

Introduced by the County Executive:

LOCAL LAW NO. 11-2016

A LOCAL LAW AMENDING TITLE B, ARTICLE 2, OF CHAPTER 5 OF THE ADMINISTRATIVE CODE OF NASSAU COUNTY.

APPROVED AS TO FORM
Michael Vauts

Deputy County Attorney

Passed by the Nassau County Legislature on November 21, 2016.
Voting: ayes: 12 nays: 7 abstained: 0

Became a law on November 23, 2016 with the approval of the County Executive.

WHEREAS, the procedure for the processing and sale of delinquent property taxes in the County of Nassau fails to take advantage of modern technology such as the internet; and

WHEREAS, the modernization of the sale of new tax liens will enhance the collection of delinquent taxes; and

WHEREAS, enhancing the collection of delinquent taxes will act to reduce the burden placed upon taxpayers who timely pay their taxes; now therefore

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. Section 5-33.0 of the Nassau County Administrative Code, is amended to read as follows:

§ 5-33.0 Collection of taxes by sale of tax liens.

- a. The collection of every tax upon real estate and penalties assessed pursuant to §6-30.0 of this code, including a school district tax returned by the receivers of taxes as unpaid, with the interest and additions thereon, shall be enforced by a sale of the tax lien thereof unless the County Treasurer shall have brought an action pursuant to section 5-32.0 of this code. In such event, the County Treasurer nevertheless may sell the tax lien.
- b. The sale of tax liens for the collection of taxes shall be done either in person at an auction which takes place at a public building and/or through an online auction as described in §5-47.0 of this code. The County Treasurer shall have the sole discretion to choose which method of tax liens sales to implement for each lien.
- c. The County Treasurer may, in his discretion, sell the tax liens by first using an online auction and then selling any and all remaining unsold tax liens at an in person auction.
- d. The sale of tax liens shall commence on a day designated by the County Treasurer in the year following the year for which the tax lien was obtained and shall continue until all tax liens are sold and the County Treasurer declares the sale completed.
- e. The County Treasurer shall include in the sale of the tax lien the unpaid school district taxes and the unpaid state, county, town and special district taxes. The County Treasurer shall designate in separate items the amounts of unpaid school district taxes.

§2. Section 5-36.0 of the Nassau County Administrative Code, is amended to read as follows:

§ 5-36.0 Advertisement of notice to taxpayers.

- a. Immediately after completion of the lists made pursuant to subdivision e of section 5-35.0 of the code, the County Treasurer shall publish a notice in two consecutive issues of newspapers published in each town and city of the County; provided, however, such notice shall be published only in newspapers which have a bona fide circulation of five hundred or more during the two years preceding the publication of such advertisement. The County Treasurer shall likewise publish such notice in one newspaper of general circulation in the County.

- b. Such notice shall be published in such newspapers in a conspicuous place mainly in agate type or in the next larger available size, but payment for such publication, shall be the same as if agate type were used. Such notice shall specify the approximate date on which the tax lien on such property will be sold and copies thereof shall be posted in the Nassau County court house and in the building of the Nassau County Bar Association on or before the day of its first publication.

- c. Such notice shall be substantially as follows:

Notice to taxpayers is hereby given that the lists of unpaid taxes have been made. Unless such taxes with interest and accrued penalties be paid on or before the (here insert date of third Monday) day of December, the tax lien on the said property against which such taxes are levied will be advertised and on or about or around the..... day of February thereafter sold. The lists shall remain open for examination in the County Treasurer's office at Mineola until the.....(here insert date of third Monday) day of December. Any taxpayer interested may send a brief description of the property to the County Treasurer and a statement of the amount of unpaid tax, if any, will be forwarded to him.

County Treasurer
County of Nassau
State of New York

Failure to make or publish such notice shall not invalidate or affect the validity of any sale of the tax liens on property mentioned or described in such lists.

§3. Section 5-37.0 of the Nassau County Administrative Code, is amended to read as follows:

§ 5-37.0 Notice of Sale of Tax Liens

- a. The County Treasurer shall, prior to the commencement of the publication required by subdivisions (b) and (c) of this section, cause notice of tax liens to be sent by first class mail to the name and address of the record owner or occupant and mortgagee of real estate on which the tax liens are to be sold, as shown on the assessment records or on the records kept by the receiver of taxes for the town or city in which the property is located. The expense of mailing such notice shall be an additional expense chargeable against the total unpaid tax lien or liens. These mailings are a courtesy and any party's failure to receive such notice of a sale or any defect in this mailing will not in any way invalidate the tax lien sale.

- b. No later than a calendar week immediately preceding a sale of tax liens, the County Treasurer shall publish in each town and city, in a newspaper published in such town or city, as the case may be, and printed in the County a list of real estate on which the tax liens are to be sold. The County Legislature shall designate the newspaper in which the listing or listings shall be made. The County Treasurer may, in his discretion, publish the list of real estate on which the tax liens are to be sold in publications and websites in addition to the newspapers the County Legislature designates. Such newspaper in order to be considered for designation must contain news, articles of opinion (as editorials), features, advertising, or other matters regarded as of current interest and must have been printed and distributed no less than one year prior to being designated as qualified to receive notices required by law provided that such newspapers made available primarily for advertising purposes to the public generally without consideration being paid therefore shall not be deemed suitable for the purpose of publication or advertisement of notice required by law. Such list shall contain the name of the owner or occupant of, or party in interest in, each piece of real estate either as it appears on the assessment roll of the year in which such unpaid taxes were levied or upon the records of the receivers of taxes at the times such taxes were unpaid pursuant to section 5-23.0 of this code.

