ii) has been sent the 120 day notice described in this paragraph.

e. Two duplicate originals thereof, verified by the commissioner of finance or a subordinate designated by the commissioner, shall be filed in the office of the clerk of the county in which the parcels listed therein are situated. Such filing shall constitute and have the same force and effect as the filing and recording in such office of an individual and separate notice of pendency of action and as the filing in the supreme court in such county of an individual and separate complaint by the city as to each parcel described in said list, to enforce the payment of the delinquent taxes, assessments or other lawful charges which have accumulated and become liens against such parcels.

f. Each county clerk with whom such a list of delinquent taxes is filed shall, on the date of said filing, docket the parcels contained in the list of delinquent taxes in the block index of notices of pendency of action, which shall constitute due filing, recording and indexing of the separate notices constituting said list of delinquent taxes in lieu of any other requirement under rule 6511 of the civil practice law and rules or otherwise.

g. The commissioner of finance shall file a copy of each list of delinquent taxes, certified as such copy by him or her or a subordinate designated by the commissioner, in the borough office of department of finance in the borough in which the parcels listed therein are situated and in the office of the corporation counsel.

§ 11-406 Public notice of foreclosure. a. Upon the filing of a list of delinquent taxes in the office of the county clerk, the commissioner of finance forthwith shall cause a notice of foreclosure to be published at least once a week for six successive weeks in the City Record and, subject to section 91 of the judiciary law, in two newspapers, one of which may be a law journal, to be designated by the commissioner of finance, which are published in and are circulated throughout the county in which the affected property is located. The commissioner of finance shall also cause a notice of foreclosure to be published on the department of finance website and sent to the council member in whose district the affected property is located.

b. Such notice shall clearly indicate that it is a notice of foreclosure of tax liens; the borough or the section of a tax map or portion of a section of a tax map in which the property subject to foreclosure is located,

where and when the list of delinquent taxes was filed; the general nature of the information contained in the list; the amount of any tax liens, including all taxes, assessments, sewer rents, sewer surcharges, water rents, any other charges that are made a lien subject to the provisions of chapter three of this title 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 department of finance's central office and at the borough office of the department of finance 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 thereon or entering into a payment plan agreement in accordance with section 11-407; that during said period of redemption and for an additional period of 20 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; that in the absence of redemption or answer a judgement of foreclosure may be taken by default; and if the property is a distressed property as set forth in section 11-401, a description of how the property qualifies as a distressed property.

c. The commissioner of finance shall cause a copy of the notice described in subdivision b of this section to be posted in the office of the commissioner of finance, in the county courthouse of the county in which the property subject to such tax lien is situated, posted on the website of the department of finance and posted in the department of finance business center located in the borough in which the affected properties are located.

d. 1. On or before the date of the first publication of such notice, the commissioner of finance shall cause a copy of the notice to be personally served on the owner of record of the property at the owner's address of record and mailed first class mail and first class mail return receipt requested to all mortgagees, lienors or

encumbrancers, who may be entitled to receive such notice by virtue of any owner’s registration with the office of the city register pursuant to section 11-416 or 11-417 of this chapter. If such owner’s registration has not been submitted to the city register then said notice shall be mailed to the name and address, if any, appearing in the latest annual record of assessed valuations. The commissioner of finance shall cause to be inserted with such notice a statement substantially in the following form and including the amount currently owed to the city:

“To the party to whom the enclosed notice is addressed: You are the presumptive owner or lienor of one or more of the parcels mentioned and described in the list referred to in the attached notice. YOU ARE IN DANGER OF LOSING YOUR HOME. Unless the taxes and assessments and all other legal charges are paid, an answer is interposed, or an arrangement is made for payment of such taxes and assessments and all other legal charges in installments, as provided by statute, YOUR PROPERTY WILL BE TRANSFERRED TO THE CITY OF NEW YORK OR TO A QUALIFIED THIRD PARTY as provided by the administrative code of the city of New York. If you have any questions, you may contact the New York City Department of Finance at (enter number) or visit the Department’s website at (enter web address).”

2. The department of finance shall prescribe the telephone number and web address to be included in the notice.

3. Such service shall occur in accordance with article 3 of the civil practice laws and rules and a copy of such affidavit of service shall be filed in accordance with section 11-408.

e. 1. The commissioner of finance shall cause a copy of such notice to be mailed first class mail to each dwelling unit in each property and posted in a common area in the property. The department of housing preservation shall place a copy of such notice under the entrance door of each dwelling unit within the property. The notice shall include a statement substantially in the following form:

“The property where your apartment is located is the subject of a foreclosure proceeding. The owner of this property owes taxes, assessments and other legal charges to the City of New York. If the

owner of this property does not pay these outstanding charges to the City of New York, title to this property may be transferred to the city of New York or to a qualified third party. If title to this property is transferred you are entitled to remain in your home. If you need further information, please call the New York City Department of Finance telephone helpline at (enter number) or visit the Department's website at (enter web address).

