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COUNTY OF ERIE

MICHAEL P. KEARNS
COUNTY CLERK

February 20, 2025

The Honorable Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, New York 14202

Re: Amended COMM. 3E-3 Resolution and new Payment Plan Resolution

Dear Honorable Members:

Enclosed are two proposed resolutions based on discussions on item COMM. 3E-3 at the Finance & Management Committee meeting on February 13, 2025:

- An amended version of COMM. 3E-3 focusing solely on Erie County Legislative approval to call on the New York State Legislature to amend the Erie County Tax Act; and
- A new resolution calling on Erie County to create a new payment plan option for delinquent taxpayers prior to foreclosure.

The payment plan action item in the original COMM. 3E-3 was separated from the rest of the resolution as that item requires further discussion on design and implementation, to the point that giving it a separate resolution was appropriate.

The call to New York State to amend the Erie County Tax Act is necessary so that we may move forward in pushing for a bill to be introduced in the State Legislature, as that is the first step towards eventually making a Home Rule request. Given the relatively short calendar of the State Legislature, we are hopeful that the amended COMM. 3E-3 may be approved quickly now that it is separated from the payment plan discussion.

Thank you for your consideration of these matters. If your Honorable Body requires further information, kindly contact the Erie County Clerk's Office.

Respectfully submitted,

A handwritten signature in blue ink that reads "Michael P. Kearns".

MICHAEL P. KEARNS
Erie County Clerk

MPK/wal

Encl.

**STATE OF NEW YORK
LEGISLATURE OF ERIE COUNTY
BUFFALO, NEW YORK**

**A Resolution Submitted by the Erie County Clerk
Re: Call to the New York State Legislature to Amend the Erie County Tax Act to
Lower the Interest Rate on Delinquent Taxes**

WHEREAS, the Erie County Tax Act (Chapter 812 of the Laws of 1942) established an initial twelve percent (12%) annual interest and penalty rate on delinquent property taxes; and

WHEREAS, pursuant to New York State Real Property Tax (“RPT”) Law § 924-a, only the New York State Legislature may amend the Erie County Tax Act; and

WHEREAS, the New York State Legislature amended the Erie County Tax Act in August 1997 (A6587-A/S3884) to increase the 12% annual interest and penalty rate on delinquent property taxes to eighteen percent (18%); and

WHEREAS, one of the reasons given for increasing the interest rate was that “the relatively low penalty rate imposed by the County on late property tax payments serve as a disincentive to the timely payment of real property tax obligations”; and

WHEREAS, since the housing collapse of 2007, significant numbers of vacant and abandoned properties have plagued, and continue to plague, Erie County; and

WHEREAS, the 18% interest and penalty rate on delinquent property taxes is in excess of New York’s 16% civil usury cap and far in excess of market interest rates; and

WHEREAS, the steep 18% interest and penalty rate on delinquent property taxes makes it significantly difficult for citizens to ever repay overdue taxes, resulting in even more vacant and abandoned properties, commonly referred to as “Zombie” properties; and

WHEREAS, the Erie County Clerk’s Office recognizes that grappling with the blight of Zombie properties transcends all communities and impacts all County taxpayers, regardless of the property location; and

WHEREAS, in June 2024 the New York State Legislature passed Senate Bill S967A sponsored by Senator Sean M. Ryan, which proposed setting the delinquent tax interest rate to the prime interest rate subject to a floor of two percent (2%) and a ceiling of sixteen percent (16%); and

WHEREAS, Governor Kathy Hochul vetoed S967A with a veto message indicating that the reduction to the interest and penalty rate for delinquent property taxes should be addressed in the State Budget Process; and

WHEREAS, if S967A was to become law, through the State Budget Process or otherwise, Erie County would be required to lower the 18% annual interest and penalty rate on delinquent property taxes to equal the prime rate, which is currently 7.5%; and

WHEREAS, the interest and penalty rate limitation in S967A would in any event not apply to real property that is vacant and abandoned as defined in the New York Real Property Actions and Proceedings Law, which would still be subject to an 18% rate; and

WHEREAS, it is clear that Erie County must now take action in its own right to show New York State that change is needed; and

WHEREAS, the Erie County Clerk's Office has secured over five thousand (5,000) signatures from Erie County taxpayers in support of lowering the interest and penalty rate from the current 18%; and

