

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2023**

No. 36

Introduced by Council Members Carr, Brannan, Yeger, Farías, Louis, Riley, Holden, Velázquez, Gennaro, Ariola, Borelli, Kagan and Paladino.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the interest rate applicable to real property with an assessed value of two hundred fifty thousand dollars or less for which the owner of such property has entered into an agreement with the department of finance for the payment in installments of real property taxes, assessments or other charges, and to repeal subdivision (c) of section 11-312 and subdivision (e) of section 11-313 of the administrative code of the city of New York, relating to written recommendations by the banking commission of a proposed interest rate to be charged for the nonpayment of water rents and sewer rents

Be it enacted by the Council as follows:

Section 1. Subdivision (e) of section 11-224.1 of the administrative code of the city of New York, as amended by local law number 24 for the year 2021, is amended to read as follows:

(e) Council adopted rates. By May thirteenth of each year, the banking commission shall send a written recommendation to the council of a proposed interest rate to be charged for nonpayment of taxes on real property. The commission shall consider the prevailing interest rates charged for commercial loans extended to prime borrowers by commercial banks operating in the city and:

(i) for real property with an assessed value of two hundred fifty thousand dollars or less, shall propose a rate at least equal to such prevailing prime rate, *except as provided in paragraph (ii) of this subdivision;*

(ii) for real property with an assessed value of two hundred fifty thousand dollars or less for which an owner, as defined in subdivision (h) of this section, of such real property: (A) has entered into an agreement pursuant to section 11-322 or 11-322.1 of chapter 3 of this title for the payment in installments of real property taxes, assessments or other charges that are made a lien subject to the provisions of such chapter other than water rents, sewer rents or sewer surcharges, and such installment agreement is not in default; and (B) has complied with the requirements described in subdivision (h) of this section, the commission shall consider the most recent federal short-term rate, as determined by the United States secretary of the treasury in accordance with subsection (d) of section 1247 of the internal revenue code, for use in connection with section 6621 of the internal revenue code, and shall propose a rate at least equal to such federal short-term rate rounded to the nearest half percent;

(iii) for real property with an assessed value of over two hundred fifty thousand dollars but no greater than four hundred fifty thousand dollars, shall propose a rate of at least four percent per annum greater than such prevailing prime rate;

[(iii)] (iv) for real property with an assessed value of over four hundred fifty thousand dollars, shall propose a rate of at least six percent per annum greater than such prevailing prime rate.

The council may by resolution adopt interest rates to be applicable to the aforementioned properties and may specify in such resolution the date that such rates will take effect.

§ 2. Section 11-224.1 of the administrative code of the city of New York is amended by adding new subdivisions (h) and (h-1) to read as follows:

(h) Requirements relating to charging the interest rate described in paragraph (ii) of subdivision (e) of this section for nonpayment of taxes on real property.

(i) Qualification for such interest rate for certain real property without an application. Real property with an assessed value of two hundred fifty thousand dollars or less shall qualify, for any fiscal year, for the interest rate described in paragraph (ii) of subdivision (e) of this section where an owner of such real property satisfies the following criteria:

(A) such owner has entered into an agreement with the department of finance pursuant to section 11-322.1 of chapter 3 of this title for the payment in installments of real property taxes, assessments or other charges that are made a lien subject to the provisions of such chapter other than water rents, sewer rents or sewer surcharges; or

(B) such owner has entered into an agreement with the department of finance pursuant to section 11-322 of chapter 3 of this title for the payment in installments of real property taxes, assessments or other charges that are made a lien subject to the provisions of such chapter other than water rents, sewer rents or sewer surcharges, and, for such fiscal year, such owner receives:

(1) an enhanced real property tax exemption pursuant to subdivision 4 of section 425 of the real property tax law or an enhanced school tax relief credit pursuant to subsection (eee) of section 606 of the tax law, provided that the income eligibility for such enhanced real property tax exemption or such enhanced school tax relief credit is no greater than two hundred thousand dollars; or

(2) a real property tax exemption pursuant to section 459-c or section 467 of the real property tax law, provided that the income eligibility for either such real property tax exemption is no greater than two hundred thousand dollars.

