

Charter & Code Focus Group Report

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

CHARTER AND CODE FOCUS GROUP REPORT

Charter and Code Focus Group

Chair	Guy Parisi, Esq.
Vice-Chair	Florence McCue, Esq. Jane Morgenstern
Contributors	David A. Menken, Esq. Steve Mayo Gary J. Zuckerman, Esq.
Special Counsel	Lester Steinman, Esq.
Staff	Chris Crane, Esq. Stacey Dolgin-Kmetz, Esq.
Commission Chair	Richard G. Wishnie
Committee Coordinator	Melanie Montalto

Mission of the Charter and Code Focus Group:

The Mission Statement was developed by the Charter and Code Focus Group and approved on January 14, 2012. During the past year, as the Group obtained further information and identified concerns we believe the County should address, we have refined our issues and our mission as we formulated recommendations for discussion and consideration by the full Charter Revision Commission (“the Commission”)

The mission of the Charter and Code Focus Group of the Westchester County Charter Revision Commission is to become well acquainted with the form and substance of the Westchester County Charter and Administrative Code; consider the 1988 recommendations of the prior charter Revision Commission and other relevant studies; and review the recommendations of the current Commission for placement into the Charter and Code.

To accomplish this mission, the Focus Group will:

- 1. Review the language and form of the Westchester County Charter and Administrative Code;**
- 2. Suggest revisions in the language of the Charter and Administrative Code;**

- 3. Review the recommendations of the prior Charter Revision Commission that were not incorporated into the current Administrative Code;**
- 4. Identify inconsistencies and redundancies between the Charter and the Administrative Code; and**
- 5. Review recommendations of the full Commission for proper placement into the Charter and Administrative Code.**

The Charter and Code Focus Group met nine times as of December, 2012.

Meeting dates:

November 11, 2011
January 14, 2012
February 16, 2012
March 21, 2012
April 4, 2012
June 13, 2012
July 17, 2012
October 3, 2012
November 15, 2012

*The minutes of those meetings are here attached as Appendix A.

Charter/Code Focus Group members also attended various meetings of other focus groups when they were addressing topics of interest to our Focus group.

The Charter and Codes Focus Group invited various present and former Westchester County Attorneys to meet with us and to respond to questions concerning whether the Charter/ Code needed to be changed in certain areas. Some specific issues addressed were:

- The appointment process
- The Status of the *Playland Commission*

We also addressed the issue of whether there should be separate attorneys for the Executive and Legislative branches of County government.

Our Focus Group met with:

Robert Meehan, Esq. March 21, 2012
Sam Yasgur, Esq. April 4, 2012
Charlene Indelicato, Esq. June 13, 2012

We also met with Joseph Stout, Former Parks Commissioner on July 17, 2012.
(At present he is the Executive Director of *Friends of the Parks*.)

During the past year, as we obtained further information about the ongoing issues that the Charter/ Code Focus Group might address, we have formulated suggestions for Charter revision and for further study.

ISSUES

1. Role of the County Attorney

Can the County Attorney adequately represent both the County Executive and the Board of Legislators when they are in disagreement on matters of law? If not, what shall be the charter change needed to address this issue? Should there be an attorney hired for the Board of Legislators? If so, should this attorney be an employee of the county or a consultant? Should there be more than one attorney hired?

Problem: Despite the requirement in the Charter that the County Attorney represent both the Executive and Legislative branches of County government, there has been a history, particularly recently, of the two branches asserting conflicting positions on Charter and Code interpretation or other matters of law. Therefore, when questions of law arise the Board of Legislators may be required to hire outside counsel to represent the Board against the County Executive's position and/or actions.

Although each former County Attorney we interviewed agreed that the County Attorney is the attorney for the County and not for only one branch of county government, our focus group may want to recommend for consideration by the full Commission amending the Charter to provide for separate attorneys for each branch of government. The rationale for such a suggestion is that there have been times when conflicts arise that make it impossible for the County Attorney to adequately advise and represent both branches of government. Currently the Board of Legislators and certain Board members have filed several lawsuits to compel the County Executive to enforce a Law passed by the County Board or to abide by the County Charter/Code. In these instances where there is a conflict between the positions of the County Board and the County Executive, the County Board has been required to hire outside counsel because the Charter does not provide for attorneys to represent the BOL in these types of matters.

Information Gathered:

Former County Executives Alfred DelBello and Andrew Spano, each addressed the entire Charter Revision Commission and former County Legislator Martin Rogowsky, addressed the Executive/Legislative focus group.

January 25, 2012 **Alfred DelBello, former County Executive,** Mr. DelBello addressed the entire Charter Revision Commission. He indicated that in his opinion, the County is the County Attorney's client and that it is the most important position in County government. He feels that the County Attorney should operate according to the Charter and not represent the County Executive or the County Board against each other.

February 28, 2012 **Martin Rogowsky, Esq., former County Legislator** Mr. Rogowsky addressed the Executive/Legislative focus group. Mr. Rogowsky essentially stated that the County Attorney should represent both the executive and legislative branches of county government, but that is not always what happens. He explained that the County Attorney owes his position to the County Executive and serves at the will of the County Executive and it is natural for him/her to favor the County Executive over the Board of Legislators. He further indicated that the County Attorney position is very powerful and whether the County Board should have their own attorneys on staff is a key issue. He believes that the County Board should be able to hire its own attorney(s).

March 21, 2012 **Robert Meehan, Esq., present County Attorney** Mr. Meehan stated that the County Attorney represents the County, not just the County Executive or just the County Board. He does not believe that the County Board should hire their own attorneys as a matter of course. He said that in some circumstances, an attorney from his office could be assigned to represent the County Board in disputes with the County Executive, however, he also said that in cases of disputes, his office could not represent one over the other. He stated that his office does work for the BOL. When the possibility of mediation of disputes between the branches was brought up, the question arose as to whether it should be advisory or binding. No recommendation was offered by Mr. Meehan in this regard.

March 29, 2012 **Andrew Spano, former County Executive** Mr. Spano addressed the entire Charter Revision Commission. He informed the Commission that Suffolk County has a model where every branch of government and every primary official has their own attorney. He also stated that it was necessary for the County Executive to work with both political parties represented on the County Board and to have open communication with the County Board. He also stated that if the County Board did not agree with the opinions of the County Attorney then the County Board should have its own counsel.

April 4, 2012 **Sam Yasgur, Esq., former County Attorney** Mr. Yasgur did not think there should be a separate attorney hired for the County Board. He stated that when he was the County Attorney and disagreements between the 2 branches of government arose he acted as a neutral buffer between the parties. He always made it clear to both branches of government that he was the attorney for the County and would interpret legal issues in the light most favorable to the County.

June 13, 2012 **Charlene Indelicato, Esq., former County Attorney** Ms. Indelicato stressed that the County Attorney has an ethical responsibility to both the County Board and the Administration. She stated that there is never an easy relationship between the County Executive and the County Board. She remembers acting as a mediator between the parties during the budget process and that she would provide guidance and information to both sides. She believes that there should be an open line of communication between the County Attorney and both branches of County government, which she does not believe exists at the present time. Also, she stressed that in providing counsel to the County Board, she required requests for assistance to come from the Chair

of the County Board or the Chairs of County Board committees rather than from each Legislator individually. In this way, the same questions were not addressed repeatedly.

Discussion:

Although the County Attorney is charged with representing the County and not one branch of government over the other, there is often an inherent conflict for the County Attorney's office when the County Executive and the County Board have different positions on matters of law or matters of Charter/Code interpretation. Disagreements can be more costly and take much longer to resolve when either branch is required to hire outside counsel.

Recommendation:

Bring to full Commission for discussion a possible change of all applicable provisions of the County Charter and Code to provide for separate attorneys for the County Board in addition to the position of County Attorney who would still represent the County,

Sections of Charter for possible change include Laws of Westchester County Chapter 158 and section 107.81, attached hereto.

*The sections of the Charter for possible change are attached as Appendix B

2. Parks District

Should a Parks District be established? Is this an effective way of delivering more for less?

Problem: Parkland and Parks and Recreation in our County are viewed by some as an unaffordable luxury even as others deem them a necessity.

Discussion:

Chapter 134 of the County Charter was amended to replace the County Recreation Commission with the Department of Parks, Recreation and Conservation. A suggestion was made to now create a separate district to address all matters related to parks. Our focus group met with former Commissioner of Parks, Recreation and Conservation Joseph Stout on July 17, 2012 to discuss the possibility of creating a Parks District (similar to the County water and sewer districts) for the purpose of cutting costs while maintain and possibly enhancing our County Parks and Recreation offerings.

In favor of Creation of a Parks District:

Quality of Life: It is anticipated that removing Parks from the General Fund will enhance the probability that parkland, conservation, and recreation opportunities will thereby be improved.

Costs to the County: If the parks were separated from the General Fund in a separate district, there would be more of an opportunity to obtain private grants and donations for the parks since any surplus would not go into the General Fund but stay within the district. In addition, the County would pay less and less for parks operations based on the receipt of more and more outside money.