WHEREAS, the Erie County Legislature, via Home Rule request, previously supported legislation in 2018, Senate Bill S8839A, which sought to reduce the interest rate on delinquent real property taxes from 18% to 12%, and thereby reduce barriers to repayment of back taxes for all properties, whether vacant and abandoned or otherwise; and

WHEREAS, said legislation did not pass the New York State Legislature, leaving the 18% rate in effect; and

WHEREAS, an interest and penalty rate of 12%, the rate that stayed consistent from 1942 – 1997, and which was supported by the Erie County Legislature in 2018, should be reestablished in Erie County for all properties, whether vacant and abandoned or otherwise; and

WHEREAS, amending the Erie County Tax Act to reduce the interest and penalty rate to 12% for all properties will decrease the impact of real property tax delinquencies and would not conflict with any potential further reduction for occupied properties in the event that S967A or any similar bill was to become law; and

WHEREAS, the New York State Legislature has requested that the Erie County Legislature adopt a Resolution such as this one before a State bill will be filed to reduce the interest and penalty rate in the Erie County Tax Act.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature respectfully calls upon the New York State Legislature to introduce a bill to lower the interest and penalty rate in the Erie County Tax Act from 18% to 12%; and be it further

RESOLVED, that should the New York State Legislature file a bill to lower the interest and penalty rate in the Erie County Tax Act from 18% to 12%, the Erie County Legislature will either submit a Home Rule request or pass a Resolution in support of the filed State legislation; and be it further

RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the Erie County Executive; the Erie County Attorney; the Director of the Division of Budget and Management; the Erie County Comptroller; and the Erie County Clerk.

**STATE OF NEW YORK
LEGISLATURE OF ERIE COUNTY
BUFFALO, NEW YORK**

**A Resolution Submitted by the Erie County Clerk
Re: Proposing A Payment Plan Option For Delinquent Taxpayers**

WHEREAS, the New York State Legislature amended the Erie County Tax Act in August 1997 (A6587-A/S3884) to increase the 12% annual interest and penalty rate on delinquent property taxes to eighteen percent (18%); and

WHEREAS, one of the reasons given for increasing the interest rate was that “the relatively low penalty rate imposed by the County on late property tax payments serve as a disincentive to the timely payment of real property tax obligations”; and

WHEREAS, since the housing collapse of 2007, significant numbers of vacant and abandoned properties have plagued, and continue to plague, Erie County; and

WHEREAS, the 18% interest and penalty rate on delinquent property taxes is in excess of New York’s 16% civil usury cap and far in excess of market interest rates; and

WHEREAS, the steep 18% interest and penalty rate on delinquent property taxes makes it significantly difficult for citizens to ever repay overdue taxes, resulting in even more vacant and abandoned properties, commonly referred to as “Zombie” properties; and

WHEREAS, the Erie County Clerk’s Office recognizes that grappling with the blight of Zombie properties transcends all communities and impacts all County taxpayers, regardless of the property location; and

WHEREAS, Erie County currently does not offer a payment plan option to delinquent taxpayers prior to foreclosure.

NOW, THEREFORE, BE IT

RESOLVED, that Erie County offers a payment plan option for delinquent taxpayers prior to foreclosure; and be it further

RESOLVED, that Erie County allows eligibility for a new payment plan for individuals who are continuing to experience a hardship, even if they have had a previous payment plan; and be it further

RESOLVED, that Erie County bases eligibility for payment plans on the owner and their circumstances, rather than whether a particular property has already had a payment plan (for example, when an individual inherits a property with pre-existing taxes due); and be it further

RESOLVED, that Erie County proactively offers payment plans and/or examples of how much an individual will need to pay per month to catch up, factoring in interest; and be it further

RESOLVED, that Erie County allows monthly installment payments for homeowners whose taxes are not included in a monthly mortgage payment, with the ability to pay online, in person, or via mail; and be it further

RESOLVED, that Erie County sends simple, user friendly notices to homeowners upon default, offering options to catch up; and be it further

RESOLVED, that Erie County restructures the Erie County tax website to make it more user friendly and easy to navigate and to provide more information to homeowners, including the availability of payment plans and how to get them; and be it further

RESOLVED, that Erie County allows payment plans for heirs to an estate, even if the estate proceedings have not been filed or finalized in Surrogate's Court and be it further

RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the Erie County Executive; the Erie County Attorney; the Director of the Division of Budget and Management; the Erie County Comptroller; the Erie County Director of Real Property Tax Services; and the Erie County Clerk.