2. The department of finance shall prescribe the telephone number and web address to be included in the notice.

f. The department of finance shall create a telephone helpline and website for property owners whose properties are subject to in foreclosure actions under this chapter.

g. If the property is owned by a company organized pursuant to article xi of the state private housing finance law, the department of finance shall hold at least three meetings with the members of the company to inform them that the property has been included in the list of delinquent taxes and that they can be removed from such list by entering into a payment plan with the department.

§ 11-407 Redemption. a. After the filing of a list of delinquent taxes and until a date at least 120 days after the service of the notice of foreclosure has been properly effected, as determined by the commissioner of finance and as specified in the said notice, a person claiming to have an interest in any parcel in said list may redeem the property by:

1. Paying all taxes and charges contained in said list of delinquent taxes together with interest and penalties thereon; or

2. (a) Entering into a payment plan agreement with the department of finance and, if applicable, with the department of environmental protection in accordance with the rules prescribed by the New York city water board, pursuant to which, the property owner shall be required to remit a payment equal to 20 percent of such delinquent taxes, assessments or other legal charges, interest and penalties together with a sworn statement, in a form to be determined by the commissioner of finance, that the property owner has the financial

ability to (i) remediate all open hazardous or immediately hazardous violations of record of the housing maintenance code; (ii) continue to maintain the property so as to prevent the existence of further hazardous or immediately hazardous violations; and (iii) comply with the terms of the payment plan agreement. 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 120 in number, shall be payable quarterly on the first day of July, October, January and April; or

(b) If the property owner is unable to remit a payment equal to 20 percent of such delinquent taxes, the applicant shall submit a corrective action plan agreement pursuant to section 11-426 and agree to the appointment of a monitor as defined in section 11-401.

b. Upon such redemption the commissioner of finance shall deliver to the corporation counsel a certificate of redemption. The corporation counsel shall file such certificate with the clerk of the county in which said list was filed. The filing of such certificate shall constitute and be deemed a discontinuance of the in rem action as to the affected parcel, and the county clerk shall thereupon note such redemption and discontinuance in the copy of the list of delinquent taxes maintained by him or her adjacent to the county clerk's block index of notices of pendency of action and shall cancel and discharge any notations of the filing of said list of delinquent taxes as to said parcel that may appear in any other books, records, indices and dockets maintained in said clerk's office. The commissioner of finance shall also deliver a duplicate original certificate of redemption to the person who has redeemed and a duplicate certificate of redemption to any occupant in the property who has requested such certificate.

c.1. When the time to redeem in an in rem tax foreclosure action has expired, any person claiming to have an interest in a parcel included in said action shall have the right to make a late redemption payment to the commissioner of finance and, if applicable, to the commissioner of environmental protection. Such late redemption payment shall consist of all taxes and charges owing on said parcel, the lawful interest thereon to the date of payment, or by entering into a payment plan agreement with the department of finance and, if

applicable, with the department of environmental protection in accordance with the rules prescribed by the New York city water board, pursuant to which, the property owner shall be required to remit a payment equal to 30 percent of such delinquent taxes, assessments or other legal charges, interest and penalties together with a sworn statement, in a form to be determined by the commissioner of finance, that the property owner has the financial ability to (i) remediate all open hazardous or immediately hazardous violations of record of the housing maintenance code; (ii) continue to maintain the property so as to prevent the existence of further hazardous or immediately hazardous violations; and (iii) comply with the terms of the payment plan agreement. 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 120 in number, shall be payable quarterly on the first day of July, October, January and April.

2. Such late redemption payment shall be made in cash or by certified or bank check and shall be accepted by the commissioner of finance and, if applicable, the commissioner of environmental protection at any time after the last day to redeem up to the date on which the commissioner is advised by the corporation counsel that the preparation of the judgement of foreclosure in the in rem action has been commenced. Upon receipt of such late redemption payment, the commissioner of finance shall issue a certificate of withdrawal pursuant to the provisions of section 11-413 of this chapter.

