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**THE NEW YORK CITY COUNCIL**

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**COMMITTEE ON FINANCE**

**HON. JUSTIN BRANNAN, CHAIR**

**August 3, 2022**

 **INT. NO 524: By Council Member Carr**

**TITLE: A Local Law to amend the administrative code of the city of New York, in relation to interest rates applicable to installment agreements for the payment of property tax arrears, and to repeal subdivision c of section 11-312 and subdivision e of subdivision 313, relating to the interest rates recommended by the banking commission for the nonpayment of water and sewer rents**

**ADMINISTRATIVE CODE: Amends §11-224.1(e) and repeals §§11-312(c) and 11-313(e) of the Administrative Code**

1. **Introduction**

On August 3, 2022, the Committee on Finance, chaired by Council Member Justin Brannan, will hold a hearing Int. No. 524, sponsored by Council Member Carr, a local law to amend the administrative code of the city of New York, in relation to interest rates applicable to installment agreements for the payment of property tax arrears, and to repeal subdivision c of section 11-312 and subdivision e of subdivision 313, relating to the interest rates recommended by the banking commission for the nonpayment of water and sewer rents.

 A prior version of this legislation, Int. No. 1262 of 2018, was heard by this Committee in 2018.

**II. Background on Late Payment Interest Rates**

Currently, the Administrative Code requires that by May 13 each year, the Banking Commission, which consists of the Mayor, the Comptroller, and the Finance Commissioner[[1]](#footnote-1), recommend to the Council the following interest rates:

1. rate to be charged for the nonpayment of property taxes for properties with an assessed value of $250,000 or less, or $250,000 or less per residential unit for cooperative apartments, that must be at least equal to the interest rates charged for commercial loans extended to prime borrowers by commercial banks operating in the City (“the prime rate”);[[2]](#footnote-2)
2. rate to be charged for the nonpayment of property taxes for properties with an assessed value of more than $250,000 but no more than $450,000 that must be at least four points higher than the prime rate;[[3]](#footnote-3)
3. rate to be charged for the nonpayment of property taxes for properties with an assessed value of more than $450,000 that must be at least six points higher than the prime rate;[[4]](#footnote-4)
4. rate to be charged for the nonpayment of water rents that must be at least six points higher than the prime rate;[[5]](#footnote-5) and
5. rate to be charged for the nonpayment of sewer rents that must be at least six points higher than the prime rate. [[6]](#footnote-6)

Upon receipt of the recommendations, the Council may adopt by resolution either the rates recommended or those determined by the Council.[[7]](#footnote-7) If the Council fails to act, then a default interest rate will be in effect for the following fiscal year.[[8]](#footnote-8)

From Fiscal 1976 to Fiscal 1990, the interest rate for non-payment of property taxes was at times as high as 25.5%, and at times as low as 15.5%. Prior to Fiscal 2005, for water and sewer charges, there was no distinction between properties with a higher or lower assessed values. Similarly, prior to Fiscal 1991, for property taxes, there was no distinction between properties with a higher or lower assessed values. All property owners paid the same interest rate on either delinquent property taxes or on water/sewer charges regardless of the assessed value of their properties. The interest rate for the delinquent or non-payment of property taxes and water/sewer charges had remained steady between Fiscal 1991 and Fiscal 2016 with the rates for higher assessed property at 18% and the rates for lower assessed property at 9%. Beginning in Fiscal 2016, the Council adopted a rate lower than 9% in an attempt to ease the burden on property owners who were already struggling to pay their property taxes and to bring the interest rate charged by the City more in line with interest rates charged in other contexts.

Interest rates were brought down to record lows during the COVID-19 pandemic, with rates hitting as low as 3% for the smallest category of properties in Fiscal 2022. Further, the Council also adopted special interest rates for the first quarter of Fiscals 2021 and 2022 that were available for certain property owners adversely affected by COVID-19. These special rates were granted under the authority of Local Laws 62 and 63 of 2020, and Local Laws 85 and 86 of 2021.

