

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

FILED
STATE RECORDS

JUN 06 2016

- County
 City of Hempstead
 Town
 Village

DEPARTMENT OF STATE

Local Law No. 46 of the year 20 16

A local law to enact a new subsection 128-61-1 of Chapter 128 of the Code of
(Insert Title)
the Town of Hempstead, in relation to Foreclosures, Undertakings
and Maintenance of Premises.

Be it enacted by the Town Board of the
(Name of Legislative Body)

- County
 City of Hempstead as follows:
 Town
 Village

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Section 1. Article V of Chapter 128 of the code of the town of Hempstead, as constituted by local law number fifty-eight of nineteen hundred eighty-nine, hereby is amended to enact a new subsection 128-61-1, and shall henceforth read as follows:

Chapter 128
Garbage and Rubbish

* * *

§ 128-61-1 Foreclosures; Undertaking.
Legislative Intent: When residential properties in the Town of Hempstead fall vacant and become the subject of foreclosure actions, they frequently become neglected and overgrown with grass, weeds and rubbish, creating an unsightly appearance in the surrounding residential area and detracting from the use, enjoyment and value of surrounding properties. The Town of Hempstead is committed to using all legal avenues to proactively address these adverse conditions, to alleviate the burden these vacant properties impose on neighboring residents. This new section 128-61-1 places the financial burden on any person, business,

organization, bank or lender who commences a foreclosure action against any vacant residential property in the Town of Hempstead to deposit funds with the Town after the foreclosure action is commenced, for use in achieving prompt remediation, if or when it shall occur. This new law is clearly in the public interest. It will help deter violations by creating a financial disincentive against allowing the property to lie fallow and unmaintained. It will help to expedite remediation of overgrown grass, weeds and rubbish, when they occur. It will also help avoid substantial outlays of public funds in accomplishing same.

A. Any person, business, organization, bank or lender who commences a foreclosure action against a residential property (improved with a single-family, two-family or multiple family residence) that has become vacant shall provide to the Town of Hempstead an undertaking in the form of cash, a cash bond, or a letter of credit acceptable to the Town Attorney, in the sum of \$25,000.00, to secure the continued maintenance of the property free of any violations of section 128-61-1 of this Chapter, during the entire time that vacancy shall exist, as determined by the Commissioner of Sanitation. When the foreclosure action is finally discontinued, any unused funds shall be returned.

B. It shall be unlawful for any such person, business, organization, bank or lender to fail to properly deposit such cash, a cash bond, or a letter of credit within 45 calendar days after the foreclosure action is commenced.

C. In the event that the Commissioner of Sanitation determines that any property referenced in paragraph "A" above is being maintained in violation of section 128-61-1 of this Chapter, then in addition to or in lieu of any other enforcement remedy at his disposal, the Commissioner may utilize the deposited funds to pay the full and actual cost of actions necessary to eliminate the violation.

D. In the event that any such funds are utilized as set forth above, such person, business, organization, bank or lender shall restore it to the full amount referenced in paragraph "A" above, within 15 calendar days after written demand by the Town of Hempstead, sent by regular mail and certified mail, return receipt requested to such person, business, organization, bank or lender at an address designated by them for service of notices, or else to their last known address. It shall be unlawful for such person

business, organization, bank or lender to fail to timely restore funds as required herein.

E. In the event that the Commissioner of Sanitation determines that any property referenced in paragraph "A" above is being maintained in violation of section 128-61-1 of this Chapter and no cash, cash bond, or letter of credit acceptable to the Town Attorney has been provided or replenished as required by paragraphs A or D above, then in addition to or in lieu of any other enforcement remedy at his disposal, the Commissioner may serve a written demand upon such person, business, organization, bank or lender to provide the required cash, cash bond, or letter of credit acceptable to the Town Attorney, within 10 days after the date of such written demand, subject to the following:

(1) The 45 day time allotment of paragraph B hereof is superceded;

(2) The written demand shall be served in any manner authorized to obtain personal service under Article 3 of the Civil Practice Law and Rules of the State of New York, or otherwise at applicable law; and

(3) In the event that no cash, cash bond, or letter of credit acceptable to the Town Attorney has been provided or replenished as required by paragraphs A or D above, within 10 days after the date of such written demand, then such person, business, organization, bank or lender shall be subject to fines of up to triple the maximum amount set forth under section 128-65.A of this Chapter and a minimum fine of \$500 for each day of the noncompliance until such time as that person or entity complies with the provisions of this section, or by imprisonment for not more than 15 days, or by both such fine and imprisonment., with each calendar day of failure to timely provide same constituting a separate additional offense, as set forth under section 128-65.B of this Chapter.

F. Any person committing an offense against any of the provisions of this section shall be guilty of a violation punishable by a fine of \$500 for each day of the noncompliance until such time as that person or entity complies with the provisions of this section, or by imprisonment for not more than 15 days, or by both such fine and imprisonment.

G. If any provision of this section is declared unenforceable for any reason by a court of competent

jurisdiction, such declaration shall affect only that provision, and shall not affect the remainder of this section, which shall remain in full force and effect.

H. This section shall apply to all non-residential foreclosures commencing after the effective date of this local law. It is to be considered remedial legislation and shall be liberally construed so that substantial justice is done.

Section 2. This local law shall become effective immediately upon filing with the secretary of state.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 46 of 20 16 of the ~~(County)(City)(Town)(Village)~~ of Hempstead ~~Town Board~~ was duly passed by the Town Board (Name of Legislative Body) on May 24, 20 16, in accordance with the applicable provisions of law.

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.~~

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20 _____.~~

~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20 _____.~~

~~Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph one, above.

~~Clerk of the County Legislature, County of _____, New York~~
~~officially designated by local legislative body~~

Deputy Town Clerk, Town of Hempstead

Date: May 25, 2016

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Nassau

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature
Chief Deputy Town Attorney

Title

County
City of Hempstead

Town
Village

Date: May 25, 2016