§ 11-408 Filing of affidavits. All affidavits of service, filing, publication, posting, mailing or other acts required by this chapter shall be made by the person or persons performing such acts and shall be filed in the office of the county clerk of the county in which the property subject to such tax lien is situated and shall together with all other documents required by this chapter to be filed in the office of such county clerk, constitute and become a part of the judgment roll in such foreclosure action. § 11-409 Severance and trial of issues where answer is interposed; payment plan agreements authorized after action commenced. a. If a duly verified answer is served upon the corporation counsel not later than 20 days after the last date for redemption, the answering defendant shall have the right to a severance of the action, as to any parcel in which the

defendant has pleaded an interest, upon written demand therefor filed with or made a part of his or her answer.

b. When such answer is interposed, the court shall summarily hear and determine the issues raised by the complaint and answer in the same manner as it hears and determines other actions, except as herein otherwise provided. Proof that the taxes which made said property subject to foreclosure hereunder together with interest and penalties thereon, were paid before filing of the list of delinquent taxes or that the property was not subject to tax shall constitute a complete defense.

c. When a verified answer alleges equity of at least 50 percent of the city's lien for taxes, the defendant may demand additional time in which to pay the taxes and interest or to have the property sold with all taxes and interest to be paid out of the proceeds of such sale. Upon such demand a defendant shall have the right to an extension of time for such purpose not in excess of 180 days from the last day to interpose an answer. Where a mortgagee or lienor who has interposed such answer commences a proceeding to foreclose his or her mortgage or lien and it appears that with due diligence such proceeding cannot be concluded in time to allow the payment of taxes within the aforesaid 180 day period, the court may, on application before the end of said 180 day period, authorize an additional period during which such proceeding may be concluded and the taxes, together with interest and penalties, paid.

d. Where an answer of the type described in subdivision c of this section is interposed and taxes are paid within the period set forth in such subdivision c, the commissioner of finance shall issue a certificate of withdrawal as to the property on which such payment has been made pursuant to the provisions of section 11-413. When taxes are not paid within the period set forth in such subdivision c, it shall be deemed that there was no equity over the city's tax liens and the answer shall be deemed to be without merit. The city in that event may proceed to judgment of foreclosure against such property without moving against the answer.

e. 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 or the section of a tax map or portion of a section of a tax map affected, and if the action covers less than all parcels in an entire borough or section of a tax map or portion of a section of a tax map, the particular class or classes, and the serial, section, block and lot numbers of the parcel or parcels in issue.

f. 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 on which an in rem answer or litigation is pending, or 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 the delinquent taxes, assessments or other legal charges and interest and penalties in installments as provided in subdivision c of section 11-405 of this chapter and there has been no default in such agreement as to either quarterly installments or current taxes, assessments or other legal charges.

g. 1. 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 all delinquent taxes, assessments and other legal charges together with lawful interest thereon, 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 a payment plan agreement upon the approval of the commissioner of housing preservation and development. The commissioner of housing preservation and development, in consultation with the commissioner of finance, may at his or her discretion, permit a party to enter into a payment plan agreement for the payment of such taxes, assessments and other legal charges and interest. The request of an answering party for a payment plan agreement shall constitute a withdrawal of such party's answer. A payment plan 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 payment plan agreements entered into pursuant to the provisions of this subdivision. Where a 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 payment plan 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.

2.(a) The terms of such a payment plan agreement shall be as follows. The property owner shall be required to remit a payment equal to 30 percent of such delinquent taxes, assessments or other legal charges, interest and penalties together with a sworn statement, in a form to be determined by the commissioner of finance, that the property owner has the financial ability to (i) remediate all open hazardous or immediately hazardous violations of record of the housing maintenance code; (ii) continue to maintain the property so as to prevent the existence of further hazardous or immediately hazardous violations; and (iii) comply with the terms of the payment plan agreement. 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 120 in number, shall be payable quarterly on the first day of July, October, January and April.

(b) In addition to the requirements set forth in item (a), the property owner shall demonstrate that not less than 75 percent of all open immediately hazardous violations have been cleared.

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:

(a) 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 payment plan agreement with the commissioner of finance and shall be in an amount at least equal to, at the applicant's election, not less than 5 percent of the total amount of such delinquent taxes, assessments or other legal charges and the interest and penalties thereon and shall include a sworn statement, in a form to be determined by the commissioner of finance, that the property owner has the financial ability to (i) remediate all open hazardous or immediately hazardous violations of record of the housing maintenance code; (ii) continue to maintain the property so as to prevent the existence of further hazardous or immediately hazardous violations; and (iii) comply with the terms of the payment plan agreement. 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 240 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.

4. 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 calculated at a rate equal to the rate prescribed for the applicable period pursuant to subparagraph (i) of subdivision e of section 11-224.1 of this title.

5. If a default occurs in any agreement executed pursuant to this paragraph, 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.

6. 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 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 refunded to the property owner 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 payment plan 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.