According to Mr. Stout, fees collected at a variety of park venues provide 70% of the operating costs of such venues at this time and the 30% that is provided by taxes amounts to only \$35 a year per resident. He stated that this amount could be even further reduced with a separate parks district.

Against Creation of a Parks District:

A separately held and reported district could be viewed by county residents as a “new tax” and be rejected by voters since it would seem to increase their total tax bills.

Rye Playland

Even though the charter does not provide that Playland is part of the Parks Department, in reality the Parks Department is responsible for Playland’s operation and maintenance. In addition, the Playland Commission, currently included in the Charter, has not been constituted and therefore has not met in years. Ms. Indelicato, former County Attorney, informed us during her interview on June 13, 2012 that if the Playland Commission were to be revived, it would have to be done by an Act of the County Board of Legislators.

There is currently a disagreement between the County Executive and the County Board as to which branch of government has the authority to determine the future of Playland. Part of the discussion in this regard is whether the ownership and operation of an amusement park is and/or should be a county function.

Recommendation:

Bring to the full Commission for discussion as to whether the issue of creating a Parks District should be further explored and whether the Playland Commission should be reconstituted.

Sections of Charter for possible change include Laws of Westchester County Chapter 895, sections 277.131, 132, 133, 134.11, section 249.01, section 712.311, section 765.351, attached hereto.

3. Confirmation of Appointees

Problem:

The Charter does not address the issue that arises when the County Executive appoints individuals to Commissions, Committees, or positions and the County Board fails to confirm the appointment(s). What, if any, steps in the confirmation process should be added before appointees of the County Executive may serve on Committees and Commissions? When an individual serves prior to confirmation but after appointment, is that service “official”?

Discussion:

There have been instances in which appointments were made by the County Executive and the County Board failed to act on confirming the appointments. There is disagreement as to whether such appointees are properly appointed as well as whether

they may lawfully act in the capacity of the position to which they were appointed by the County Executive but not confirmed by the County Board.

Recommendation:

Bring to the full Commission for further study whether procedures should be established in the Charter to address this question, specifically whether there should be a time limit within which the County Executive must seek Board of Legislators confirmation of his/her appointments and whether there should be a time limit within which Board must confirm, or, in the event the Board fails to confirm, that the appointment(s) be deemed confirmed?

Sections of the Laws of Westchester County for possible change include section 110.21 attached hereto. There is nothing in Charter regarding procedures in confirmation process.

4. Inequitable Property Tax Rates

Should there be a countywide reassessment?

Problem: The large number of tax certiorari judgments against the County has resulted in a concomitantly large budget hole to fill.

Discussion: There has been much discussion about the need to create a level playing field for County homeowners whose property tax burdens are affected by the various localities' assessment policies and practices. From the County's perspective, the number of certiorari cases must be reduced. Many municipalities, among them Yorktown and Greenburgh, have stated that they would welcome a reassessment. The most equitable way to accomplish a local reassessment is to perform one countywide. Municipalities could assume a portion of the reassessment costs since it is expected they will gain revenue if reassessment is done.

Recommendation:

This critical issue, which was not thoroughly studied by this Focus group should be addressed by the full Commission.

Sections of Charter for possible change include Laws of Westchester County Chapters 122, 125 and 283 of the laws of Westchester County.

5. Establishment of a Permanent Charter Revision Commission

Problem: The time frame given for our Commission to complete its task was not long enough.

Discussion: The more deeply our Commission delved into the various sections of the Charter, the more aware we became of the importance and the enormity of our task. The more we learned, the more we realized there was to learn. The more we saw and began

to understand about the workings of county government and the rules that had to be followed, the more we knew there was to research. We found mandatory provisions of state and local law that made following the Charter a less precise science. If a permanent commission were established, they could develop layers of understanding and knowledge about the charter and workings of county government and their ongoing recommendations would be based on more experiential understanding and on more basic knowledge of the charter itself.

Recommendation: Bring to the full commission for further discussion and if the Commission agrees to recommend the establishment of a Permanent Charter Revision Commission. The function of this Commission should be clearly defined. The representation on the Commission should be addressed, with every effort made to appoint members who are representative of all of the diverse segments of our county.

6. Revisit 1988 Charter Revision Commission Recommendations

Some relevant 1988 Charter Revision Commission recommendations are already reflected in the Group's identified issues for possible inclusion in our recommendations. Among others, the following were called for by the 1988 Charter Revision Commission and were not accomplished. Accordingly, they are again being reviewed for inclusion in our recommendations.

- Review of Appointments provision
- Playland should be recognized as a function of Department of Parks, Recreation and Conservation, with an oversight committee

7. Review the Structure of County Government

During our deliberations we occasionally questioned whether a restructuring of Westchester County government could be accomplished in a manner that would provide for greater efficiency.

Recommendation: Do not bring to the entire commission since it is too large and too long a task for the Commission as constituted to adequately address at this time. Include the issue, however, in the report with the recommendation that it be addressed in the future.

8. Prepare a comprehensive list of all the services provided by County Government

Determine which services are mandated by another entity, which services are mandated by the county charter, and which are discretionary.

Problem: The Commission did not have a general blueprint of what all the functions of the County are and what services are provided. We did visit some facilities and we did hear from commissioners but that happened in a one by one fashion. Also, we can research each of the departments of county government on the county website. Yet, it is

important for the commission and for all of the citizens to have a full picture of all facets of county government and to also have a breakdown of which are mandated and by whom and which are discretionary.

Discussion: As the commission became familiarized with some of the functions of county government and the vast array of services the county provides, we realized that if we hadn't known about so many of these before our involvement in the commission, then there were surely many county residents who were also unaware.

There are those who would advocate for the dissolution of the county layer of government for the purported purpose of saving taxpayer dollars. Yet, as we saw the magnitude of services that are delivered at such reasonable cost, it became difficult to see how the same services could be provided at less cost if they were provided by another entity.

Recommendation: Obtain, if possible, and if not possible, then create one full, coordinated and comprehensive list of all the functions and services provided by our County Government.

Respectfully submitted,

Guy Parisi Jane Morgenstern Florence McCue

Attachments:

- Minutes of Charter and Codes Focus Group meetings;
- February 27, 2012 Template of letter to former County Attorneys inviting comment
- Letter to the Budget Department requesting information

APPENDIX A

Minutes of Meetings of the Charter and Code Focus Group

Table of Contents

<u>Meeting Dates</u>	<u>Page</u>
Minutes of November 11, 2011	2
Minutes of January 14, 2012	3
Minutes of February 16, 2012	5
Minutes of March 21, 2012	7
Minutes of April 4, 2012	9
Minutes of June 13, 2012	11
Minutes of July 17, 2012	13
Minutes of October 3, 2012	15
Minutes of November 15, 2012	17

**Meeting of the Charter and Codes Subcommittee of the Westchester County
Charter Revision Commission**

November 11, 2011 11 am

**595 West Hartsdale Ave.
White Plains, NY 10607
at the offices of the Westchester/Putnam Central Labor Body, AFL-CIO**

Attendance:

**Guy Parisi, Chair
Richard Wishnie
Stacey Dolgin-Kmetz, Esq. Counsel to the Board of Legislators
Jane Morgenstern
Anita Delgato, Esq.
Florence McCue, Esq., Vice Chair**

Excused:

Ray Belaire, Esq

None of the invited public was in attendance

A discussion was held concerning the need to define the scope of our future work. Should we become resources to the full committee as it relates to the language of the present Charter and Code? Should we do informational presentations at the beginning of full commission meetings? How would we address the updates in the methods of communication now available by virtue of increased available technology? How would we address any conflicts or redundancies or antiquated language in the charter?

We decided to draft a mission statement and goals that would inform our work for the future. The rest of the time was spent working on drafting these statements.

It was decided that Florence would type them up and submit them to the rest of the subcommittee before the next full commission meeting (on Nov. 21) in order that we would have the final document ready for that meeting.

Meeting adjourned at Noon. Next meeting date will be decided after the full Commission meeting on Nov. 21.

Respectfully submitted,

Florence McCue, Vice Chair

**Minutes of the Meeting of the Charter and Code Focus Group
of the Westchester County Charter Revision Commission**

January 14, 2012 10:00 am

595 West Hartsdale Ave.

White Plains, NY 10607

at the offices of the Westchester/Putnam Central Labor Body, AFL-CIO

Focus Group Attendance:

Guy Parisi, Focus Group Chair

Richard Wishnie, Commission Chair

Jane Morgenstern, Focus Group Member

Chris Crane, Staff

Florence McCue, Esq., Focus Group Vice-Chair

None of the invited public was in attendance.

The minutes of the last meeting on November 11, 2011 were reviewed and unanimously adopted as amended to correct the spelling of Anita Delgado's name.

Florence announced that Steve Mayo and David Menken expressed an interest in receiving communications from our Focus Group and they are now added to our membership list.

Both offered drafts of our mission statement were reviewed, amended and consolidated, and a motion was passed unanimously to adopt the amended version which is here attached.