- c. Once within each of the two calendar weeks immediately preceding the week in which the notice described in subdivision (b) of this section is published, the County Treasurer shall publish in the newspapers designated pursuant to

subdivision (b) of this section a notice which shall contain:

1. The date, time, and place, if applicable, of the sale of tax liens. If the sale of any tax liens is through an online auction, the notice shall include where to find information accessing the online system; and
2. The web address of the County Treasurer's website and a statement that the list of real estate on which real estate tax liens are to be sold is available on such website; and
3. The week in which the notice described in subdivision (b) is to be published in such newspaper or other publication.

The notice described in this subdivision shall be published in agate type or the next largest typeface or the next largest available font size.

d. The County Treasurer shall publish on the County Treasurer's website a list of real estate on which real estate tax liens are to be sold not later than the date of the first publication of the notice described in subdivision (c) of this section. Such publication shall contain the information described in subdivisions (b) and (e) of this section.

e. The notice described in subdivisions (a), (b) and (d) of this section shall contain the following information:

1. A brief description of such real estate; and
2. The total amount of such unpaid taxes; and
3. The date, time, and place, if applicable, of such sale. If the sale of any tax liens is through an online auction the notice shall include where to find information about how to access the online auction; and
4. A statement that unless such amount is paid prior to the commencement of tax lien sale proceedings, the tax lien shall be sold at public auction and the maximum rate of interest shall be imposed, and that the maximum rate of interest is ten percent per six month period for the first twenty-four months from the date of sale, and thereafter as provided in section 5-40.0 of this code.
5. A statement that the purchase of tax lines by County officials, employees, and board members, either directly or indirectly, is prohibited by the Nassau County Charter.

f. As used in this section and in section 5-39.0 of this code, the term "total amount

of such unpaid taxes" shall include all taxes for the year or years advertised, the interest and penalty on such taxes to the date of the sale and other expenses and charges against the property.

- g. The tax lien shall be sold either in person at public auction at a public building designated by the County Treasurer or through an online auction as described in section 5-47.0 of this code. The County Treasurer shall have the sole discretion to choose which method of tax liens sales to implement for each tax lien.

§4. Section 5-39.0 of the Nassau County Administrative Code, is amended to read as follows:

§ 5-39.0 Sale of tax liens.

- a. If the owner, mortgagee, occupant of or any other party in interest in any real estate does not pay the total amount of unpaid taxes, then without further notice, the County Treasurer shall commence the sale in the manner set forth in the notice referred to in section 5-37.0 of this code, and shall continue the sale until the tax lien on every such lot or parcel to be sold at sale is sold.

- b. The rate of interest and penalty at which any person or persons purchase the tax lien shall be established by his bid. This rate thus established shall be the rate of interest and penalty to which the bidder shall be entitled for a period of two years from the date of such sale or if the lien is discharged prior to such time, then up to the time of such discharge and provided further that for all tax liens sold on lots or parcels classified as class one or as residential condominiums classified as class two pursuant to section 1802 of the Real Property Tax Law of the State of New York on or after the effective date herein indicated as well as for any tax lien sold on class one lots or parcels or on residential condominiums classified as class two to which title has not been conveyed to the tax lien purchaser or the assignee of such purchaser prior to such effective date provided that in such instance twenty-four months have not elapsed from the sale of the tax lien and where in either instance a hardship designation has been granted the rate of interest and penalty shall be for a period of three years from the date of such sale or if the lien is discharged prior to such time, then up to the time of discharge. The rate of interest and penalty on a tax lien for a class one lot or parcel or for a residential condominium classified as class two bearing a hardship designation shall be fixed by bid for the first two years and in the third year fixed by subdivisions five and six of section 5-40.0 of this code. Notwithstanding the foregoing, the rate of interest payable by the property owner for such respective periods shall be the maximum rate as set forth in § 5-40.0.

- c. When selling two or more liens on separate parcels of real estate the County Treasurer may, in his discretion, group together those liens and sell them as a bundle.
- d. Tax Liens, on any real property on which the County holds a certificate of sale shall be excluded from any subsequent tax lien sale. Such tax liens shall automatically merge with tax liens previously sold to the County and shall bear maximum interest and penalties as set forth in section 5-40.0 and from the dates specified in sections 5-11.0 and 5-23.0 of this chapter.

§5. Section 5-41.0 of the Nassau County Administrative Code, is amended to read as follows:

§ 5-41.0 Deposit; content of certificate of sale of tax lien.