§ 11-410 Preference over other actions. a. Any action brought pursuant to this chapter shall be given preference over all other causes and actions.

b. Actions brought pursuant to this chapter shall take precedence over any proceeding brought to foreclose a mortgage or other lien involving the same property. A parcel included in a list of delinquent taxes which is sold in a mortgage foreclosure sale held after said list is filed may not be sold subject to taxes even if judgment has not yet been entered in the tax foreclosure action. All unpaid taxes and interest and penalties thereon must be paid, in full or by payment plan agreement pursuant to the provisions of this chapter, out of the proceeds of such sale regardless of whether the mortgage foreclosure lis pendens was filed before or after the filing of the tax foreclosure action, regardless of whether any party to the mortgage foreclosure proceeding has interposed an answer in the tax foreclosure action and regardless of any terms to the contrary in the judgment in the

mortgage foreclosure proceeding.

§ 11-411 Presumption of validity. It shall be necessary for the city to plead or prove the various steps, procedures and notices for the assessment and levy of the taxes, assessments or other lawful charges against the parcels set forth in the list of delinquent taxes and all such taxes, assessments or other lawful charges.

§ 11-412 Final judgment. a. The court shall determine upon proof and shall make finding upon such proof whether there has been due compliance by the city with the provisions of this chapter.

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. 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. 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 non-payment of rent, the acceptance of rent for the first 45 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.

c. 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 two years from the date of the recording of such deed, the presumption shall be conclusive, unless at the time that this subdivision takes effect the two year period since the recording of the deed has expired or less than 180 days of such period of two years remains unexpired, in which case the presumption shall become conclusive 180 days after this subdivision takes effect. 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 proper county clerk prior to the time that the presumption becomes conclusive as aforesaid.

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

1. 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.

2. (a) 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 that is a distressed property that is not an exempt property as defined in section 11-401, 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. As consideration for such conveyance, the third party shall be required to execute a regulatory agreement, in accordance with rules to be promulgated by the department of housing preservation and development.

(b) 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 150, 175, 176, 180, 185 or 200 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 commissioner shall also not deem qualified as a third party for the award of a specific property, any organization that has provided counseling or advice regarding foreclosure or loan default to the current or then-owner of such property within the prior five years. For the purposes of this section, the disqualification period shall commence on the last day on which the third party and the current or then-owners had contact regarding foreclosure or loan default for a specific property. Each contact between a current or then-owner of a specific property and an organization where foreclosure or loan default counselling or advice is provided shall act to restart the disqualification period. The rules promulgated by the commissioner pursuant to this paragraph may establish other bases for disqualification of a third party.

3. Following the expiration of the 180 day period prescribed in paragraph 4 of this section, but not more than one year after the date on which, pursuant to paragraph 2 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 paragraph 2 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 paragraphs 5 and 6 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.

4. Within 180 days after the date on which, pursuant to paragraph 2 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. Such payment shall be made in cash or by certified or bank check. Within such 180 day period, such interested person may also request a payment plan agreement from the department of finance. The department of finance, together with the department of housing preservation and development, shall have the discretion to grant or deny such request. Such agreement shall require the payment at such time of a first installment equal to 50 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 together with a sworn statement in a form to be determined by the department of finance that the property owner has the financial ability to (i) remediate all open hazardous or immediately hazardous violations of record of the housing maintenance code; (ii) continue to maintain the property so as to prevent the existence of further hazardous or immediately hazardous violations; and (iii) comply with the terms of the payment plan agreement. Upon receipt of payment in full of the amount specified in the first sentence of this paragraph 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 a payment plan 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 a payment plan agreement pursuant to this paragraph, 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, 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 paragraphs 3 through 9 of this subdivision shall apply in the same manner as such paragraphs would have applied had no payment been made nor payment plan agreement executed during the 120 day period specified in this paragraph.

5. (a) 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 one year and 120 days from the date on which the deed by which the city acquired title to said parcel was recorded.

(b) Any such application shall be made in writing to the commissioner of citywide administrative services and shall be verified. It shall contain the information required pursuant to subdivision b of section 11-424 of this chapter and the documents required by subdivision c of such section.

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

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

(2) where the in rem foreclosure release board denies a written request for a payment plan 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 30 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.

(e) Upon receipt of any 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 paragraph 2 of this subdivision 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.

6. 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 paragraph 5 of this subdivision during the period of time set forth in subparagraph (a) of such paragraph 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 contain, in addition to the statements, searches and proofs required by paragraph 5 of this subdivision, 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 subparagraph(d) of paragraph 5 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 c 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 30 days of the date on which the letter requesting payment is mailed or delivered to the applicant.

7. 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 paragraphs 5 and 6 of this section for the release of property so acquired shall not be available.

8. 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 180 days 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.

9. 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 twelve months after the entry of final judgment authorizing the award of possession of such parcel pursuant to paragraph 2 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.

10. If the commissioner of finance directs the corporation counsel, pursuant to paragraph 9 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 a distressed property as defined in section 11-401, 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.