The Focus Group decided it would be good to have our new consultant, Lester Steinman, address our group to assist us in further refining our task(s). Richard said that Les would be a good resource.

As our workload increases, we would welcome help from interns who probably could be located at local colleges. Florence will speak with Westchester Community College and Guy considered writing a letter to be sent to other schools.

We realized that much of our work will consist of assembling the recommendations of the other Focus Groups and suggesting places for inclusion in the present Charter and Code.

Our task, before the next meeting, is to review the recommendations of the former Charter Revision Commission for possible re-recommendation.

A list of the newly appointed committee chairs of the Board of Legislators was reviewed. We discussed having the committee chairs address our full Commission and/or the Focus Groups.

It was decided it would be best to refer to our Focus Group as the *Charter and Code Focus Group* since we would be focusing specifically only on one code, the Administrative Code of Westchester County.

Meeting adjourned at 11:10 am. Next meeting will be held at the County Office Building, 8th floor at Noon on February 16, 2012

Respectfully submitted,

Florence McCue
Vice-Chair

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES

February 16, 2012

Members in Attendance: Guy Parisi, Florence McCue

County Staff in Attendance: Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

Special Counsel in Attendance: Lester Steinman

MINUTES

Focus Group Chairman Parisi called the meeting to order at Noon

Synopsis of the former Charter Revision Commission's recommendations was begun. However many questions concerning the meaning of the proposals were raised. Chris provided us with a full copy of the Commission's Report.

Chris also provided a list of the provisions in the current charter that he suggests are in possible need of revision.

It was agreed that in order to facilitate Vice-Chair McCue's ongoing request for a more comprehensive breakdown of the components of the county budget and the proposed costs for each, that she should out the request into writing and ask CRC Chairman Wishnie to forward it to the correct department.

The role of the county attorney was discussed especially the issue of representation when the County Executive and the board of legislators do not agree. Who does the county attorney represent in that instance? Les Steinman suggested that we obtain input from former county attorneys as to what they see as needs for change in the Charter and Code. Stacey, Guy and Les were able to identify particular individuals to invite. The invitees would be asked what issues were confronted by them during their tenure when working with the Charter and Code. They would also be asked whether the Board of Legislators should have their own attorney. The county attorney now advises the County Executive and the Board of Legislators. The question was whether there should be a separate counsel appointed to only advise the Board of Legislators. Guy told us that he used to be counsel to the Board and that during his service the county attorney drafted legislation and was the parliamentarian.

The process of appointment and confirmation is another area that needs revision.

The Budget Director's relationship to the Board of Legislators is another area in the Charter that needs more clarity.

The Playland section: who should be in charge? The Board could reestablish the Commission.

Evaluate how the county board is treated in the charter. Review the separation and **balance of powers.**

Chairman Parisi stated that the next meeting of the Focus Group will be on March 22, 2012 at Noon in the library on the 8th floor of the county office building.

Focus Group meeting adjourned at 1:00 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES

March 21, 2012

Members in Attendance: Guy Parisi, Florence McCue, Herman Geist,
Richard Wishnie

County Staff in Attendance: Chris Crane, Melanie Montalto

Special Counsel in Attendance: Lester Steinman

Guest: Robert Meehan, Westchester County Attorney

MINUTES

Focus Group Chairman Parisi called the meeting to order at 12:15 pm

Mr. Meehan explained that the role of the county attorney is to research the law and interpret the charter and code and applicable laws.

If there are policy disputes, he does not get involved unless he is asked what laws must be followed in order to effect a policy change. His office will advise both the County Executive and the Board of Legislators how to accomplish their goals. If and when one branch of government wants to commence an action against the other, he declares a conflict and then each side would have to retain separate counsel.

When asked if he thought the Board of legislators should have their own attorneys he said no. **His real client is the county** and the county includes the County Executive and the Board of Legislators. He clarified that Stacy and Chris are not in the county attorney's office. Rather, they are hired as staff for the Board of Legislators. Although, it might be possible to assign the Board of legislators an attorney from the county attorney's office depending on the circumstances. Work for the Board has already been done by the county attorney's office.

We discussed the issue of getting to agreements in a way that will not cost the taxpayer for court actions of one branch of government against the other.

It was suggested that **mediation** might be a way to resolve differences between the County Executive and the Board of Legislators. We would have to recommend whether it would be advisory or binding.

One present issue facing the county is: When does a **commission appointment** by the County Executive become effective in the absence of an affirmative action by the Board of Legislators? Does the person serve while waiting for confirmation? Does

confirmation become automatic after a certain number of days if the board does not act?
This has to be made clearer in the Charter.

Also, the Charter calls for a **Playland Commission** when there has not been a commission in many years. The Charter states that one “shall take effect by action of the county Board”. Is this language outdated? Should it be removed from the Charter?

Mr. Meehan does not see any sections of the Charter as causing a problem for his office. Yes, he does not see the assessment legislation working at this time.

There is a penalty for late tax payments by municipalities. A 10% late fee is charged. The county sets the rate and the towns must collect late fees when appropriate.

Mr. Meehan also would like to see the Charter reflect the new tax levy.

Chairman Parisi stated that the next meeting of the Focus Group will be on April 4, 2012 at Noon in the library on the 8th floor of the county office building.

Focus Group meeting adjourned at 1:15 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES
April 4, 2012

Members in Attendance: Guy Parisi, Florence McCue, Herman Geist,

County Staff in Attendance: Chris Crane, Melanie Montalto, Stacey Dolgin-Kmetz

Special Counsel in Attendance: Lester Steinman

Guest: Sam Yasgur, Former Westchester County Attorney

MINUTES

Focus Group Chairman Parisi called the meeting to order at 12:10 pm

Mr. Yasgur explained that he often wondered if in fact the charter may be amended at the county level at all, since it was created by a state law. The doctrine of legislative equivalency states that the legislature cannot delegate it's authority to another entity. State law (the charter) shouldn't be able to be amended by anyone but the state.

Mr. Yasgur was formerly the County Attorney in /Westchester County and he is currently the County Attorney in Sullivan County. He was asked whether he thinks the Board of Legislators should have separate attorneys from the County Executive. Mr. Yasgur did not think so. He remembered acting as a neutral in any controversy involving both branches of government. He made it clear to all that he was the attorney for the county and that he had to interpret everything in a manner that was best for the county based on the law.

He stated that in Sullivan County there is no county executive, but rather a County Manager who is hired by the Board of Legislators. The county attorney's term is coterminous with the term of board members. In Westchester County the County Attorney serves at the pleasure of the County Executive.

In discussing possible charter revisions that could make for more smooth relations among branches of government, whether related to the appointment process or any other matters, he was sure that a change in the structure of government would make no difference at all. "The difference is the people", he said, "not the structure. Some people will find ways to work together for the good of the county and others will not." He felt that we could change the appointment process, but in the long run conflicts would still arise based on individuals' ability to work together.

Regarding ***Playland***, he felt that we should just look at where it fits in present day Westchester County.

Regarding the relationship between the Legislative and Executive branches, he remembered when there were formal teambuilding training that focused on county matters and forced all participants to look at the big picture. They used to call the BOL the “Big Board” and A & C the “Little Board”.

He used to be the attorney for the county in the same way as the Attorney General is the attorney for the state and the Corporation Counsel is the attorney for NYC.

The minutes of the previous meeting were approved as amended with a type-o correction changing the word “dies” to “does” at the top of page two.

Focus Group meeting adjourned at 1:10 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES
June 13, 2012

Members in Attendance: Guy Parisi, Jane Morgenstern, Richard Wishnie,
Florence McCue

County Staff in Attendance: Melanie Montalto, Stacey Dolgin-Kmetz

Special Counsel in Attendance: Lester Steinman

Guest: Charlene Indelicato, Former Westchester County
Attorney

Focus Group Chairman Parisi called the meeting to order at 12:05 pm

Ms. Indelicato, in addition to her prior service as the Westchester County Attorney, has now serves at the city manager of New Rochelle.

During her tenure as Westchester county attorney, the Board of Legislators at that time wanted a strict wall between the Co Ex's office and the BOL. She did not assign attorneys from her office to cover various departments because it was not her philosophy. When there is a conflict, the BOL may hire their own attorney(s) and they have a budget for that.

As county attorney, she had an ethical responsibility to both the BOL and the Administration. She could issue opinions to both the BOL and the Administration. It was best if the entire board came to her to make requests concerning drafting legislation, or to provide information rather than just one of the legislators or just the Chair of the legislature. It is also easier dealing with the county ex because he is only one person. The legislators might have positions or opinions different from each other.

The county attorney never has an easy relationship between the BOL and the county Executive. She did, however, act as a mediator between them during the budget process and would provide information and guidance to both when needed. Unfortunately, at the present time when the county attorney says, "no" to the BOL there is no discussion or explanation.

Ms. Indelicato was asked if there might be an institutional way (if the charter were amended) to prevent conflict between departments of government. She said no, that we presently have sections that require approval of the Board. The BOL can 2/3 vote to say "No" if the County ex wants to fire a director (for example the budget director). Notice and cause are required to remove. The term of commissioners is coterminous with the county Executive's term.