(ii) Qualification for such interest rate for certain real property where an application is required. Real property with an assessed value of two hundred fifty thousand dollars or less

where: (A) an owner of such property has entered into an agreement with the department of finance pursuant to section 11-322 of chapter 3 of this title for the payment in installments of real property taxes, assessments or other charges that are made a lien subject to the provisions of such chapter other than water rents, sewer rents or sewer surcharges; (B) such real property has served as the primary residence of such owner for an uninterrupted period of not less than one year immediately preceding the date of the application submitted pursuant to paragraph (iii) of this subdivision; and (C) the combined income of all the owners of such real property is no greater than two hundred thousand dollars for the income tax year immediately preceding the date of the application required pursuant to paragraph (iii) of this subdivision shall qualify for the interest rate described in paragraph (ii) of subdivision (e) of this section.

(iii) Application. An owner of real property with an assessed value of two hundred fifty thousand dollars or less for which such owner has entered into an agreement pursuant to section 11-322 of chapter 3 of this title for the payment in installments of real property taxes, assessments or other charges that are made a lien subject to the provisions of such chapter other than water rents, sewer rents or sewer surcharges, other than any such owner who qualifies for the interest rate described in paragraph (ii) of subdivision (e) of this section pursuant to subparagraph (B) of paragraph (i) of this subdivision, may file an application to demonstrate that such real property satisfies subparagraphs (B) and (C) of paragraph (ii) of this subdivision.

(A) Such application shall be in a form and manner as determined by the department of finance and shall be made available, in downloadable format, on such department's website.

(B) The burden shall be on the owner to establish that:

1. such real property has served as the primary residence of such owner for an uninterrupted period of not less than one year immediately preceding the date the application required by this subdivision is filed;

2. the combined income of all the owners of such real property is no greater than two hundred thousand dollars for the income tax year immediately preceding such date; and

3. any other requirement relating to qualification for the interest rate described in paragraph (ii) of subdivision (e) of this section is satisfied.

(C) The department of finance may require that an owner submit proof that the real property has served as the primary residence of such owner for an uninterrupted period of not less than one year immediately preceding the date an application is filed pursuant to this paragraph. Such proof may include but is not limited to a valid driver's license, the most recent federal or state income tax return, or proof of registration to vote.

(D) Approval and denial of application. If the commissioner of finance determines that a real property for which an owner filed an application qualifies for the interest rate described in paragraph (ii) of subdivision (e) of this section, the commissioner shall approve the application submitted by such owner and notify the owner of such approval. If the commissioner of finance determines that a real property for which an owner filed such application does not qualify for such interest rate, the commissioner shall send to such owner a notice of denial. Such notice of denial may be sent by mail or by electronic means and shall include a reason for a denial. The department of finance shall provide an opportunity for an owner whose application was denied to demonstrate that the real property for which such application was filed served as the primary residence of such owner for an uninterrupted period of not less than one year immediately

preceding the date the application was filed, or that the combined income of all the owners of such real property is no greater than two hundred thousand dollars for the income tax year immediately preceding such date. A denial of an application, the failure to send any such notice of denial or the failure of any owner to receive such notice shall not affect such denial, and shall not prevent the levy, collection and enforcement of taxes, including the accrual of any interest and the imposition of penalties on such real property.

(iv) For any real property that qualifies for the interest rate described in paragraph (ii) of subdivision (e) of this section, such interest rate shall be imposed on any taxes due and payable upon:

(A) approval of the application of an owner of such property for an agreement with the department of finance pursuant to section 11-322 or 11-322.1 of chapter 3 of this title for the payment in installments of real property taxes, assessments or other charges that are made a lien subject to the provisions of such chapter other than water rents, sewer rents or sewer surcharges, provided that such real property qualifies for such interest rate pursuant to subparagraph (A) or (B) of paragraph (i) of this subdivision; or

(B) approval of the application required by paragraph (iii) of this subdivision.

(v) For purposes of paragraph (ii) of subdivision (e), this subdivision, and subdivision (h-1), the following terms have the following meanings:

Dwelling unit. The term “dwelling unit” means a unit in a condominium used primarily for residential purposes.

Income. The term “income” means the federal adjusted gross income for income tax purposes as reported on an owner’s federal income tax return for the applicable income tax year, subject to

subsequent amendments or revisions; provided that if no such return was filed for the applicable income tax year, “income” means the federal adjusted gross income that would have been so reported if such a return had been filed.