§ 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 paragraph 3 of section 11-412.1 of this chapter, notify the council of the proposed conveyance. Within 90 days of the receipt of evidence and information from the department of housing preservation and development the council may act by local law disapproving the proposed conveyance. In the event the council does not act by local law within such 90 day period, the council shall be deemed to have approved the proposed conveyance. During such 90 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 36 of the charter, the 12 month period provided in paragraphs 3 and 9 of section 11-412.1 of this chapter shall be tolled.

§ 11-413 Withdrawal of parcels from foreclosure. a. The commissioner of finance shall, prior to final judgment, withdraw a parcel from a proceeding under this chapter for any of the following reasons, (i) a

question which the commissioner deems meritorious has been raised as to the validity of the tax liens affecting the parcel, (ii) the city collector has accepted a payment of all taxes and interest which rendered the parcel subject to foreclosure hereunder because the records in the commissioner's office indicated that the principal amount of such taxes was exceeded by the principal amount of subsequent taxes which would not have rendered the parcel subject to foreclosure hereunder and which had been paid prior to the commencement of said proceeding, or (iii) in cases where the tax foreclosure action cannot be maintained such as, but not limited thereto, where the charges which rendered a parcel subject to foreclosure hereunder have been cancelled or were paid before the commencement of the foreclosure proceeding but such payment was not reported or did not clear for payment until after the commencement of said proceeding, or where a name and address appearing on an owner's registration filed pursuant to section 11-416 or 11-417 of this chapter and contained in the files of the city collector did not appear in the mailing list used by the commissioner of finance for mailing notices of foreclosure in such proceeding.

b. To effectuate such withdrawal the commissioner of finance shall deliver a certificate of withdrawal to the corporation counsel who shall file it in the office of the county clerk in which the list of delinquent taxes was filed. The filing of such certificate with such county clerk shall effect a discontinuance of the tax foreclosure action as to the affected parcel, and the county clerk shall thereupon note such withdrawal and discontinuance in the copy of the list of delinquent taxes maintained by him or her adjacent to the county clerk's block index of notices of pendency of action and shall cancel and discharge any and all notations of the filing of said list of delinquent taxes as to said parcel that may appear in any other books, records, indices and dockets maintained in said clerk's office.

c. The commissioner of finance shall also deliver a duplicate original certificate of withdrawal to the person entitled to such withdrawal and a notification to the each dwelling unit by first class mail of such property, and by posting in the property's common area, that the property is no longer subject to foreclosure under this chapter.

d. The commissioner of finance shall recite the parcels so withdrawn and the reasons for withdrawal in an affidavit of regularity to be submitted by the commissioner in each action brought pursuant to this chapter.

e. The commissioner of finance shall issue a certificate of withdrawal whenever taxes and interest are paid, cancelled, liquidated or otherwise lawfully disposed of as to any parcel which was previously severed pursuant to section 11-409 of this chapter because an answer or litigation was pending.

§ 11-414 Right of redemption not diminished. The period of time in which any owner of, or other person having an interest in a parcel of property may redeem from a sale of a transfer of tax lien is not hereby diminished nor shall such period of time be diminished by the commencement of any action brought pursuant to this chapter.

§ 11-415 Priority of liens. Tax liens shall rank in priority as may now, or as may hereafter, be provided by law.

§ 11-416 Owner's registration; mailing tax bills and notices to registered owners or their designees. a. The commissioner of finance shall maintain a file of record of registered real property owners which identify the owner's full name and post office address and a description of the premises by reference to the section, block, and lot numbers on the tax map.

b. The commissioner of finance shall mail bills for taxes, charges and assessments to all owners who have filed an owner's registration as herein provided.

c. The commissioner of finance shall also mail notice of foreclosure and any other process required by this chapter to all owners who have filed an owner's registration whenever the parcels as to which such registration was filed are included in a list of delinquent taxes filed pursuant to this chapter. Nothing within this section shall preclude the requirement that the commissioner of finance effect personal service under subdivision d of section 11-406 of this chapter.

d. An owner who files an owner's registration may also designate thereon the full name and post office address of a mortgagee, lienor or other person to receive bills and notices.

§ 11-417 In rem registration; mailing notices to other interested persons. a. The commissioner of finance shall, in addition to the file maintained by him or her pursuant to section 11-416 of this chapter, maintain a database of registrations submitted by any person having an interest in real property who is not entitled to have tax bills mailed to him or her by the commissioner of finance, including mortgagees, lienors, encumbrancers and owners who have filed an owner's registration designating someone else to receive bills and notices. Each such registration shall be signed by the person filing such registration or a duly authorized representative, shall contain a description of the premises by reference to the section, block and lot numbers on the tax map and shall state the date on which said registration was filed, the full name and post office address of the person filing said registration and the nature of the interest said person has in said premises.

b. The commissioner of finance shall mail a notice of foreclosure and serve any process required by this chapter to each person who has filed a registration whenever the parcels to which such registrations refer are included in a list of delinquent taxes filed pursuant to this chapter.