She was asked about the Appointment and Confirmation process, specifically, could committee members serve after being appointed by the County Ex but before the BOL confirms? She said that some areas of the charter are “very hazy”. The Focus group will follow up on this issue. We inquired as to where she thought the charter could be changed so it would make more sense. She did not have a response at the time but promised to get back to us.

When asked what mechanism in the charter might exist for the BOL to enforce laws they passed, she said all they could do was to sue (as is happening now). It is the BOL who appropriates money to do something, the County Executive does not.

Is the county attorney required to provide creative ways of solving disputes as part of his/her job description? No, that is not a requirement. However, the ethical responsibility of the County attorney is to give ways of solving disputes if they are possible. The county attorney is the attorney for the county Executive, for the day to day functions and questions. For the Board, the county attorney assists with information and guidance on policy and appropriations.

Regarding Playland There is a Playland Commission in the charter but it appears to be defunct. There are lots of things in the charter that don’t exist, so the BOL would have to revive it/them through legislation.

Ms. Indelicato was asked if she thought the BOL and the County Ex should be required to mediate their differences. A discussion among the attendees concluded that this was not feasible, nor an idea that could ensure success. What could be done? Ms. I said it had to be put into the court of public opinion or given to the courts. The BOL should be able to call in departments heads to discuss things. “If they can’t, it’s ludicrous”.

Problem: Legislature legislates and appropriates funding, but the County Ex. says, “No, I will not enforce this”.

A few suggestions were discussed and none received the consensus of the group. It was determined, however, that there needs to be a way designed to avoid complete deadlock in the future.

Problem: Concerning the capital budget program, there are no deadlines or time tables built into the implementation.

Ms. Indelicato was asked, should the BOL be able to initiate budget amendments to add a capital project, et al? She thought no, since they already have the authority to stop budget transfers and it would take away too much from the power of the executive.

Focus Group meeting adjourned at 1:05 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES
July 17, 2012

Members in Attendance: Guy Parisi, Richard Wishnie, Florence McCue

County Staff in Attendance: Chris Crane

Guest: Joe Stout, Former Parks Commissioner and present
Executive Director of Friends of Westchester County
Parks

Location: Westchester County Center

Focus Group Chairman Parisi called the meeting to order at 12:00 pm

The purpose of the meeting was to follow up on ideas proposed by Mr. Stout at our last full CRC meeting on June 28, 2012.

June 28, 2012 presentation by Mr. Stout:

The idea of the establishment of a parks district (similar to our county water and sewer district) was discussed. It would create a different method of funding. There would be a level, steady tax, a dedicated tax, under the county taxing authority. No park would be eliminated. There are now 28 CSEA employees left at Playland and their positions would be honored. For budget year 2012, \$34 million is earmarked in the county budget for parks and recreation and is used to maintain and service and provide salaries and benefits for employees for 50 parks without Playland. When Playland is included, income of \$183 is generated and so, we get a return of almost \$5 for each \$1 spent. \$52 is the operating budget and \$19 mil is Misc (debt service and employee benefits) for a total of \$71 million.

Today we obtained further information:

Mr. Stout said it would be beneficial to put Playland back into the County parks grouping. He thinks a parks Authority

GP: Parks are located in some districts within the county and not others. Would the “new” system of funding mean that only the towns where parks were located would be taxed?

JS: No, because all county residents could use.

RW: So, parks should be looked at differently?

JS: Yes, because other departments don’t generate fees and we receive \$183 million a year through the county parks operations. They also generate over 1,000 private sector jobs. And, there would be advantages in terms of obtaining outside funding from grants and donors.

GP: If it were a district, the \$ raised would go into the district fund.

JS: Being different from the general fund would be the biggest advantage.

RW: So, if parks generated a surplus, it would not go into the general fund.

JS: They would be enterprise funds---when a surplus, then \$ put aside for capital or charge off for Administrative fees.

JS: The county tax bill would show a breakdown of, Water, Sewer, county taxes, and Parks.

JS: The sore thumb is the amusement park. There are those who say, "Government should not run an amusement park".

Parks budget costs \$35 a year per resident, it is the least expensive way of operating it.

The Playland Commission has gone out of business.

The Parks Dept budget is \$52 mil in 2012;

\$52 mil operating budget

\$19 mil is county's debt service and employee benefits
(except for the County Center, Ice Casino, Hudson
Hills Golf Course and the amusement park)

Tax levy is \$33 million a year.

Is there any advantage to the taxpayer? No

JS: The advantage is to separate and preserve the asset. We could seek grants and legacies by shining a light on it...and for every \$1 invested, \$5 comes back.

CC: With a "special district" can charge based on property.

JS: No Enterprise Fund, No Public Benefit Corp. In Westchester County 70% of the operating budget comes from Fees and 30% from taxes. Elsewhere it is usually reversed (30% fees and 70% taxes).

JS: In 1978 the "Friends of the Parks" was created. Herman Geist was **the** "friend". Then they sent kids to two camps. It was established to raise money for the parks and to get donations. They got \$32,000 in 2003 and get \$2 million now. It is a not for profit. They run a camp for DSS foster care kids and those on public assistance. They have 60 kids in their sibling camp in the county---for kids who are separated from their siblings to go to camp together. There is a board of 25 and they are concerned that the park land will be decreased. It is a "green issue" for them.

JS: This plan could save money because of the potential for privatization.

FMc: I have concerns about the possible disappearance of union jobs. The quality of work can go down. JS: In some cases yes and in some, no. There could be a financial benefit to the county if grants and donations were increased for the parks.

Focus Group meeting adjourned at 1:10 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES

October 3, 2012

Members in Attendance: Guy Parisi,
 Florence McCue

County Staff in Attendance: Chris Crane

Focus Group **Chairman Parisi** called the meeting to order at 12:00 pm

The minutes of the June 13th, 2012 and the July 17th, 2012 meetings of the Focus Group were adopted.

We discussed how far we were toward accomplishing our mission and we reviewed the steps we planned to take in order to prepare the focus group preliminary report.

Chris reminded us that the Charter was available in 2012 Adobe pdf format.

We discussed summarizing our meetings with former county attorneys and focusing on their responses to the same three guiding questions.

We discussed where/what we might offer to the full commission for open discussion regarding *Playland*, a proposed County Parks District, and our finding that the *Playland* Commission called for in the charter has not met or even had identified members in many years.

Chris reminded us that each focus group is to submit a preliminary report by end November/beginning December

Attorneys have been assigned to each focus group to assist with the reports. **Les** will work with County and Local Government Relationships, and Executive/Legislative. **Stacy** will work with Budget and Finance and with Charter and Codes. **Chris** and **Richard** will assist where needed.

Chris suggested we review the 1988 Charter Revision commission final report to find where recommendations of present focus groups might line up in a manner similar to that submitted in 1988. He suggested we add comments in writing in the manner they were submitted in 1988, and provide code section numbers.

The Format of our preliminary report should be:

- a) Issues
- b) Discussion
- c) Recommendations

It was suggested we might get some further information on Playland from the former mayor of Rye, NY who is happy to help.

Florence agreed to have the draft of the preliminary report done by the end of November.

We discussed ideas and pros and cons of proposing a “Parks District”:

- Presently the county law does not authorize a Parks District.
- The boundaries of a parks district would be in discussion. Does it benefit the entire county? Do some parks benefit the entire county and others don't?
- By creating a dedicated fund inter-fund transfers would not be allowed when surpluses are present and needed in other areas of the budget.
- Now the Districts are Water/Refuse/Sewer. Would we even be able to create a true Parks district?
- Taxpayers and voters might see this as a “new tax” at a time when the economy is not ideal.
- Taking away the county Ex and the BOL's ability to control funds would create problems.
- Should we encourage the restarting of the Playland Commission that is already called for in the Charter?
- What about taxing the Tiki Bar? The City of Rye already does tax it. Restaurants serve a public function, just like golf courses.
- What about the “Legacy Program”?
- “Friends of the Parks” already exists.
- The BOL and Co. Ex want tourism.
- The BOL would want to retain authority to vote on various proposals.

** A further benefit analysis needs to be done before a decision on a proposal can be made.

Focus Group meeting adjourned at 1:00 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES

November 15, 2012

Members in Attendance: Florence McCue
Jane Morgenstern

County Staff in Attendance: Stacey Dolgin-Kmetz

Focus Group **Vice Chair McCue** called the meeting to order at 10:30 am at 595 West Hartsdale Ave., White Plains, NY 10607.

We began planning the layout and the outline for the focus group report.

We reviewed our mission statement and realized on how far we had come toward attaining our original goals. Some of our goals had been too broad and others had been too difficult to for us to attain. We now know that Stacey and Chris are already knowledgeable about the language and the function and the nuances of the charter and that they have been and will continue to be an invaluable resource as we move forward in our focus group tasks. We are fortunate to have Stacey as our facilitator as we prepare the initial report.

