

Amendment in the Nature of a Substitution – Item 557-13

Introduced by: Presiding Officer Norma Gonsalves, Alternate Deputy Presiding Officer Howard Kopel and Legislators Nicoletto, Ford, Becker, Muscarella Venditto, Belesi, Dunne, and Walker, Minority Leader Abrahams and Legislators Troiano Solages, Scannell, Bosworth, Wink, Jacobs, DeRiggi-Whitton and Denenberg

LOCAL LAW 8 -2013

A LOCAL LAW TO AMEND THE NASSAU COUNTY ADMINISTRATIVE CODE TO REQUIRE THE ANNUAL PRODUCTION OF INCOME AND EXPENSE STATEMENTS BY INCOME PRODUCING PROPERTY OWNERS AND TO AMEND THE CIVIL PENALTY ASSOCIATED WITH THE FAILURE TO PROVIDE INCOME AND EXPENSE STATEMENTS AS REQUIRED

Passed by the Nassau County Legislature on December 19, 2013

Voting: ayes: 15, nays: 0, abstained: 0

Became a law on December 27, 2013 with the approval of the County Executive.

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

Section 1. §6-30 of the Nassau County Administrative Code is deleted in its entirety and replaced with the following:

§ 6-30.0 Requirement to furnish income & expense statements.

- a. For the purposes of this section, “income producing property” means real property used for but not limited to commercial, industrial, utility, and residential purposes, but excludes residential property containing three dwelling units or less and class two properties as defined by subdivision 1 of section 1802 of the Real Property Tax Law.
- b. Where real property is an income-producing property, the owner shall be required to submit annually to the Department of Assessment not later than the first day of April a statement of all income derived from and all expenses attributable to the operation of such property. All such statements shall be filed as follows:
 - (1) Where the owner’s books and records reflecting the operation of the property are maintained on a calendar year basis, the statement shall be for the calendar year preceding the date the statement shall be filed.
 - (2) Where the owner’s books and records reflecting the operation of the property are maintained on a fiscal year basis for federal income tax purposes, the statement shall be for the last fiscal

year concluded as of the first day of March preceding the date the statement shall be filed.

- (3) Notwithstanding the provisions of paragraphs one and two of this subdivision, where the owner of the property has not operated the property and is without knowledge of the income and expenses of the operation of the property for a consecutive twelve month period concluded as of the first day of March preceding the date the statement shall be filed, then the statement shall be for the period of ownership, and shall include, if applicable, the sale price and the identity of the grantor(s).
 - (4) The Assessor may for good cause extend the time for filing an income and expense statement by a period not to exceed sixty days.
- c. Such statement shall contain the following declaration, signed by the owner of the income producing property or a certified public accountant: "I certify that all information contained in this statement is true and correct to the best of my knowledge and belief. I understand that the willful making of false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render this statement null and void."
 - d. The form on which such statement shall be submitted shall be prepared by the Assessor and copies of such form shall be made available at the offices of the Department of Assessment and on the official website of Nassau County. The statement may require rent rolls, lease information, contamination reports, and any other information relevant to the operation of the property as shall be prescribed by the Assessor, and may include such additional information as may seem relevant to the owner, and shall be submitted as prescribed by the Assessor. The Assessor shall, by rule, require such statement be submitted electronically in such form and such manner as the Assessor may determine. For good cause, the Assessor may waive any rule requiring electronic filing and may permit a statement to be filed in such other manner as the Assessor may designate.
 - e. A request for waiver of the electronic filing requirement must be made in writing no later than thirty (30) days prior to the deadline for filing an income and expense statement. Any filing in paper format must be filed with the Department of Assessment at such address as may be designated by the Assessor.

f. In the event that an owner of an income-producing property fails to file an income and expense statement within the time prescribed in subdivision b of this section (determined with regard to any extension of time for filing), such owner shall be subject to a penalty in the amount not to exceed one quarter of one percent (.25%) of the fair market value of such income-producing property as such value is determined by the Assessor for the current fiscal year provided, however, that if such statement is not filed by the thirtieth day of September, the penalty shall be in an amount not to exceed one half of one percent (.5%) of such fair market value. If in the year immediately following the year in which an owner of an income producing property fails to file by the thirtieth of September the owner again fails to file the income and expense statement within the time prescribed by subdivision b of this section (determined with regard to any extension of time for filing), such owner shall be subject to a penalty in an amount not to exceed three quarters of one percent (.75%) of the fair market value of such income-producing property as determined by the Assessor for the current fiscal year. Such owner shall also be subject to a penalty of up to three quarters of one percent (.75%) of the fair market value in any year immediately succeeding a year in which a penalty of up to three quarters of one percent (.75%) of the fair market value could have been imposed, if in such succeeding year the owner fails to file an income and expense statement within the time prescribed in subdivision b of this section (determined with regard to any extension of time for filing). The penalties prescribed in this paragraph shall be determined by the Assessor or his designee after notice and an opportunity to be heard.