Additionally, as part of Local Law 24 of 2021, the larger category of properties (those with assessed values greater than $250,000) was further subdivided into a medium and large tier of properties. This would allow different interest rates to be set for properties with assessed values greater than $250,000 but no more than $450,000, and for properties with assessed values greater than $450,000. As such, beginning with Fiscal 2022, the Council has adopted lower interest rates for this medium tier than it has for the larger tier.

1. **History of Late Payment Interest Rates as Adopted by the City Council**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Fiscal Year** | **Discount Rate** | **Delinquent Property Tax Large Properties** | **Delinquent Medium Properties** | **Delinquent Property Tax Small Properties** | **Delinquent Water/Sewer Large Properties** | **Delinquent Water/Sewer Small Properties** |
| Large Property Threshold = $2,000 |
| 1976 | 6.50% | N/A | N/A | N/A | N/A | N/A |
| 1977 | 6.00% | 15% | N/A | N/A | 15% | N/A |
| 1978 | 6.00% | 15% | N/A | N/A | 15% | N/A |
| 1979 | 6.00% | 18% | N/A | N/A | 18% | N/A |
| 1980 | 6.00% | 22% | N/A | N/A | 22% | N/A |
| 1981 | 6.00% | 25.50% | N/A | N/A | 25.50% | N/A |
| 1982 | 6.00% | 25.50% | N/A | N/A | 25.50% | N/A |
| 1983 | 6.00% | 25% | N/A | N/A | 23% | N/A |
| 1984 | 2.00% | 16.50% | N/A | N/A | 16.50% | N/A |
| Large Property Threshold = $2,750 |
| 1985 | 2.00% | 18.50% | N/A | N/A | 18.50% | N/A |
| 1986 | 2.00% | 16% | N/A | N/A | 16% | N/A |
| 1987 | 2.00% | 15% | N/A | N/A | 15% | N/A |
| 1988 | 2.00% | 15.50% | N/A | N/A | 15.50% | N/A |
| 1989 | 2.00% | 19% | N/A | N/A | 19% | N/A |
| 1990 | 2.00% | 19% | N/A | N/A | 19% | N/A |
| 1990-2004 Local Law 47 of 1990 provided for delinquent payments on properties with value less than $2,750 and further distinguished those paid by a mortgage agent. |
| 1991 | 2.00% | 18% | N/A | 9% | Not Cited | N/A |
| 1992 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 1993 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 1994 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 1995 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 1996 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 1997 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 1998 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 1999 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 2000 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 2001 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 2002 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 2003 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 2004 | 2.00% | 18% | N/A | 9% | N/A | N/A |
| 2005-2008 thresholds were changed from </> $2,750 to </> $80,000. References to DOH order and escrow agents eliminated. Water & sewer divisions determined by the new thresholds. Delinquent Water/Sewer < $80,000 |
| 2005 | 2.00% | 18% | N/A | 9% | N/A | 9% |
| 2006 | 1.50% | 18% | N/A | 9% | N/A | 9% |
| 2007 | 1.50% | 18% | N/A | 9% | N/A | 9% |
| 2008 | 1.50% | 18% | N/A | 9% | N/A | 9% |
| 2006 to 2021 Large/Small Property threshold changed from </> $80,000 to </>$250,000 |
| 2009 | 1.50% | 18% | N/A | 9% | 18% | 9% |
| 2010 | 1.50% | 18% | N/A | 9% | 18% | 9% |
| 2011\* | 1.50% | 18% | N/A | 9% | 18% | 9% |
| 2012 | 1.00% | 18% | N/A | 9% | 18% | 9% |
| 2013 | 1.00% | 18% | N/A | 9% | 18% | 9% |
| 2014 | 1.00% | 18% | N/A | 9% | 18% | 9% |
| 2015 | 1.00% | 18% | N/A | 9% | 18% | 9% |
| 2016 | 0.50% | 18% | N/A | 9% | N/A | 9% |
| 2017 | 0.50% | 18% | N/A | 6% | N/A | 9% |
| 2018 | 0.50% | 18% | N/A | 6% | N/A | N/A |
| 2019 | 0.50% | 18% | N/A | 7% | N/A | N/A |
| 2020 | 0.50% | 18% | N/A | 6% | N/A | 9% |
| 2021 | 0.50% | 18% | N/A | 6% | N/A | N/A |
| 2022 to present Medium category created with threshold of $250,000 to $450,000, Large category threshold changed to $450,000 and above |
| 2022 | 0.50% | 13% | 6% | 3% | N/A | N/A |
| 2023 | 0.50% | 14% | 7% | 4% | N/A | N/A |