In addition to our overview of the charter, our focus group has worked on some charter issues that have surfaced as requiring further study and possible inclusion in a list of proposed charter revisions.

1. **Parks District** The possibility of the establishment of a Parks District that would include Playland. Should the District be established? Should Playland just be put back into the Parks designation? Should the Playland Commission be reestablished? Should it continue to be under the Board of Legislators' authority? How much should the County Executive accomplish on his own with regard to the proposals for redesign of Playland. Now that Playland has been ravaged by *Hurricane Sandy*, maybe we should wait until we see how much FEMA will be taking care of... What about the skating rink and the leagues that use it? Our informal conversations with elected officials have netted many suggestions big and small. One suggestion was that no matter what becomes of the structure and ownership of Playland, the beach dog park must remain. With Westchester County Medical Center, we just contract with them to provide some services. Would that be a viable alternative for Playland?
2. **Confirmation of Appointments** The process for the Confirmation of Appointments. As of now, the charter provides that the County Ex appoints and the Board of Legislators confirms. Yet, there are more steps in the process to be addressed. Should appointees act in absence of confirmation? Should

there be a time limit in which to confirm or deny? Should there be set terms for all appointees or just some?

3. **Relationship Between the County Executive and the Board of Legislators**
We discussed with former county attorneys the somewhat rocky present relationship between the executive branch and the legislative branch of county government and their suggestions for ameliorating this. We will address those suggestions in our report.
4. **Former Commission's Recommendations** We have been reviewing the Charter and Codes-type recommendations made by the former Charter Revision Commission of 1988 and whether they should be resubmitted.
5. **The Role of the County Attorney** Although each former county attorney we interviewed felt that the County Attorney is the attorney for the county and not for only one branch of county government, our focus group might want to recommend providing for separate attorneys for each branch of government. Since there have been time when conflicts arise that make it impossible for the county attorney to adequately advise everyone.
6. Our recommendations will be submitted to the full commission for discussion and possible inclusion in the final report.

Originally, Florence had agreed to have the draft of the preliminary report done by the end of this month, but Stacey thought that it was not due until the end of December. Once this is checked, Florence will have the report submitted when it is due. If there are any dissenting opinions among our focus group members, they would have the option of writing a dissenting report.

Focus Group meeting adjourned at 11:30 am.

Respectfully submitted,

Florence McCue

Regarding the relationship between the Legislative and Executive branches, he remembered when there were formal teambuilding training that focused on county matters and forced all participants to look at the big picture. They used to call the BOL the “Big Board” and A & C the “Little Board”.

He used to be the attorney for the county in the same way as the Attorney General is the attorney for the state and the Corporation Counsel is the attorney for NYC.

The minutes of the previous meeting were approved as amended with a type-o correction changing the word “dies” to “does” at the top of page two.

Focus Group meeting adjourned at 1:10 pm.

Respectfully submitted,

Florence McCue

APPENDIX B

Applicable sections of County Charter and Administrative Code

Table of Contents

<u>Laws of Westchester County</u>	<u>Page</u>
Chapter 158-Department of Law	2
Section 107.81-County Board; Employees	4
Chapter 895-Playland Commission Act	5
Article VII-Westchester County Playland Park Commission	15
Chapter 134-Department of Parks, Recreation and Conservation	17
Chapter 249-Department of Parks, Recreation and Conservation	18
Chapter 712-County-Owned Property, Use of	19
Chapter 765-Parks, Parkways and Recreational Facilities, Use Of	20
Section 110.21-County Executive; Officers and employees; appointments; term.	21
Chapter 122-County Tax Commission	22
Chapter 125-Department of Assessment	28
Chapter 283-Westchester County Tax Law	32

Chapter 158. DEPARTMENT OF LAW

Sec. 158.01. Appointment; qualifications.

There shall be a Department of Law, the head of which shall be the County Attorney, appointed by the County Executive with the approval of the County Board. He shall be an attorney admitted to practice in this state at least ten (10) years prior to his appointment. [§ 58 of the Laws of 1937, Ch. 617]

Sec. 158.11. Powers and duties.

[§ 59 of the Laws of 1937, Ch. 617; amended by Laws of 1939, Ch. 735; Laws of 1943, Ch. 710; Laws of 1951, Ch. 440; L.L. No. 9-1970; L.L. No. 6-1974; L.L. No. 12-1979; L.L. No. 16-1983; amended by L.L. No. 6-2003]

1. The County Attorney of the County of Westchester when appointed as provided in section 158.01 of this act shall have charge of and conduct all of the civil law business of the County of Westchester and its departments. He shall have charge of and conduct all legal proceedings instituted for and on behalf of or against the county and shall prepare and approve as to form, all leases, deeds and contracts of the county which are to be executed by the county executive or on behalf of the county board, also all contract bonds and/or undertakings executed to the county, and certify that the same are in proper form and properly executed. In addition, the County Attorney shall also have the authority to present criminal proceedings relating to violations of probation to the Courts in conjunction with the Westchester County Probation Department.
2. He shall be legal advisor to the County Board and to each and every board, body, commission or officer of the County of Westchester and to each and every employee of the County of Westchester as may be required by section 297.31 of the Westchester County Administrative Code. It shall be his duty to furnish to such county board, body, commission officer or employee all such advice and legal assistance as counsel and attorney in and out of court as may be required by them, or either of them. No such officer, employee, board, body, commission or department of the county shall have or employ any attorney or counsel at the expense of the county unless specifically authorized to do so by the County Board.
3. The County Attorney shall not have the power to institute any proceedings on behalf of the county, or any of its officers, unless directed to do so by the County Board or an officer, board, commission or body having power or authority under statute to direct the starting of any such action or proceeding, except a proceeding for a money judgment only where the amount involved does not exceed ten thousand dollars (\$10,000.00) exclusive of costs, or except as provided in subsection 4. hereof.
4. When an accident, occurrence or condition arises whereby circumstances affecting county buildings or property or the life, health, safety or property of the inhabitants of the county require immediate court action, which cannot await a stated or special

meeting of the County Board, the County Executive may direct the County Attorney to apply for injunctive or other appropriate relief or remedy on behalf of the county to protect its rights, interests, property and privileges. When the County Executive so directs the County Attorney to commence an action or proceeding, he shall at the same time file a report and notification thereof with the County Board.

5. Except as otherwise provided in this subdivision, the county attorney shall not be empowered to compromise, settle or adjust any rights, claims, demands or causes of action in favor of or against the County of Westchester without the previous authority of the county board or of the board, body, commission or office authorized or empowered by statute to direct or consent to such compromise, settlement or adjustment. He shall not permit, offer or confess judgment against the county or accept any offer or judgment in favor of the county for less than the amount claimed by the county, unless previously duly authorized to do so by the County Board. Notwithstanding the foregoing, the County Attorney shall be empowered to compromise, settle, or adjust rights, claims, demands or causes of action against the county for an amount not to exceed ten thousand dollars (\$10,000.00) exclusive of interest and costs without the need for authorization from the County Board or of any other board, body, commission or office. In addition, the County Attorney with the approval of the County Board of Acquisition and Contract may compromise, settle or adjust rights, claims, demands or causes of action against the county for personal injury or property damage for an amount not to exceed seventy-five thousand dollars (\$75,000.00) exclusive of interests and costs. In no event shall any inhibition contained in this section operate to limit or abridge the discretion of the County Attorney in regard to the proper conduct of the trial or appeal of any proceedings or action at law, or to deprive said County Attorney of the powers or privileges ordinarily exercised in the course of litigation by attorneys at law when acting for private clients.
6. The deputies in the department shall act generally for and in the place of the County Attorney in reference to the particular branch of work assigned to them. The County Attorney shall make an annual report at the close of each fiscal year to the County Board covering generally the work of his office, and showing the status of all actions and proceedings then pending.

Sec. 107.81. Employees.

The County Board shall appoint a clerk of the board. The clerk shall serve at the pleasure of the board. Within the appropriations available therefore, the board shall appoint other necessary board employees. In the temporary absence or temporary disability of the clerk, the Chairman of the board shall designate in writing one of the other board employees to serve as acting clerk to perform the duties of the clerk of the board, which service shall be rendered at no further or additional compensation. The clerk shall keep the calendar and records of the board in such form and manner as it may prescribe.

Chapter 895. PLAYLAND COMMISSION ACT

Sec. 895.01. Playland Commission Act as adopted by Chapter 601 of the Laws of 1983.

AN ACT authorizing the creation of the Westchester County Playland Commission and providing for its powers and duties and repealing chapter **826** of the laws of 1940 relating thereto *Editor's Note: Chapter 826 of the Laws of 1940 appeared in former Ch. 895.*

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This title may be cited as the "Playland Commission Act."

§ 2. Definitions.