- a. When the tax liens sales occur in person each purchaser at the sale shall pay to the County Treasurer ten per cent of the amount of the tax lien immediately after such sale on the same day as the sale occurred.
- b. When a tax liens sale is conducted through an online auction each purchaser shall deposit a sum equal to ten per cent of the total dollar amount of liens they anticipate purchasing by the close of business the day before the auction begins. Purchasers shall make this deposit to the County Treasurer or the County Treasurer's designee in such manner as the County Treasurer or his designee directs, including but not limited to bank checks, credit cards, and wire transfers. No bid from an online purchaser shall be accepted unless that purchaser has sums on deposit equal to ten percent of the tax liens bid upon. Any excess deposits shall be credited to winning bids. The County Treasurer shall return any excess deposits not credited toward a winning bid.
- c. After a purchaser successfully bids the remaining ninety per cent of the tax lien shall be paid within thirty days after the sale.
- d. After receipt of full payment of the tax lien amount the County Treasurer shall execute to each purchaser a certificate in writing which shall contain:

1. A description of the real property affected by the tax lien which description shall refer to the designation of such property on the tax map, if such map has been completed.
 2. The name of the owner of the real property as it appears on the tax records.
 3. The interest and penalty at which such tax lien was purchased.
 4. The date of the sale.
 5. A statement that the tax lien was sold for unpaid school district, special district, town, county or state taxes, as the case may be.
 6. The amount paid for the tax lien.
 7. Such other Information as the County Treasurer shall deem appropriate.
- e. The County Treasurer shall issue certificates as described in this code to the County when the County is the purchaser.

§6. Section 5-44.0 of the Nassau County Administrative Code, is amended to read as follows:

§ 5-44.0 **Registration Fee.** The County Treasurer shall charge a registration fee to each person who shall seek to bid at an auction required by section 5-33.0 of the code and shall include a statement informing potential bidders of such fee in the advertisement required by section 5-37.0 of this code. The amount of such fee shall be set by the County Legislature by ordinance.

§7. The Nassau County Administrative Code, is amended to include Section 5-44.1 which reads as follows:

§5-44.1 **Individual Tax Lien Certificate Fee.** The County Legislature shall by ordinance set a fee for each certificate issued. If tax liens are sold in a bundle, there shall be a certificate for each lien and a separate fee for each. The County will not be responsible for payment of any fee for tax liens that become County liens.

§8. Section 5-46.0 of the Nassau County Administrative Code, is amended to read as follows:

§ 5-46.0 **Failure of purchaser to complete purchase.** In case the purchaser at a tax sale either at an in person auction or through an online auction shall fail to pay the remaining ninety per cent due on his purchase within thirty days after he has been notified by the County Treasurer that the certificates of sale are ready for delivery, the ten per cent paid by him to the County Treasurer upon the sale, without any notice or demand, shall be irrevocably forfeited by the purchaser and shall be retained by the County Treasurer. Thereupon the agreement to purchase shall be of no further effect. The tax lien shall be transferred to the County and all rights shall accrue and be vested in the County in the same manner as though the County had purchased the tax lien at the original tax sale. Tax liens sold in bundles shall be considered a single purchase.

§9. The Nassau County Administrative Code, is amended to include Section 5-46.1 which reads as follows:

§5-46.1 **Disqualification of potential purchasers.** A party who has registered as a purchaser and engages in conduct disruptive to the County's sale of tax liens or the consummation of the sale of tax liens may be disqualified from a future tax lien sale or sales. The Treasurer's designee shall make written findings and a recommendation to the Treasurer regarding the disqualification of a party after the party has received notice and an opportunity to be heard. The Treasurer may accept or reject his designee's recommendation. The Treasurer's decision shall be final.

§10. Section 5-47.0 of the Nassau County Administrative Code, is amended to read as follows:

§ 5-47.0 **Online Tax Liens Sales.** When the County Treasurer deems it appropriate the County may sell any and all tax liens through an online auction instead of through an in person auction.

- a. When selling through an online auction potential purchasers shall register and pay the registration fee with the County Treasurer or his designee by 5:00 P.M. on the business day prior to the beginning of the online auction.

- b. The online auction shall begin at a time and date designated by the County Treasurer. The online auction shall continue from the designated time for such time as necessary in the discretion of the County Treasurer.
- c. During the online auction, tax liens designated by the County Treasurer for purchase online shall be on the auction system and potential purchasers shall place their bids on the liens they wish to purchase. After the bidding window ends the purchaser who placed the winning bid shall have purchased the tax lien.
- d. While the bidding process is ongoing, the County Treasurer shall make available public computers that have access to the online auction. The number of computers and the hours they are available to the public shall be determined by the County Treasurer. The computers shall be available in a public building designated by the County Treasurer. The County Treasurer shall designate this public building at least one (1) day before the beginning of the auction. There will be a fee for use of a computer which shall be set by ordinance. The County Treasurer may waive the computer use fee for good cause shown.
- e. The use of County computers for the tax lien auctions shall be considered a convenience and the County shall not be liable for any mistake, inaccuracy, or lost bids that may occur as a result of computer error.

§ 11. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 12. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 0101 et seq. and its implementing regulations,

Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

§ 13. This local law shall take effect immediately.

APPROVED



County Executive

DATE Nov. 23, 2016