1. **Installment Agreements**

 Currently, when a property owner owes property tax arrears, he or she is able to enter into an installment agreement with the Department of Finance (“DOF”) in order to pay back the amount owed over time.[[9]](#footnote-9) This installment agreement can be entered into for a period of up to ten years with as little as zero dollars in down payment.[[10]](#footnote-10) If a property has a lien or liens noticed for the lien sale, execution of an installment agreement will result in the lien not being sold in the lien sale.[[11]](#footnote-11) However, if a property owner defaults on the installment agreement, defined as failing to make payments for a period of six months, he or she will be barred from entering into a new payment agreement for a period of five years, unless the property owner can: (1) demonstrate extenuating circumstances (such as loss of income due to unemployment, death, treatment of an illness, military service, or involuntary absence); (2) cures the default by paying all missed payments plus accrued interest; or (3) makes a down payment of 20 percent or more of all applicable delinquent taxes and charges including any outstanding interest and fees on a new installment agreement.[[12]](#footnote-12)

Under this installment agreement plan, installment amounts are calculated based on the amount owed, interest rates, and pay-off period, but without regard for income or ability to pay. Moreover, as a term of the installment agreement, property owners must agree to pay all current property taxes as they accrue and interest continues to accrue on the unpaid taxes until they are paid through the installment agreement plan at the same rate of interest as they did prior to the execution of the agreement.[[13]](#footnote-13)

Additionally, property owners with a combined income of $86,400 or less who own one- to three- family homes or condominiums where such property is the owner’s primary residence are eligible for enrollment in the City’s PT AID (Property Tax and Interest Deferral) Program,[[14]](#footnote-14) which is made up of three income-based installment agreements:

* The senior low-income installment agreement allows property owners who are at least 65 years old to defer payment of a percentage of their tax arrears and prospective tax liability until the termination of the installment agreement upon expiration, death, or transfer.
* The fixed-length income-based installment agreement allows property owners to pay off tax arrears and one year of prospective tax liability by paying installments based on a percentage of income until the debt is repaid.
* Finally, the extenuating circumstances income-based installment agreement allows property owners with extenuating circumstances (such as loss of income due to unemployment, death, treatment of an illness, military service, or involuntary absence) to enter into a one-year installment agreement to pay off tax arrears and property taxes that accrue during that year by paying installments based on a percentage of income.

A property owner who satisfies the requirements can enter into an installment agreement with DOF for the payment of real property taxes, assessments, or other charges subject to a lien (except for sewer rents, sewer surcharges or water rents). The execution of any installment agreement will not suspend the accrual of applicable liens, interest or other charges against the property, but it will prevent inclusion of the property in the lien sale.

When the PT AID program was initially legislated as part of Local Law 45 of 2019, all homeowners had to have incomes no greater than $58,399. However, Local Law 24 of 2021 raised the income thresholds to the current $86,400.

1. **Background on Int. No. 524**

Introduction 524 is a reintroduction of Introduction 1262 of 2018 that was intended to address two issues.