As used or referred to in this act, unless a different meaning clearly appears from the context:

1. The term "Playland" shall mean the recreation park situated in the village of Rye, Westchester County, New York, including all lands and all bathing, amusement, recreation and other facilities owned by the County of Westchester, acquired by it under the designation Rye Island park.
2. The term "commission" shall mean the corporation created by section three hereof.
3. The term "board" shall mean the members of the commission.
4. The term "county" shall mean the county of Westchester.
5. The term "county executive" shall mean the executive head of Westchester county.
6. The term "commissioner of finance" shall mean the commissioner of finance in and for the county of Westchester.
7. The term "revenues" shall mean moneys received or to be received from the maintenance and operation of Playland.
8. The term "county legislature" shall mean the county legislature of Westchester county, as the said governing body now exists or may hereafter be constituted.
9. The words of the masculine gender include the feminine and the neuter and may refer to a corporation or a board or other body or assemblage

of persons.

10. The term "person" shall include a corporation or association.
11. Words in the singular number include the plural and in the plural number include the singular.

§ 3. Westchester County Playland Commission.

A corporation known as the "Westchester County Playland Commission" is hereby created for the purpose and is charged with the duty of the construction, reconstruction, control, maintenance and operation of "Playland". Such commission shall be a body corporate and politic constituting a public benefit corporation. It shall consist of nine members to be appointed as follows: (a) five members shall be appointed by the county executive of the county of Westchester, subject to confirmation by the county legislature; the term of office of the first members so appointed shall be one, two, three, four and five years respectively and expiring on the 31st day of December in the last year of the term for which they are appointed and thereafter the terms of office of the respective members so appointed shall be five years, subject nevertheless to the termination of the corporate existence of such commission; and (b) four members shall be appointed by the county legislature; the terms of office of the first members so appointed shall be two, three, four and five years respectively and expiring on the 31st day of December in the last year of the terms for which they are appointed and thereafter the terms of office of the respective members so appointed shall be five years, subject nevertheless to the termination of the corporate existence of such commission. When a person is appointed to a vacancy occurring before the term of office in which the vacancy occurs shall have been completed, such person so appointed shall hold his office for the remainder of the said term not completed by his predecessor and until another is appointed in his place. The members of the commission hereby created shall be entitled to no compensation for their services but shall be entitled to reimbursement for all expenses incurred or to be incurred in connection with the carrying out of the purposes of this act. The powers of the commission shall be vested in and exercised by a majority of the members thereof hereby created but in no event by less than five members thereof. Such commission may delegate to one or more of its members, or to its agents and employees, such powers and duties as it may deem proper. No officer, member or employee of the corporation shall receive, or be lawfully entitled to receive, any pecuniary profit from the erection, construction, reconstruction, control, maintenance and operation thereof except reasonable compensation for services rendered in effecting one or more of its purposes. Such commission and its corporate existence shall terminate by a resolution of the county legislature of the county of Westchester, or such other board or body as may be the governing authority of such county, duly adopted by a

§ 3. Westchester County Playland Commission.

majority vote of the members thereof. In the event of such termination, the same shall take effect on January first following the adoption of such resolution. It is hereby determined and declared that the commission and the carrying out of its powers and purposes are in all respects for the benefit of the people of the county of Westchester and the state of New York, for the improvement of their health, welfare, education, instruction, interest, pleasure, recreation, athletics or amusement, and that the said purposes are public purposes, and that the commission is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this act.

§ 4. Powers of the commission.

The commission shall have the power:

1. To sue and be sued.
2. To have a seal and alter the same at pleasure.
3. To acquire, lease, hold and dispose of personal property or any interest therein for its corporate purposes.
4. To adopt by-laws for the management and regulation of its affairs.
5. To appoint officers, agents, servants and employees and fix their compensation, subject, however, to the provisions of the civil service law which shall apply to the commission as a municipal corporation other than a city, and the provisions of the Westchester county charter, being chapter 617 of the laws of 1937.
6. To make contracts and incur debts and execute all instruments necessary or convenient.
7. By contract or contracts, lease or leases, concession or concessions or by its own employees, to conduct and operate such recreation park, together with such incidental structures and facilities as may be necessary, provided that no contract, lease or concession shall be for a longer period than five years from the date when it is made.
8. To erect, construct, reconstruct, maintain and operate facilities for the public not inconsistent with the use of Playland as a recreation park, and contract therefor.
9. To lease and/or grant concessions for the right to erect, construct, reconstruct, maintain, operate and/or use such facilities on such terms

and under such conditions as it shall determine.

10. To operate bath houses, bathing beaches, swimming pools, recreation facilities and parking spaces and to regulate and prescribe under proper control the use thereof.
11. To employ, and at pleasure discharge, such manager or managers, and such clerical assistants, employees, services and labor as may be deemed necessary for the accomplishing of the purposes of this act.
12. To fix, impose and collect admission fees, bathing fees, recreation fees, parking fees, rentals, concession and license fees relative to all business which may be conducted by the commission, or in any way involving the use of its facilities, and make rules and regulations which shall govern all such business and facilities and all persons and vehicles coming upon the property and/or into the park, and provide and enforce penalties and liquidated damages relative to breaches of such rules and regulations and any contracts, leases or concessions entered into.
13. To rent, buy, sell and deal in goods, wares and merchandise in any way connected with the park and facilities furnished, or to lease or grant concessions for the right to exercise such powers.
14. To give instruction in sports, games, recreations, athletics and amusements, and to lease and/or grant concessions for the right to exercise such powers.
15. To maintain and operate restaurants, cafes and other places for the serving of food and refreshments, and to lease and/or grant concessions for the right to exercise such powers.
16. To lease and/or grant concessions for the right to erect, construct, reconstruct and/or use any facilities in the park on such terms as it shall determine.
17. With the consent of any commission, board or department of the county of Westchester, and the approval of the county executive, the commission may at its election use any agents, servants, employees and facilities of such commission, board or department, paying its proper proportion of the compensation or cost.
18. To do all things necessary or convenient to carry out the purposes, duties and powers expressly given in this or any other section of this act.
19. All acts shall be by resolution adopted by not less than a majority of the members of the commission present but in no event by less than five

members thereof. A minute book shall be kept in which all such resolutions shall be recorded and such minutes shall be signed by the secretary of the commission and kept available at all times to the county legislature or any committee of such governing body and to the county executive or any of his authorized representatives.

20. The county attorney of Westchester county shall be the legal adviser of the commission.
21. No commission, department, board, officer or agency of the county of Westchester shall have any jurisdiction, control or power over any of the acts or things done by the commission, pursuant to this act, except the county legislature, the state civil service commission, and except as herein otherwise provided.

§ 5. Officers of the commission.

The chairman of the commission shall be appointed by the county executive. There shall also be a vice-chairman and treasurer who shall be appointed by the commission. The commission shall appoint a secretary who need not be a member of the commission and may also appoint such officers and employees as it may require for the performance of its duties and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The treasurer shall execute a bond conditioned upon the faithful performance of the obligation of his office, the amount and sufficiency of which shall be approved by the commission and the commissioner of finance and paid by the commission.

§ 6. Rules and regulations.

The erection, construction, reconstruction, control, maintenance and operation of Playland by the Westchester county park commission under the provisions of chapter 292 of the laws of 1922 and by the Playland authority under the provisions of chapter **826** of the laws of 1940 and the acts amendatory thereof and supplemental thereto are hereby in all respects delegated to the commission created under this act, and all of the provisions of said chapter 292 of the laws of 1922 and chapter **826** of the laws of 1940 and the acts amendatory thereof and supplemental thereto shall in all respects apply under this act except as the same may be inconsistent herewith in which event the provisions of this act shall apply. The commission shall, notwithstanding the provisions of any general, special or local law to the contrary, have the power to adopt and enforce ordinances, rules and regulations governing the use of Playland under the provisions of this act, which ordinances, rules and regulations shall be subject to the approval of the county legislature. The ordinances, rules and regulations established by the Westchester county park commission or the Playland authority shall,

§ 6. Rules and regulations.

except as the same may be inconsistent herewith or otherwise provided herein, apply to Playland until amended, supplemented or superseded by ordinances, rules and/or regulations duly adopted by the commission as aforesaid.

§ 7. Contracts.

All contracts, or orders, for work and/or material or supplies performed or furnished shall be awarded by the commission pursuant to resolution. Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure of more than \$5,000.00 shall be awarded only after bids or proposals therefor have been received pursuant to article five-A of the general municipal law. *General Municipal Law § 100 et seq.* No bid shall be accepted from, or any contracts awarded to any person or corporation who is in arrears to the commission, the Westchester county park commission or the county of Westchester upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation to the commission, the park commission or the county. Every contract involving an expenditure of more than \$5,000.00 when made and entered into as herein provided for shall be executed in triplicate, one copy of which shall be held by the commission, one copy of which shall be filed with the commissioner of finance and one copy of which shall be delivered to the contractor.

§ 8. Transfer of officers and employees.

