

LOCAL LAW NO. 2 OF 1997

ENTITLED

"LOCAL LAW NO. 2 - INSTALLMENT PAYMENT OF
DELINQUENT TAX LAW OF 1997"

TITLE I - DEFINITIONS

101. Unless the context shall require a different meaning, the following terms shall have the meanings set forth herein:
- a. **Eligible Delinquent Taxes** means the delinquent taxes, including interest, penalties and other charges, which have accrued against a parcel as of the date on which an installment agreement is executed.
 - b. **Eligible Owner** means an owner of real property who is eligible to or has entered into an installment agreement.
 - c. **Installment Agreement** means a written agreement between an eligible owner and the enforcing officer providing for the payment of eligible delinquent taxes in installments.
 - d. **Enforcing Officer** shall be the elected treasurer of the County of Fulton.
 - e. **Residential Property** means property which is improved by a one, two or three family structure used exclusively for residential purposes other than property subject to the assessment limitations of Section 581 of the Real Property Tax Law and Article 9-B of the Real Property Law. When determining whether a parcel qualifies as residential, the enforcing officer shall consider the information appearing on the applicable tax roll and any relevant information submitted to him or her by the assessor, by the owner, or by any other person with an interest in a parcel.
 - f. **Principal** shall mean the amount of delinquent tax, excluding all interest, penalties and other charges.

TITLE II - INSTALLMENT PAYMENTS

201. **AUTHORITY:** The enforcing officer is hereby granted the authority to prepare and execute on behalf of the County of Fulton agreements with eligible owners for the installment payment of eligible delinquent taxes affecting residential property only, in accordance with Section 1184 of the Real Property Tax Law, as amended, and this Local Law, without further notice to nor consent of the County Board of Supervisors.
202. **TERM:** The enforcement officer shall determine and the installment agreement shall specify the maximum term to be determined by the enforcing officer on a case-by-case basis, which said maximum term shall not exceed 24 months.

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203. **PAYMENT SCHEDULE:** The payment schedule shall be specified in the installment agreement and upon determination of the enforcing officer on a case-by-case basis. The preferable schedule is quarterly; however, the installment agreement can provide for payments to be made monthly, or quarterly, in the discretion of the enforcement officer.
204. **DOWN PAYMENT:** The required initial down payment, as determined in the discretion of the enforcing officer, shall be either 15% or 25% of the eligible delinquent taxes.
205. **ELIGIBLE PROPERTIES:** The properties to which this Local Law shall apply shall be residential properties only.
206. **COMMENCEMENT:** Installment payment of eligible delinquent taxes shall commence upon the signing of an agreement between the enforcing officer and the eligible owner, which shall be no earlier than thirty (30) days after the delivery of the return of unpaid taxes to the enforcing officer. The agreement shall be kept on file in the office of the enforcing officer.
207. **DISCRETION:** The enforcing officer shall have discretion regarding the specific terms of each installment agreement within the limitations set forth in this legislation and in Section 1184 of the Real Property Tax Law. In addition, the enforcing officer shall have discretion in approving or disapproving a particular eligible owner based upon the enforcing officer's determination of the ability and propensity of the eligible owner to timely comply with the terms and conditions of an installment agreement.
208. **ELIGIBLE OWNER:** A property owner shall not be eligible to enter into an agreement pursuant to this law where:
- a. There is a delinquent tax lien on the same property for which the application is made or on another property owned by such person and such delinquent tax lien is not eligible to be made part of the agreement pursuant to this law.
 - b. Such person is the owner of another parcel within the tax district on which there is a delinquent tax lien, unless such delinquent tax lien is eligible to be and is made part of the agreement pursuant to this law.
 - c. Such person was the owner of property on which there existed a delinquent tax lien and which lien was foreclosed within three years of the date on which an application is made to execute an agreement pursuant to this law; or

209. **AMOUNT DUE:** The amount due under an installment agreement shall be eligible delinquent taxes plus the interest that is to accrue on each installment payment up to and including the date on which each payment is to be made. The agreement shall provide that the amount due shall be paid, as nearly as possible, in equal amounts on each payment due date. Each installment payment shall be due on the last day of the month on which it is to be paid. Such payments shall be applied first to interest, penalties and other charges, and then to principal.
210. **INTEREST AND PENALTIES:** Interest on a total amount of eligible delinquent taxes, less the amount of the down payment made by the eligible owner, shall be the amount as determined pursuant to Section 924-a of the Real Property Tax Law. The rate of interest in effect on the date the agreement is signed shall remain constant during the period of the agreement. If an installment is not paid on or before the date it is due, interest shall be added at the rate prescribed by Section 924-a of the Real Property Tax Law for each month, or portion thereof, until paid. In addition, if an installment is not paid by the end of the 15th calendar day after the payment due date, a late charge of 5% of the overdue payment shall be added.

TITLE III - DEFAULT

301. **DEFAULT:** An eligible owner shall be deemed to be in default of the agreement upon:

- I. non-payment of any installment within thirty (30) days from the payment due date.

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- II. non-payment of any tax, special ad valorem levy or special assessment which is levied subsequent to the signing of the agreement by the tax district, and which is not paid prior to the expiration of the warrant of the collecting officer; or
- III. default of the eligible owner on another agreement made and executed pursuant to this law.
302. In the event of a default, the County of Fulton shall have the right to require the entire unpaid balance, with interest and late charges, to be paid in full. The County of Fulton shall also have the right to enforce the collection of the delinquent tax lien pursuant to the applicable sections of law, special tax act, charter or local law.
303. Where an eligible owner is in default and the County of Fulton does not either require the eligible owner to pay in full the balance of the delinquent taxes or elect to institute foreclosure proceedings, the tax district shall not be deemed to have waived the right to do so.

TITLE IV - NOTIFICATION OF POTENTIAL ELIGIBLE OWNERS

401. Within forty-five (45) days after receiving the return of unpaid taxes from the collecting officer, or as soon thereafter as is practicable, the enforcing officer shall notify, by first class mail, all potential eligible owners of their possible eligibility to make installment payments on such tax delinquencies. The enforcing officer shall add \$1.00 to the amount of the tax lien for such mailing.
402. The failure to mail any such notice, or the failure of the addressee to receive the same, shall not in any way affect the validity of taxes or interest prescribed by law with respect thereto.
403. The enforcing officer shall not be required to notify the eligible owner when an installment is due or overdue.

TITLE V - PRESERVATION OF THE TAX LIEN

501. The provisions of this law shall not affect the tax lien against the property, except that the lien shall be reduced by the payments made under an installment agreement, and that the lien shall not be foreclosed during the period of installment payments, provided that such installment payments are not in default.

TITLE VI - MISCELLANEOUS

601. **RULES AND REGULATIONS:** The enforcing officer may promulgate and amend suitable rules and regulations prescribing the necessary forms for carrying into effect the provisions of this Local Law and the applicable provisions of the Real Property Tax Law.
602. **SEPARABILITY:** If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment, decree or other shall not effect, impair nor invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment, decree or order shall have been rendered, and the remainder of this Local Law shall not be affected thereby and shall remain in full force and effect.
603. **EFFECTIVE DATE:** This Local Law shall take effect on the 1st day of August, 1997.