§ 11-418 Writ of assistance. The city, after acquiring title to premises under and pursuant to the terms and provisions of this chapter, shall be entitled to a writ of assistance, with the same force and effect as if the city had acquired the property by virtue of a mortgage foreclosure.

§ 11-419 Consolidation of actions. Actions or proceedings pending in the courts, or otherwise, to cancel a sale of a tax lien on lands a lien upon which is being foreclosed by action under this chapter, shall be terminated upon the institution of a foreclosure action pursuant to this chapter, and the rights and remedies of the parties in interest to such pending actions or proceedings shall be determined by the court in such foreclosure action.

§ 11-420 Lands held for public use; right of sale. Whenever the city shall become vested with the title to lands by virtue of a foreclosure proceeding brought pursuant to the provisions of this chapter, such lands shall, unless actually used for other than municipal purposes, be deemed to be held by the city for a public use but for a period of not more than three years from the date of the final judgment. The city is hereby authorized to sell

and convey such lands in the manner provided by law for the sale and conveyance of other real property held and owned by the city and not otherwise.

§ 11-421 Certificate of sale as evidence. The transfer of tax lien or any other written instrument representing a tax lien shall be presumptive evidence in all courts in all proceedings under this chapter by and against the purchaser and his or her representatives, heirs and assigns, of the truth of the statements therein, of the title of the purchaser to the property therein described, and of the regularity and validity of all proceedings had in reference to the taxes, assessments or other legal charges for the nonpayment of which the tax lien was sold and the sale thereof. After two years from the issuance of such certificate or other written instrument, no evidence shall be admissible in any court in a proceeding under this chapter to rebut such presumption unless the holder thereof shall have procured such transfer of tax lien or such other written instrument by fraud or had previous knowledge that it was fraudulently made or procured.

§ 11-422 Deed in lieu of foreclosure. The city may accept a conveyance of the interest of any person having any right, title, interest, claim, lien or equity of redemption in or to such parcel.

§ 11-423 Sales and foreclosures of tax liens. Notwithstanding any of the provisions of this chapter the city may continue to sell tax liens, transfer the same to purchasers and become the purchaser at such sales of tax liens in the manner provided by this title.

§ 11-424 Application to the city for release of property acquired by in rem tax foreclosure. a. 1. The city's interest in property acquired by in rem tax foreclosure may be released pursuant to this section on the application of any party who had an interest in said property 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 two years from the date on which the deed by which the city acquired title to said property was recorded.

2. Notwithstanding any inconsistent provision of paragraph one of this subdivision to the contrary, the city's interest in property acquired by in rem tax foreclosure may be released pursuant to this section upon application of any party who had an interest in said property as either owner, mortgagee, lienor or

encumbrancer at the time of the city's acquisition thereof where such application is made more than two years after the date on which the deed by which the city acquired title to said property was recorded provided such application is authorized by the council as hereinafter provided. An application for such release and the documents required by subdivision c in support thereof shall be filed with the department of citywide administrative services in the manner provided in subdivision b of this section. The department of citywide administrative services shall give the council written notice of the receipt of each such filing. After review and approval of the application by the corporation counsel as to form and eligibility of the applicant, the department of citywide administrative services shall send a copy of such application to the in rem foreclosure release board and to the council. Upon receipt of such application, the in rem foreclosure release board shall take no further action on such application unless the council adopts a resolution within 120 days following the first stated meeting of the council after receipt of such application authorizing the board to consider such application. If the council fails to adopt a resolution within such 120 day period, the council shall be deemed to have denied its authorization for the board to consider such application. A resolution of the council pursuant to this paragraph shall describe the property for which release is sought by borough, tax map, block and lot number and shall specify that release of the city's interest in such property is subject to the approval of the in rem foreclosure release board and to all the conditions and restrictions set forth in this section.

b. Any such application shall be made in writing to the commissioner of citywide administrative services and shall be verified. It shall contain the name and address of the applicant and shall state the date on which and the in rem action by which the city acquired title to the property sought to be released. It shall also contain a statement specifying the nature of the applicant's interest in the property and a full description of the instrument from which the applicant's interest derives including the date of execution, the date and place of the recording or entry of said instrument and the parties thereto. In the event the applicant's interest arises by reason of the death of a prior owner, mortgagee, lienor or encumbrancer, then the application shall also state the applicant's relationship to said decedent and shall include whatever additional information may be necessary to

prove the applicant's right to make such application.