Any municipal or county officer or employee under civil service, selected by the commission may, with the consent of the commission, board or department by which he or she has been employed, and the county executive, be transferred to the commission and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the commission. The salary or compensation of any such officer or employee shall after such transfer be paid by the commission. But notwithstanding the provisions of this act, any such officer or employee so transferred to the commission, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund, system or systems as are now prescribed by law, but during the period of their employment by the commission, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officer or employee, shall be paid by the commission; and all such officers and employees who have been appointed to positions in the service of the county under the rules and classifications of the state civil service commission shall have the same status with respect thereto after transferred to the commission as they had under their original

§ 8. Transfer of officers and employees.

appointments. The appointment and promotion of all employees of the commission shall be made in accordance with the provisions of the civil service law of the state.

§ 9. Moneys of the commission.

1. All moneys of the commission shall be deposited in the name of the commission in such bank or banks, trust company or trust companies as shall be selected by the commissioner of finance from the list of banks and trust companies as have been designated by the county legislature for the deposit of county funds and such funds so deposited are hereby declared to be county funds. Daily reports of deposits and withdrawals shall be rendered to the commissioner of finance. The moneys in such accounts shall be paid out on the check of the commission, signed and countersigned by such officers, agents and employees as it shall by resolution designate and who shall be bonded in amounts stipulated by the commissioner of finance. At the close of each month, the commission shall render to the commissioner of finance a financial statement for such month accompanied by a reconciled statement of bank balances. On the last working day of each year, the commission shall transmit to the commissioner of finance the total cash on hand representing the difference between receipts and disbursements for the preceding year.
2. The commission shall have power to arrange temporary financing prior to the receipt of revenues sufficient to meet current costs or expenses by obtaining such advances from the commissioner of finance as may be authorized by the county legislature, or by bank loans as hereinafter provided. Such advances, or loans, shall be repaid as soon as there shall be sufficient excess of cash over current obligations to permit such payment.
3. The commission shall have the power to withdraw from bank accounts and keep on hand such amounts of cash as may be required to make change and to make petty cash disbursements. Such cash on hand and such disbursements shall be reported to the commissioner of finance at the close of each month.
4. The commission shall have the power to receive and deposit in special accounts moneys from concessionaires, lessees or others and to pay on the check of the commission in the manner previously specified such amounts as are payable under the terms of contracts, leases, concessions or other agreements.
5. The commissioner of finance and his legally authorized representatives

and the legally authorized representatives of the county legislature, or the county executive, are hereby authorized and empowered, from time to time, to examine the accounts and books of the commission, including receipts and disbursements, contracts, leases, concessions and any and all other matters relating to its financial standing.

6. The county legislature may authorize, on terms and conditions to be determined by it, advances of moneys to the commission for the maintenance and operation by the commission of Playland.
7. Any bank or trust company in which moneys of the commission are deposited shall pay interest on the daily balances at the same rate which such bank or trust company would be required to pay on county deposits. All of the provisions of the county law, relating to undertakings and deposits of securities and the right of any bank or trust company to deposit collateral, shall apply to the county funds deposited by the commission in accordance with the terms of this act, and any such undertaking so given and securities deposited shall be given to and the securities deposited with the commissioner of finance of the county of Westchester.
8. Not later than the first day of October in each year the commission shall present to the county executive and the county budget director an estimate of its revenues and its costs and expenses for the next calendar year, accompanied by schedules of estimated monthly cash receipts and disbursements, showing the amount of cash required to finance the park while revenues are inadequate for that purpose. The county executive shall include such estimates and his recommendations in respect thereto in the proposed county budget for the ensuing year and when the county legislature shall adopt the county budget for such year, it shall fix the maximum amount which the commission shall be authorized to expend in such year for the park, costs and expenses, and shall either authorize the commissioner of finance to advance a specified amount to the commission for temporary financing, or shall authorize the commission to arrange such temporary financing from bank loans.

§ 10. Actions.

No civil action shall be maintained for damages or injuries to person or property or any invasion of personal or property rights of any name or nature whatsoever, whether casual or continuing, arising at law or in equity, or by the creation or maintenance of any nuisance alleged to have been caused in whole or in part by or because of any act, omission of duty, wrongful act, fault, neglect, misfeasance or negligence on the part of the commission, of any member, officer, agent, servant or employee thereof, unless same is maintained in accordance with the provisions of article four or *Editor's Note*:

§ 10. Actions.

So in original. Probably should read "of." the general municipal law. General Municipal Law § 50 et seq. Nothing herein contained, however, shall be held or construed to revive any claim or cause of action now barred by any existing requirement, or statute of limitations, nor to waive any existing limitation now applicable to any claim or cause of action against the Playland commission, the park commission, or the county, or to create any liability on the Playland commission, the park commission, or the county which does not exist by reason of the provisions of any general or special law. The place of trial of all actions or proceedings against the commission, the park commission, or the county, or any member, officer, agent, servant or employee thereof shall be the county of Westchester.

§ 11. Limitation of liability.

Neither the members of the commission, or any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance and/or operation of the park and/or from carrying out any of the powers expressly given in this act.

§ 12. Annual report.

The commission shall submit to the county executive and the county legislature, on or before the first day of February in each year, a detailed report setting forth the operations and fiscal transactions of the commission during the preceding calendar year, the financial condition of such commission and a statement of all receipts and expenditures during such year.

§ 13. Title not affected if in part unconstitutional or ineffective.

If any section, clause or provision of this act shall be held unconstitutional, or be ineffective in whole or in part, to the extent that it is not unconstitutional, or ineffective, it shall be valid and effective and no other section, clause or provision shall, on account thereof be deemed invalid or ineffective.

§ 14. Inconsistent provisions in other acts superseded.

In so far as the provisions of this act are inconsistent with the provisions of any other act, general, special or local, the provisions of this act shall be controlling.

§ 15. Officers and employees not to be interested in transactions.

It shall be a misdemeanor for any of the members of the commission, or any officer, agent, servant or employee thereof, employed or appointed by them, to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract which the commission is empowered by this act to make.

§ 16. Chapter 826 of the laws of 1940 is REPEALED.

§ 17. This act shall take effect immediately and the commission created hereby shall come into existence upon the taking effect of an act of the Westchester county legislature adopting the provisions hereof.

Article VII. Westchester County Playland Park Commission

Sec. 277.131. Board established.

[Added as § 277.131 by L.L. No. 12-1980]

1. There shall be a Westchester County Playland Park Commission consisting of seven members, to include:
 - a. Four members who shall be residents of the county to be appointed by the County Executive subject to confirmation by the County Board;
 - b. Three members who shall be residents of the county to be appointed by the Chairman of the County Board subject to confirmation by the County Board. One of these members shall also be a resident of the City of Rye.
2. The members of the Westchester County Playland Park Commission shall, at the first meeting of each year or when a vacancy exists, elect a Chair-person.
3. The members of the commission shall receive no compensation for services but shall be entitled to reimbursement for their reasonable and necessary expenses incurred in the performance of their duties within any appropriation made for such purpose.

Sec. 277.132. Powers and duties of commission.

[Added as § 277.141 by L.L. No. 12-1980]

1. Hold meetings of its members at such time and place as the members of the commission shall determine;
2. Render advisory assistance to the operator of Playland Park, the Executive and Legislative branches of County government with respect to the enhancement (master) planning process;
3. Recommend to the executive and legislative branches of county government the method of selection of organization(s) to work on the enhancement (master) plan of Playland Park. Any organization that is awarded a consulting contract to work on the enhancement (master) plan will not be allowed to implement the aforesaid enhancement (master) plan. The operator will participate with consultant(s) in the development of the physical enhancement (master) plan including the provision of all relevant data collected by the operator during the assessment phase.

Sec. 277.133. Effective date.

[Added as § 277.151 by L.L. No. 12-1980]

This local law shall take effect immediately and shall expire on December 31, 1982, or, upon the implementation of a long-term management agreement between the county and the selected operators of Playland Park, however, subject to any further action by the Board of Legislators.

Ch 134. DEPARTMENT OF PARKS, RECREATION AND CONSERVATION

Sec. 134.11. Definitions.

[Added as § 50-b by the Laws of 1961, Ch. 679]

As used in this article, unless another meaning is clearly indicated by the text:

1. The term "park" or "parks" shall mean and include all public parks, parkways, boulevards, beaches, water rights, playgrounds, athletic fields, recreation centers, open spaces, and areas publicly owned and acquired for the conservation of natural resources, including all buildings, structures, equipment and appurtenances, also entrances and approaches thereto, and streets, roads, docks and bridges between, to, in, through or connecting such park or parks and parts thereof, and such other rights and appurtenances as the department shall utilize for its purposes, whether the same be now or hereafter owned or acquired in fee or otherwise by the county, or under the care and control of the county by lease, or otherwise, for park purposes, with the exception of **Playland Park**.

Ch 249. DEPARTMENT OF PARKS, RECREATION AND CONSERVATION

Sec. 249.01. Supplemental definitions.

[Added as § 211 by the Laws of 1961, Ch. 679]

Wherever used in this chapter, unless the context or subject matter otherwise requires:

1. The term "park" or "parks" means and includes all public parks, parkways, boulevards, beaches, water rights, playgrounds, athletic fields, recreation centers, open spaces and areas publicly owned and acquired for the conservation of natural resources, including all buildings, structures, equipment and appurtenances, also entrances and approaches thereto and streets, roads, docks and bridges between, to, in, through or connecting such park or parks and parts thereof and such other rights and appurtenances as the department shall utilize for its purposes, whether the same be now or hereafter owned or acquired in fee or otherwise by the county, or under the care and control of the county by lease or otherwise for park purposes, with the exception of **Playland Park**.