g. Notwithstanding the submission of an income and expense statement, for the purposes of this section, the following shall constitute a failure to file an income and expense statement for the purposes of this section:

(1) failure to file in the electronic format prepared by the Department of Assessment, or, in the event that the electronic filing requirement is waived by the Assessor, failure to use the forms prepared by the Department of Assessment;

(2) failure to complete forms in a legible manner;

(3) failure to file a substantially complete and accurate income and expense statement which shall include but shall not be limited to:

i. failure to provide data for the appropriate accounting period; and

- ii. failure to provide a complete, accurate, and itemized list of income and expense data.
- h. Except in accordance with a proper judicial order or as otherwise provided by law, it shall be unlawful for any officer or employee of the County, any person engaged or retained by County on an independent contract basis, or any person, who, pursuant to this section, is permitted to inspect any income and expense statement or to whom a copy, an abstract or a portion of any such statement is furnished, to divulge or make known in any manner except as provided in this subdivision, the amount of income and/or expense or any particulars set forth or disclosed in any such statement required under this section. The Assessor, the Assessment Review Commission, or any commissioner or officer or employee of County charged with the custody of such statements shall not be permitted or required to produce any income and expense statement or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the County. Nothing herein shall be construed to prohibit the delivery to an owner or his or her duly authorized representative of a certified copy of any statement filed by such owner pursuant to this section, or to prohibit the publication of statistics so classified as to prevent the identification of particular statements and the items thereof, or making known aggregate income and expense information disclosed with respect to property classified as class four as defined in article eighteen of the Real Property Tax Law without identifying information about individual leases, or the inspection by the legal representatives of the County of the statement of any owner who shall bring an action to correct the assessment. Any violation of the provisions of this subdivision shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the County, the offender shall be dismissed from office.
- i. The Assessor shall be authorized to promulgate rules and regulations necessary to effectuate the purpose of this section.
- j. The penalties prescribed in this section shall be a lien on such income-producing property when entered by the Assessor in the records in which charges against the property are to be entered, and shall continue to be, until paid, a lien on such property. Such lien shall be a tax lien within the meaning of section 5-24.0 of this Code and may be collected, sold, enforced or foreclosed in any manner provided by law or may be satisfied in accordance with the provisions of section thirteen hundred fifty-four of the Real Property Actions and Proceedings Law. If such penalties are not paid within thirty days

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

- k. On or before February 1st of each year, the Assessor shall mail to the owners of record of income producing properties to which the terms of this section apply, a notification of the requirements of this section. Failure to mail such notice or the failure of such owner to receive the same shall not relieve the owner of the requirements of this section and shall not prevent the enforcement of this section.

§2. Subdivision 4 and Subdivision 5 of §5-24.0 of the Nassau County Administrative Code are amended as follows:

- 4. The term "tax lien" includes:
 - (a) The right of the County to collect taxes, penalties, interest and other charges on the real property affected by such taxes for failure to pay such taxes; and
 - (b) The right of the County to assess penalties, and interest thereon pursuant to §6-30.0 of the Nassau County Administrative Code; and
 - (c) The lien against such real property for all the aforementioned items.
- 5. The term "sale of taxes" or "sale of a tax lien" means the sale by the County of a lien on real property as defined in subdivision 4 (c) of this section.

§3. Subsection a. of §5-10.0 of the Nassau County Administrative Code is amended as follows:

§5-10.0 Assessment roll and town receiver's warrant.

- a. The consolidated tax warrant, delivered to the town receiver of taxes pursuant to six hundred seven of the charter, shall command the receiver of taxes of each town to whom the same shall be directed, to collect from the several persons and on the properties named and described in the assessment roll, the several sums mentioned therein for state, county, town and special district purposes, including penalties assessed pursuant to §6-30.0 of the Nassau

County Administrative Code, unpaid water charges and assessments for the construction and repair of sidewalks shown in the statements transmitted by the supervisors of the towns to respective names of properties. Such warrant also shall command him to pay over from time to time until the return of unpaid taxes to the County Treasurer as required by section 5.23.0 of the code all moneys so collected appearing on such roll as follows:

1. To the supervisor of the town, an amount equal to the total of one-half such sum as shall have been levied for the support of the highways and bridges therein, one-half such sum as shall have been levied therein for special district purposes, all unpaid water charges and assessments for the construction and repair of sidewalks levied for such town, and one-half of all the moneys levied therein to defray any other town expenses or charges.
2. To the treasurer of the County, one-half of the sum levied for state and county purposes.
3. After the foregoing payments and installments are made the receiver of taxes shall pay to the supervisor the remaining one-half of taxes levied for all town and special district purposes and thereafter the residue of taxes collected for county and state purposes shall be paid to the County Treasurer.