c. Each application shall be supported by the certified search of the city register or by an official letter, certificate or certified search of any title insurance or abstract company, organized and doing business under the laws of this state. Such supporting instruments shall recite the recording data both as to the deed by which the city acquired title to the parcel sought to be released and the instrument from which the applicant's interest derives. In the event the applicant's interest does not appear of record but is derived by the death of an owner, mortgagee, lienor or encumbrancer of record, then the application shall also be supported by the affidavit of the applicant or other person having information thereof, or by the duly written certificate or certification of the county clerk or the clerk of any surrogate's or other court of record, or by any other instrument or document required by the corporation counsel to substantiate the applicant's right to file such application in compliance with the provisions of this section.

d. The city's interest shall be released only after payment, as to each parcel to be released, of the following sums of money:

1. The principal amount due on all unpaid taxes, assessments, water charges and sewer rents appearing on the list of delinquent taxes and accruing thereafter together with interest at the rate or rates provided by law.

2. Any deficiency which may result to the city after all payments made by it for the repair, maintenance, and operation of the lands, real estate or real property shall have been charged or debited in the appropriate accounts of the city and all rents, license fees and other moneys collected by the city as a result of its operation of the said lands, real estate or real property shall have been credited in such accounts. Any contract for repair, maintenance, management or operation made by the city on which it shall be liable, although payment thereon shall not have been made, shall be deemed a charge or debit to such accounts as though payment had been made. The amounts paid and collected by the city as shown in its accounts and the necessity for making the several payments and contracts to be charged as herein provided shall be conclusive

upon the applicant. Where a deficiency under this subdivision shall be created or increased by the failure of the city to collect rents, license fees or other moneys to which the city may have been entitled, the right to collect or to bring action for the same shall be assigned, transferred and set over to the applicant by an instrument in writing.

3. A reasonable monthly fee to be determined by the city, through the department of citywide administrative services, for management services and operations of the lands, real estate or real property by the city prior to the release of said lands, real estate or property.

4. The city, through the department of citywide administrative services, shall also require as additional consideration for such release, the payment of all arrears on mortgages held by the city and all liens accruing to it by operation of law including but not limited to relocation and emergency repair liens.

e. The corporation counsel shall effect the release of the city's interest in property acquired by in rem tax foreclosure, as provided for in this section, by preparing and causing to be entered an order discontinuing the in rem tax foreclosure action as to said property, cancelling the notice of pendency of such action as to said property and vacating and setting aside the in rem judgment of foreclosure and the deed executed and recorded pursuant to such judgment of foreclosure 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 at the time the city acquired title to said property, 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 section, or which were, for whatever reason, omitted from the payment made to obtain said release.

f. If an application pursuant to this section, and the documents required by subdivision c of this section in support thereof, are filed within 180 days after the date of the city's acquisition of the subject property, said application shall be granted providing the corporation counsel approves the application as to form, timeliness and eligibility of the applicant and providing the applicant has paid all amounts required to be paid by

subdivision d of this section within 30 days of the date on which a letter requesting applicant to make such payment is mailed or delivered to the applicant. The city shall not sell or assign any property acquired by in rem tax foreclosure within 180 days of said acquisition but this provision shall not prevent the city from authorizing condemnation of such property or vesting title thereto in a condemnation proceeding during said 120 day period. In the event an application pursuant to this section is filed within 180 days of the city's acquisition by in rem tax foreclosure and title to the subject property vests in condemnation before the city's interest therein has been released by the vacate order provided for herein, the applicant shall be entitled to the condemnation award for such property without the entry of such vacate order, providing the corporation counsel has approved the application as aforesaid and providing that the amounts specified in subdivision d of this section, if not previously paid, are deducted from said condemnation award, with taxes apportioned to the date of the condemnation title vesting.

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 180 days 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 a may, in its discretion, authorize the release of the city's interest in said property pursuant to this section, provided that the application has been approved by the corporation counsel as to form, timeliness and eligibility of the applicant and provided that the city has not sold or otherwise disposed of said property and 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 30 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 a payment plan agreement of the commissioner of citywide administrative 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 citywide administrative services shall not approve any such request unless the applicant shall have given notice by certified mail to each occupant residing in the parcel, of the request and shall have given such commissioner an affidavit stating that such notice has been provided, within 30 days after the request. Any false statement in 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 20 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 a payment plan agreement is made of the commissioner of citywide administrative 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 citywide administrative 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 10 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 a payment plan 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 a payment plan agreement containing the terms relating to the required percentage payment for the first installment and the required number of subsequent quarterly installments. For purposes of calculating the number of such following equal quarterly installments, unpaid real estate taxes or the equivalent which are 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 a payment plan 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 30 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 30 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 a payment plan agreement which was filed more than 30 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 30 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 a payment plan 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.