Income tax year. The term “income tax year” means the most recent calendar year or fiscal year for which an owner filed a federal or state income tax return.

Owner. The term “owner” means an owner of real property or other eligible person, as defined in subdivision (i) of section 40-03 of title 19 of the rules of the city of New York.

Real property. The term “real property” means property classified as class one pursuant to section 1802 of the real property tax law or a dwelling unit in a condominium.

(vi) The commissioner of finance may promulgate rules necessary to effectuate the purposes of this subdivision, including but not limited to, creating a process for an owner to demonstrate continued qualification for the interest rate described in paragraph (ii) of subdivision (e) of this section.

(h-1) Outreach and reporting on interest rate. (i) The commissioner of finance shall make efforts to conduct outreach necessary to ensure that an owner of real property, for which taxes have been due for at least six months, who is eligible for, or has entered into, an agreement pursuant to section 11-322 of chapter 3 of this title for the payment in installments of real property taxes, assessments or other charges that are made a lien subject to the provisions of such chapter other than water rents, sewer rents or sewer surcharges is informed that such owner may be eligible for the interest rate described in paragraph (ii) of subdivision (e) of this section. Such outreach shall include, but not be limited to, providing information about such interest rate in application forms for such installment agreement, sending an annual notice to owners that have

entered into such an agreement informing them of such interest rate, prominently posting information about such interest rate on the website of the department of finance, and developing an informational flyer for distribution at all business centers of the department of finance. Such annual notice may be included as part of a notice that the department of finance provides to owners of real property, including, but not limited to, a statement of account required pursuant to section 11-129, or a notice required pursuant to section 11-245.8.

(ii) No later than January 31, 2024, and no later than every January 31 thereafter, the department of finance shall submit a report to the mayor and to the speaker of the council on real property with an assessed value of two hundred fifty thousand dollars or less for which: (A) the owner of such real property has entered into an agreement pursuant to section 11-322 or section 11-322.1 of chapter 3 of this title for the payment in installments of real property taxes, assessments or other charges that are made a lien subject to the provisions of such chapter other than water rents, sewer rents, or sewer surcharges; and (B) such unpaid taxes, assessments or other charges were subject to the interest rate described in paragraph (ii) of subdivision (e) during the preceding calendar year, including, but not limited to, the following data, disaggregated by borough:

(A) the number of such agreements executed during the preceding calendar year;

(B) the number of such agreements that were in effect on July 1 of the preceding calendar year;

(C) the number of applications for such agreements that were received during the preceding calendar year, and the number of such applications that were not approved;

(D) the average amount of property taxes and charges subject to such agreements;

(E) the amount collected pursuant to such agreements;

(F) the number of such agreements that are current or are delinquent;

(G) the number of such agreements that entered into default;

(H) the number of agreements that qualified for the interest rate described in paragraph (ii) of subdivision (e) of this section that were terminated during the preceding calendar year; and

(I) the number of such agreements that were renewed.

§ 3. Subdivision c of section 11-312 of the administrative code of the city of New York is REPEALED.

§ 4. Subdivision e of section 11-313 of the administrative code of the city of New York is REPEALED.

§ 5. Section 11-322 of the administrative code of the city of New York is amended by adding a new subdivision c to read as follows

c. No later than January 31, 2024, and no later than every January 31 thereafter, the department shall submit a report to the mayor and to the speaker of the council on real property with an assessed value of two hundred fifty thousand dollars or less for which: (A) the owner of such real property has entered into an agreement pursuant to this section for the payment in installments of real property taxes, assessments or other charges that are made a lien subject to the provisions of chapter 3 of this title other than water rents, sewer rents, or sewer surcharges; and (B) such unpaid taxes are subject to the interest rate described in paragraph (i) of subdivision (e) of this section for the preceding calendar year, including, but not limited to the following data:

1. the number of such agreements executed during the preceding calendar year;

2. the number of such agreements that were in effect on December 31 of the preceding calendar year;

3. the number of applications for such agreements that were received during the preceding calendar year, and the number of such applications that were not approved;

4. the average amount of property taxes and charges subject to such agreements; and

5. the number of such agreements that entered into default and the number of defaults that were cured.

§ 6. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 2, 2023 and approved by the Mayor on March 14, 2023.

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

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 36 of 2023, Council Int. No. 524-A of 2022) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.