§4. §5-10.1 of the Nassau County Administrative Code is amended as follows:

§5-10.1 Assessment roll and city receiver's warrant. The consolidated tax warrant delivered to the city receiver of taxes pursuant to section six hundred seven of the charter, shall command the receiver of taxes of each city to whom the same shall be directed:

1. To collect from the several persons and on the properties named and described on the assessment roll, the several sums mentioned therein for state and county taxes, including penalties assessed pursuant to §6-30.0 of the Nassau County Administrative Code.
2. To pay over to the County Treasurer on the fifteenth day of each month all county and state taxes, including penalties assessed pursuant to §6-30.0 of the Nassau County Administrative Code, that he has collected prior to the first day of that month.

§5. Subsection a. of §5-26.0 of the Nassau County Administrative Code is amended as follows:

§ 5-26.0 Bill of arrears of taxes, penalties, and assessments

- a. The County Treasurer, upon the requisition of the owner, the proposed vendee under a contract of sale, a mortgagee, any person having a vested or contingent interest in any real property, or the duly authorized agent of any of the aforementioned persons, shall furnish a bill of all arrears of taxes, penalties and assessments. Such bill shall be called a bill of arrears of taxes, penalties and assessments. Such bill shall contain a statement of the taxes, penalties assessed pursuant to §6.30.0 of the Nassau County Administrative Code and assessments which appear on the records of the County Treasurer. Such bill of arrears shall not contain village or City taxes and assessments for benefit. Upon the payment of such bill, the receipt of the County Treasurer thereon shall be conclusive evidence of such payment. The County Treasurer shall cause to be kept a duplicate account of amounts so collected.

§6. Subsection a. of §5-33.0 of the Nassau County Administrative Code is amended as follows:

§5-33.0 Collections 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 the Nassau County Administrative code, including a school district tax returned by the receivers of tax 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 the code. In such event, he nevertheless may sell the tax lien. Such sale shall commence on the third Tuesday of February in each year following the year for which the tax lien was obtained and shall continue until the tax lien is sold.

§7. Subsection c) of §6-40.4 of the Nassau County Administrative Code is amended as follows:

- c) The final determination of the Assessment Review Commission upon applications for the correction of assessment shall be based upon a substantive review of information provided by the applicant or otherwise obtained by the Department of Assessment and the Assessment Review Commission, which should include, but not be limited to, consideration of comparable sales, available appraisals and/or income and expense statements, and shall be rendered not later than the thirty first day of December so that the results may be considered for the tentative assessment roll for the next year and so the final assessment roll may be prepared for publication on April first. The Assessment Review Commission, or one of the designated commissioners, may continue to take testimony and render determinations on applications subsequent to April tenth. The Commissioner may reduce or make determinations on any grieved assessment with the attorney of record of such applicant or duly substituted attorney of said applicant. The Board of

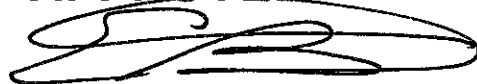
Assessors, upon receipt of such determination, shall correct its assessment rolls. The Receiver of Taxes of any town in which the property is situated shall issue corrected tax bills in accordance with such determination and stipulation upon receipt of the determination, stipulation or judgment with notice of entry wherever applicable within thirty days after entry of a final determination by the Assessment Review Commission.

§8. Severability. If any clause, sentence, paragraph, subdivision, section or part of this local 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 order or judgment shall be rendered.

§9. SEQRA Determination. It is hereby determined by the Nassau County Legislature, the lead agency, and pursuant to the provisions of the State Environmental Quality Review Act ("SEQRA"), 8 NYECL section 0101 et seq. and its implementing regulations, Part 617 of 6 NYCRR, and Section 1611 of the County Government Law of Nassau County, that this Local Law will not have a significant impact on the environment and that no further environmental review or action is required.

§10. Effective Date. This law shall take effect immediately.

APPROVED



County Executive

DATE 12/27/2013