h. An owner of property 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 may apply for a release of the city's interest in such exempt property under the provisions of this section during the periods of time set forth herein and for an additional period up to ten years from the date of the city's acquisition of said property by in rem foreclosure. The application of such owner shall contain, in addition to the statements, searches and proofs required by 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 applicant, 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. Where an application by an exempt owner is filed more than 120 days after the date of the city's acquisition of the subject property, a release of the city's interest may be issued only at the discretion of the in rem foreclosure release board and subject to all the restrictions set forth in the preceding subdivision. A release to an exempt applicant shall be effected only after said applicant has paid all the amounts required to be paid by subdivision d of this section, except for those tax items which have been cancelled, in whole or in

part, pursuant to the comptroller's certificate, within 30 days of the date on which a letter requesting payment is mailed or delivered to the applicant.

i. The corporation counsel shall also effect the release of the city's interest in property acquired by in rem foreclosure, as provided for in this action, whenever the commissioner of finance shall accept as to any parcel so acquired, the payment provided for in item (ii) of subdivision a of section 11-413 of this chapter. Said commissioner may accept such payment at any time within 120 days of the date of the city's acquisition and may further, subject to the approval of the in rem foreclosure release board, accept such payment at any time more than 120 days after the date of the city's acquisition but less than two years from the date on which the city's deed was recorded providing said property has not been sold or otherwise disposed of nor condemned or assigned to any agency of the city and is not the subject of contemplated use of any capital or urban renewal project of the city. § 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 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.

§ 11-425 Disposition of proceeds of sales of properties acquired by city through tax enforcement

foreclosure proceedings. a. The proceeds of the sale of real property acquired through tax enforcement foreclosure proceedings, or by deed in lieu thereof, including subsequent receipts in diminution of purchase money mortgages accepted at the time of sale, shall be applied as follows:

1. The amount of the unpaid real estate taxes accrued against such property from the first day of January or the first day of July, whichever first immediately precedes the date on which title vested in the city to the date of conveyance of title by the city, without interest or penalties thereon, shall be credited to the tax deficiency account.

2. The balance, if any, remaining after deduction of the amount specified in paragraph a hereof, shall be paid into the funds hereinafter specified in the following order:

(a). A sum equal to the amount of the unpaid assessments for local improvements accrued against such property at the date of commencement of the foreclosure proceeding and up to the date of conveyance of title by the city, without interest or penalties thereon, shall be paid into the appropriate assessment funds.

(b). A sum equal to the amount of unpaid sewer rents, including interest and penalties thereon, accrued against such property at the date of commencement of the foreclosure proceedings and up to the date of conveyance of title by the city shall be paid into the sewer fund.

(c). The amount of the brokerage fee and other expenses expended by the city in connection with such sale shall be paid into the fund or code to which such fee was charged.

(d). The balance of such proceeds, if any, and the interest on any purchase money mortgage accepted by the city at the time of such sale shall be paid to the property owner.

§ 11-426 Corrective action plans. The owner of a distressed property as defined in section 11-401 that has open hazardous and immediately hazardous violations, shall submit to the department of housing preservation and development or the department of finance, the following: (i) the names of any contractors retained by the owner to clear any outstanding hazardous or immediately hazardous violations; (ii) the date by

which any hazardous or immediately hazardous violations will be cleared; and (ii) any funding obtained by the owner to clear any hazardous or immediately hazardous violations. The owner shall submit the corrective action plan to the department of housing preservation and development and the department of finance for approval. The department of housing preservation and development and the department of finance shall provide approval of the corrective action plan within 45 days of receipt of such plan. Should the department of housing preservation and development and the department of finance decline to approve a corrective action plan, the department of housing preservation and development and the department of finance may provide an option to resubmit such corrective action plan for approval.

§ 11-427 Defaults. a. An owner who has entered into a payment plan agreement will the department of finance or the department of environmental protection will be in default of such agreement, if any installment required under an agreement remains unpaid for a period of 60 days from the date payment is required to be made. In the event of default of a payment plan agreement pursuant to this subdivision, the agreement may be cancelled. Such a default may be cured upon payment, within 60 days from the date the payment was required to be paid, of the unpaid payments, including of all past due payments required by the agreement, and all other charges that became due during the term of the agreement that are past due and unpaid at the time of the default. If the default is not cured, all sums previously paid shall be returned to the owner.

b. If a default is not cured as described in subdivision a of this section, the owner of the affected property, or a residential cooperative owned by a company organized pursuant to article xi of the private housing finance law, will not be eligible to enter into a payment plan agreement with the department of finance or department of environmental protection, for the affected property for five years from the date of such default, unless the property owner can demonstrate that there were extenuating circumstances that prevented the property owner from curing the default.

§ 2. This local law takes effect 180 days after becoming law, and the entirety of section 11-412.1 is deemed repealed on December 31, 2025.

LS# 18268
GZ
11/1/21