



Legislation Text

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File #: Int 0928-2001, Version: A

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Int. No. 928-A

By Council Member Berman (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to the sale of tax liens and tax lien foreclosure by action in rem and the collection of annual rent stabilization fees.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 11-319 of the administrative code of the city of New York, as designated and amended by local law number 26 for the year 1996, is amended to read as follows:

a. A tax lien or tax liens on a property or any component of the amount thereof may be sold by the city as authorized by subdivision b of this section, when such tax lien or tax liens shall have remained unpaid in whole or in part for one year, provided, however, that a tax lien or tax liens on any class 1 property or on class 2 property that is a residential condominium or residential cooperative, as such classes of property are defined in subdivision 1 of section 1802 of the real property tax law, may be sold by the city only when the real property tax component of such tax lien or tax liens shall have remained unpaid in whole or in part for three years, and after such sale, shall be transferred, in the manner provided by this chapter [provided, however, that a].

A tax lien or tax liens on [a] any property classified as a class 2 property, except a class 2 property that is a residential condominium or residential cooperative, or class 3 property, as such classes of property are defined in subdivision 1 of section 1802 of the real property tax law, [the amount which does not include any real property tax component and any interest thereon,] shall

not be sold by the city[, provided further that for] unless such tax lien or tax liens include a real property tax component as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale. Notwithstanding any provision of this subdivision to the contrary, any such tax lien or tax liens that remain unpaid in whole or in part after such date may be sold regardless of whether such tax lien or tax liens include a real property tax component. A tax lien or tax liens on a property classified as a class 4 property, as such class of property is defined in subdivision 1 of section 1802 of the real property tax law, shall not be sold by the city unless such tax lien or tax liens include a real property tax component or sewer rents component or sewer surcharges component or water rents component as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale, provided, however, that any tax lien or tax liens that remain unpaid in whole or in part after such date may be sold regardless of whether such tax lien or tax liens include a real property tax component, sewer rents component, sewer surcharges component or water rents component. For purposes of this subdivision, the words “real property tax” shall not include an assessment or charge upon property imposed pursuant to section 25-411 of the administrative code. [Such] A sale of a tax lien or tax liens shall include, in addition to such lien or liens that have remained unpaid in whole or in part for one year, or, in the case of any class 1 property or class 2 property that is a residential condominium or a residential cooperative, when the real property tax component of such lien or liens has remained unpaid in whole or in part for three years, any taxes, assessments, sewer rents, sewer surcharges, water rents, any other charges that are made a lien subject to the provisions of this chapter, the costs of any advertisements and notices given pursuant to this chapter, any other charges that are due and payable, a surcharge pursuant to section 11-332 of this chapter, and interest and penalties thereon or such component of the

amount thereof as shall be determined by the commissioner of finance.

§2. Subdivision a-1 of section 11-319 of the administrative code of the city of New York, as added by local law number 98 for the year 1997, is amended to read as follows:

a-1. A subsequent tax lien or tax liens on a property or any component of the amount thereof may be sold by the city pursuant to this chapter, provided, however, that notwithstanding any provision in this chapter to the contrary, such tax lien or tax liens may be sold regardless of whether such tax lien or tax liens have remained unpaid in whole or in part for one year and, notwithstanding any provision in this chapter to the contrary, in the case of any class 1 property or class 2 property that is a residential condominium or residential cooperative, such tax lien or tax liens may be sold if the real property tax component of such tax lien or tax liens has remained unpaid in whole or in part for one year. For purposes of this subdivision, the term “subsequent tax lien or tax liens” shall mean any tax lien or tax liens on property that become such on or after the date of sale of any tax lien or tax liens on such property that have been sold pursuant to this chapter, provided that the prior tax lien or tax liens remain unpaid as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale of the subsequent tax lien or tax liens. A subsequent tax lien or tax liens on [a] any property classified as a class 2 property, except a class 2 property that is a residential condominium or residential cooperative, or class 3 property, as such classes of property are defined in subdivision 1 of section 1802 of the real property tax law, [the amount which does not include any real property tax component and any interest thereon,] shall not be sold by the city unless such tax lien or tax liens include a real property tax component as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale. Notwithstanding any provision of this subdivision to the contrary, any such tax lien or tax liens that remain unpaid in

whole or in part after such date may be sold regardless of whether such tax lien or tax liens include a real property tax component. A subsequent tax lien or tax liens on a property classified as a class 4 property, as such class of property is defined in subdivision 1 of section 1802 of the real property tax law, shall not be sold by the city unless such tax lien or tax liens include a real property tax component or sewer rents component or sewer surcharges component or water rents component as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale, provided, however, that any tax lien or tax liens that remain unpaid in whole or in part after such date may be sold regardless of whether such tax lien or tax liens include a real property tax component, sewer rents component, sewer surcharges component or water rents component. For purposes of this subdivision, the words “real property tax” shall not include an assessment or charge upon property imposed pursuant to section 25-411 of the administrative code. Nothing in this subdivision shall be deemed to limit the rights conferred by section 11-332 of this chapter on the holder of a tax lien certificate with respect to a subsequent tax lien.