First, despite the requirements in the Administrative Code, in Fiscal 2018, the Banking Commission ceased recommending rates for nonpayment of water and sewer rents because State law sets the nonpayment interest rate for these charges. Specifically, §1045-j(5) of the Public Authorities Law states that “Such fees, rates, rents or other charges, if not paid when due, shall constitute a lien upon the premises served and a charge against the owners thereof, which lien *and charge shall bear interest at the same rate as would unpaid taxes of the city*.” (emphasis added)

Second, all tax arrears owed to the City accrue interest at the same rate regardless of whether the property owner is making a good faith effort to address the debt by entering into an installment agreement with the City or whether the property owner is taking no steps to pay the City what it is owed.

In relation to this second issue, the temporary lien sale task force (Task Force) which met in 2015 and 2016 pursuant to Local Law 14 of 2015 recommended that further efforts be made to minimize the number of properties with liens sold in the lien sale by offering improved options for payment, increased access to information about available exemptions and abatements, and assistance to property owners to help them resolve their payment problems and avoid a stressful and financially overwhelming process.[[15]](#footnote-15) In response to these recommendations, in 2018, the Council adopted Int. No. 1143 which created new installment agreements which, when entered into by homeowners whose homes were their primary residence and adhered to, would keep their homes out of the lien sales. However, as noted above, the tax arrears on properties subject to any of the various installment agreements continue to accrue interest at the same interest rates as all other properties in that category. Int. No. 524 attempts to assist those taxpayers making a good faith effort to pay off their tax arrears with the possibility of a lower interest rate.

On November 20, 2018, the Finance Committee held a hearing on Intro 1262 prior to its introduction on November 28, 2018. The bill was subsequently laid over, and then filed at the end of the 2018-2021 Council Session.

1. **Analysis of Int. No. 524**

Section 1 of Int. No. 524 would specify that for real property with an assessed value of $250,000 or less that is subject to an executed installment agreement that is not default, the Banking Commission must recommend an interest rate for the nonpayment of property taxes that is at least equal to the most recently determined federal short-term rate. The Council would then be authorized to adopt a rate applicable to those properties.

Section 2 of Int. No. 524 would repeal subdivision c of section 11-312 of the administrative code of the city of New York, which requires the Banking Commission to submit a recommendation to the Council, and authorizes the Council to adopt an interest rate for the nonpayment of water charges.

Section 3 of Int. No. 524 would repeal subdivision e of section 11-313 of the administrative code of the city of New York, which requires the Banking Commission to submit a recommendation to the Council, and authorizes the Council to adopt, an interest rate for the nonpayment of sewer charges.

Section 4 of Int. No. 524 would provide that the local law take effect immediately and would be retroactive to January 1, 2022.

1. *See* NYC Charter §1524 [↑](#footnote-ref-1)
2. *See* Administrative Code §11-224.1(e)(i). [↑](#footnote-ref-2)
3. *See* Administrative Code §11-224.1(e)(i). [↑](#footnote-ref-3)
4. *See* Administrative Code §11-224.1(e)(i). [↑](#footnote-ref-4)
5. *See* Administrative Code §11-312(c). [↑](#footnote-ref-5)
6. *See* Administrative Code §11-313(e). [↑](#footnote-ref-6)
7. See Administrative Code §11-224.1(e). [↑](#footnote-ref-7)
8. *See* Administrative Code §11-224.1(c). [↑](#footnote-ref-8)
9. *See* Administrative Code §11-322. [↑](#footnote-ref-9)
10. *See id.* [↑](#footnote-ref-10)
11. *See id.* [↑](#footnote-ref-11)
12. *See id.* [↑](#footnote-ref-12)
13. *See id.* [↑](#footnote-ref-13)
14. *See* Administrative Code §11-322.1. [↑](#footnote-ref-14)
15. The Report of the Tax Lien Task Force, September 2016, available at: https://www1.nyc.gov/assets/finance/downloads/pdf/reports/lien\_sale\_report/lien\_sale\_task\_force\_report.pdf (last accessed August 1, 2022). [↑](#footnote-ref-15)