§3. The opening paragraph of subdivision b of section 11-319 of the administrative code of the city of New York, as amended by local law number 67 for the year 2000, is amended to read as follows:

The commissioner of finance, on behalf of the city, may sell tax liens, either individually, in combinations, or in the aggregate, pursuant to the procedures provided herein. The commissioner of finance shall establish the terms and conditions of a sale of a tax lien or tax liens. [Enactment of the local law that added this sentence shall be deemed to constitute authorization by the council for the commissioner of finance to conduct a sale or sales of tax liens through and including October thirty-first, two thousand one. Subsequent to October thirty-first,

two thousand one, the city shall not have the authority to sell tax liens.] Enactment of the local law that added this sentence shall be deemed to constitute authorization by the council for the commissioner of finance to conduct a sale or sales of tax liens through and including October thirty-first, two thousand three. Subsequent to October thirty-first, two thousand three, the city shall not have the authority to sell tax liens.

§4. Subdivision b of section 11-332 of the administrative code of the city of New York, as amended by local law number 26 for the year 1996 and as designated by local law number 98 for the year 1997, is amended to read as follows:

b. The aggregate amount of each tax lien transferred pursuant to this chapter shall be due and payable one year from the date of the sale. Until such aggregate amount is fully paid and discharged, the holder of the tax lien certificate shall be entitled to receive interest on such aggregate amount from the date of sale, and semi-annually at the rate of interest applicable in accordance with section 11-319 of this chapter. If such aggregate amount is partially paid, the holder of the tax lien certificate shall be entitled to receive interest only on the amount that remains unpaid. Notwithstanding the foregoing sentence, the holder of the tax lien certificate shall be entitled to receive and retain a surcharge equal to five percent of the lien arising pursuant to the provisions of this chapter as a result of the nonpayment of taxes, assessments, sewer rents, sewer surcharges, water rents, any other charges that are made a lien subject to the provisions of this chapter, the costs of any advertisements and notices given pursuant to this chapter, any other charges that are due and payable, and interest and penalties thereon. Any amounts due shall be paid directly to the [person or entity designated by the commissioner of finance] holder of the tax lien certificate. At the option of the holder of any tax lien certificate the aggregate amount thereof shall become subject to foreclosure after default in the payment of interest for thirty days

or after default for six months after the date of sale stated in the tax lien certificate in accordance with sections 11-320(d) and 11-328 of this chapter in the payment of any taxes, assessments, sewer rents, sewer surcharges, water rents, any other charges that are made a lien subject to the provisions of this chapter, or the interest or penalties thereon which become a lien on or after the date of sale of the tax lien transferred by such tax lien certificate. At his or her option, the holder of the tax lien certificate may satisfy any such subsequent tax lien on the same property, and shall, by virtue of such satisfaction, be deemed to be in the same position as if he or she were a purchaser of a tax lien certificate for such subsequent tax lien, provided, however, that such holder shall not be entitled to receive a five percent surcharge on such subsequent tax lien pursuant to this section. The rate of interest on such subsequent lien shall be the rate of interest applicable to tax lien certificates pursuant to section 11-319 of this chapter. The commissioner of finance or his or her designee, at the request of the purchaser of such subsequent lien, shall issue a tax lien certificate for such lien pursuant to sections 11-327 and 11-328 of this chapter. Upon issuance of such certificate, the commissioner of finance or his or her designee shall provide such notice as is required pursuant to section 11-320(d) of this chapter. Failure to provide notice pursuant to this subdivision shall not affect the validity of any transfer of a subsequent tax lien or tax liens pursuant to this subdivision. Any person having a legal or beneficial interest in property affected by a tax lien certificate may satisfy the same at any time upon payment of the amounts due with interest at the rate applicable in accordance with section 11-319 of this chapter. Upon satisfaction of the tax lien, the holder thereof shall [surrender the tax lien certificate for cancellation, and shall present a certificate to] issue to the person who satisfied such tax lien a certificate of discharge, certifying that the tax lien has been paid or has been otherwise satisfied, in such recordable form as has been approved by the commissioner of finance [or his or her

designee in accordance with section 11-333 of this chapter]. For purposes of this section, the words, "date of sale" shall have the same meaning provided in section 11-320(e) of this chapter.

§5. Subdivisions a and b of section 11-333 of the administrative code of the city of New York, as amended by local law number 26 for the year 1996, are amended to read as follows:

[a.] A tax lien sold pursuant to the provisions of this chapter [must be discharged upon the record thereof by the commissioner of finance or his or her designee when the tax lien certificate is surrendered to the commissioner of finance or his or her designee for cancellation, and there is presented to the commissioner of finance or his or her designee a certificate executed by the purchaser, or the personal representative or assignee of the purchaser, acknowledged so as to be entitled to be recorded in] may be discharged by presenting the certificate of discharge issued by the holder of the tax lien pursuant to section 11-332 of this chapter to the recording officer of the county in which the real property [affected by such tax lien] that it affects is situated,[certifying that the tax lien has been paid or has been otherwise satisfied and discharged. The tax lien certificate thus surrendered and such certificate of discharge must be filed by the commissioner of finance or his or her designee and he or she must note upon the margin of the record of such sale, upon such tax lien certificate and upon the copy of the tax lien certificate kept in the office of the commissioner of finance or his or her designee a minute of such discharge and the date of filing thereof. If the tax lien certificate shall have been lost or destroyed or mutilated, or if a certificate of discharge be filed as hereinafter provided, application for an order dispensing with the surrender of the tax lien certificate may be made in the same manner as is provided for in the former section three hundred twenty-two of the real property law, the provisions of which so far as the same may be, are hereby made applicable to discharge of tax liens.]

[b. The commissioner of finance or his or her designee shall upon demand issue a certificate showing the discharge of any tax lien which may have been duly discharged as provided in this section, and such certificate of discharge may be filed in any office where the tax lien certificate is recorded,] and any recording officer [with] to whom such certificate of discharge is [filed, there] presented shall record the same[, and upon the margin of the record of such tax lien certificate in the office of the commissioner of finance or his or her designee, there shall be inserted a statement that the same has been discharged with a reference to the record of such certificate of discharge in such office].

§6. Paragraph 2 of subdivision b of section 26-517.1 of the administrative code of the city of New York, as added by chapter 116 of the laws of 1997, is amended to read as follows:

(2) If such payment is not made to the city within such time, all unpaid fees shall constitute a lien upon the premises and shall be filed in the office of the city collector as an entry of the account stated in the book in which such charges against the premises are to be entered. Such lien shall have priority over all other liens and encumbrances on the premises except for the lien of taxes and assessments. However, no lien created pursuant to this subdivision against any premises shall be enforced against [a subsequent purchaser in good faith or mortgagee in good faith unless the requirements of this paragraph are satisfied] an owner or mortgagee of such premises who acquired in good faith an interest therein subsequent to the period for which the fee was imposed but prior to the creation of any such lien.

§7. Notwithstanding any provision of section 26-517.1 of the administrative code of the city of New York to the contrary:

(a) The owner of each housing accommodation registered pursuant to section 26-517 of such code who has failed to pay the annual rent stabilization fee imposed by subdivision a of



such section 26-517.1 for any year or years from nineteen hundred eighty-four to nineteen hundred ninety-eight shall not be liable for payment of any interest imposed thereon pursuant to such section provided that such owner shall pay in full any and all unpaid annual fees due and owing for any such year or years within ninety days of a notice demanding payment pursuant to subdivision b of this section, provided, further, that where the commissioner determines that an owner has timely paid the annual fee for each year from nineteen hundred ninety-three to nineteen hundred ninety-eight for which such owner was liable, the annual fee for each year prior to nineteen hundred ninety-three shall be deemed paid;

(b) Where, pursuant to paragraph one of subdivision b of such section 26-517.1, the city, prior to the date of the enactment of this local law, has provided an owner a written notice requesting payment of any unpaid annual fee or fees for any year or years from nineteen hundred eighty-four to nineteen hundred ninety-eight and any interest thereon within sixty days from the date of such notice, and such payment has not been received as of the date of the enactment of this local law, the city shall provide a second written notice setting forth the amount of the fee or fees and any interest thereon due and owing and a demand for payment, and such second notice shall demand payment within ninety days thereof;

(c) The commissioner of finance is authorized to promulgate any rules, including rules establishing a method for determining whether any rent stabilization fee imposed by subdivision a of section 26-517.1 of such code for any year or years from nineteen hundred eighty-four to nineteen hundred ninety-eight has been paid, that he or she deems necessary to implement the provisions of this section and to ensure that the determination and collection of any such fee paid or to be paid by an owner is administered in a manner that the commissioner deems to be reasonable.

§8. This local law shall take effect immediately, provided, however, that if this local law shall have become a law subsequent to October 31, 2001, the effective date of sections one through five of this local law shall be retroactive to and deemed to have been in full force and effect as of November 1, 2001.