Ch 712. COUNTY-OWNED PROPERTY, USE OF

Sec. 712.311. Preservation of trees, shrubs and grass.

[Act No. 74-1967, § 229, eff. 1-2-1968; amended by L.L. No. 9-1994 *Editor's Note: This local law provided that it become effective 1-1-1995.*]

No person shall destroy, cut, break, deface, mutilate, injure, disturb, sever from the ground, take or remove any plant, flower, flower bed, shrub, tree, timber, growing thing, plant growths or any branch, stem, fruit or leaf thereof located on County-owned property except County-owned park property, including **Playland Park**; discard, abandon, pile or maintain any material or debris of any kind against or upon the same; or attach any rope, cable or other contrivance thereto; or set fire or assist another to set fire to any timber, trees, shrubs, plants, flower, grass or a plant growth; or suffer any fire upon other land to extend onto County-owned property; or hitch any horse or other animal to or leave the same standing near enough to injure any tree, shrub, lawn, grass, plot or planted area; or go upon the same, except at such times when permission to do so shall have been given by the County Executive or his authorized representative to the public. Before granting or denying such permission with respect to the activities specified in section 712.314 of this chapter, the County Executive or his authorized representative shall refer the matter to the County Planning Board for its recommendation.

Ch 765. PARKS, PARKWAYS AND RECREATIONAL FACILITIES, USE OF

Sec. 765.351. Preservation of trees, shrubs and grass.

[Gen. Ord. No. 5, § 36, eff. 1-1-1979; amended by L.L. No. 18-1993]

No person shall destroy, cut, break, deface, mutilate, injure, disturb, sever from the ground, take or remove any plant, flower, flowerbed, shrub, tree, timber growing thing, plant growth, or any branch, stem, fruit or leaf located in any park, including Playland Park; or discard, abandon, pile or maintain any material or debris of any kind against or upon the same; or attach any rope, cable or other contrivance thereto; or set fire or assist another to set fire to any timber, trees, shrubs, plants, flowers, grass or plant growth, or suffer any fire upon other land to extend onto any park; or hitch any horse or animal to or leave the same standing near enough to injure any tree, shrub, lawn, grass plot or planted area; or go upon the same, except in designated areas and at such times when permission to do so shall have been given by the commissioner. Before granting or denying such permission with respect to the activities and items specified in section 765.354 of this chapter, the commissioner shall refer the matter to the County Parks, Recreation and Conservation Board for its recommendation.

Sec. 110.21. Officers and employees; appointments; term.

The County Executive shall appoint to serve at his pleasure, except as otherwise provided in this act, and subject to confirmation by the County Board, the head or acting head of every department and office, the Chairman of the County Tax Commission and members of county boards and commissions. He may with the approval of the County Board act as head of one or more departments or with like approval appoint one head for two or more departments. Subject to confirmation by the County Board, the County Executive shall appoint a Commissioner of Human Resources as provided in section 179.21 of this act and a Real Estate Director as provided in section 170.01 of this act, and may appoint in his own office a Deputy County Executive to assist him in his administrative duties. The County Executive shall also appoint without confirmation by the County Board such other employees of his own office as may be authorized by the County Board. Appointments made by the County Executive shall be on the basis of the training and experience of such appointees in the work which they are to perform.

Chapter 122. COUNTY TAX COMMISSION

Sec. 122.01. Executive Director; appointment and term.

[§ 29 of the Laws of 1937, Ch. 617; amended by the Laws of 1938, Ch. 303; Laws of 1940, Ch. 559; L.L. No. 4-1971; L.L. No. 3-1979]

There is hereby created the Office of Executive Director of the Tax Commission. He shall be appointed by the County Executive subject to the approval of the Board of Legislators. He shall have the same professional standards and shall be entitled to the same term as a Real Property Tax Service Agency Director, as stated in the New York State Real Property Tax Law.

Cross references—Department of Assessment, Ch. 125; Westchester County Tax Law, Ch. 283.

Statutory references—Real property tax, Real Property Tax Law; State Commissioner of Taxation and Finance, Tax Law, § 170 et seq.

Sec. 122.11. Powers and duties of Executive Director.

[Added as § 29(a) by L.L. No. 3-1979]

Subject to law and the provisions of this act, the Executive Director shall:

1. Examine the assessment rolls for state and county taxes of the several tax districts in the county for the purpose of ascertaining whether valuations in one tax district bear a just relation to the valuation in all the tax districts in the county.
2. Examine the assessment rolls of the several cities in the county, for the purpose of ascertaining if real estate is assessed at a higher or lower valuation for state and county taxes than it is for city taxes.
3. Make a study and survey of the mode of assessment employed in determining the value of real property for such purpose.
4. Confer with and inform local assessors as to their duties in respect to the valuation of real property for tax purposes.
5. Adopt and administer a uniform criteria of assessment procedures.

Sec. 122.21. Services provided by Executive Director.

[Added as § 29(b) by L.L. No. 3-1979]

In addition, the Executive Director shall provide the following services to all cities, towns and villages within the county.

1. Provide upon request advisory appraisals to cities and towns as required by Section 1536 of the New York State Real Property Tax Law.
2. Advise the assessors on procedures for the preparation and maintenance of assessment rolls, property record cards, appraisal cards and other records and documents relating to real property assessment and taxation.
3. Cooperate and assist in the training programs provided by the State Board of Equalization and Assessment.
4. Provide coordination of all assessment improvement programs, on a request basis.

Sec. 122.31. Tax Commission.

[§ 30 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

The Tax Commission shall consist of five members to be appointed by the County Executive with the approval of the County Board. The term of office of the members of such commission shall be five years except that of those first appointed, one shall be appointed for a term of one year, one for two years, one for three years, one for four years and one for five years as designated by the County Board. The terms of office of the present members of such commission shall expire at the end of the calendar year in which their terms would otherwise expire and thereafter appointments shall be so made that they will expire five years from the date of expiration of the term of the member whose place is being filled. One member shall be designated by the County Executive to be the Chairman of the Commission. Two of such members shall be residents of cities in the county for at least five years prior to their respective appointments; two of such members shall be residents of the county, other than cities, for at least five years prior to their respective appointments; and one member shall be a resident of the county for at least five years prior to his appointment. At least two commissioners shall be chosen from the political party polling the highest number of votes and at least one commissioner shall be chosen from the political party polling the next highest number of votes for governor at the last gubernatorial election. Not more than three members of the commission shall be of the same political faith. If the commissioner residing in a city shall remove from that city, except to another city in the county, the office of such commissioner shall become vacant; and if the commissioner residing in that portion of the county outside a city removes therefrom, the office of such commissioner shall become vacant. A vacancy in the commission occurring otherwise than by the expiration of term, shall be filled by appointment by the County Executive with the approval of the County Board for the unexpired term of office of the commissioner in which the vacancy occurs. Members of the commission shall receive and be entitled to receive all reasonable expenses actually incurred in the performance of their duties.

Sec. 122.41. Powers and duties of Tax Commission.

[Added as § 30(a) by L.L. No. 3-1979]

Subject to law and the provisions of this act, the commission shall have the following enumerated powers and duties:

1. To hold public hearings at convenient points throughout the county, to take testimony under oath or otherwise, and to advise the Executive Director in writing as to the results of such hearings.
2. To serve as a review board so as to provide local assessors or municipalities a review of any standards and procedures established by the Executive Director and to render a decision which may either uphold the Executive Director, overrule him or with the consent of both parties modify the standards and procedures established by him. Such review and determination by the commission is a required administrative procedure prior to the commencement of a court action and is binding upon the Executive Director.
3. To serve as a review board to hear presentations by the Executive Director with regard to the failure or refusal of any city, town or village to implement uniform standards and procedures consistent with the New York State Real Property Tax Law and to make a determination based upon all of the evidence. The determination may order that the city, town or village immediately install uniform standards and procedures and upon failure so to do may direct the Executive Director to do so and to charge the cost thereof to the offending city, town or village.

Sec. 122.51. Uniform standards of assessment administration.

[§ 31 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

It shall be the duty of the Executive Director to adopt and administer uniform standards for assessment administration consistent with New York State Real Property Tax Laws. In order to accomplish such uniform standards, as required by subsection 122.11 5. of this article, the Executive Director shall serve upon the Assessor or the Board of Assessors of each city, town and village in the county a copy of such standards of uniform assessment administration. After such criteria of uniform standards of assessment administration have been served upon each Assessor or the Board of Assessors, the Executive Director of the Tax Commission shall visit each city, town and village in the county to determine whether or not such uniform standards are being employed by the Assessor or the Board of Assessors for the purpose of assessing real property in its jurisdiction. The Executive Director and the Tax Commission shall from time to time, and where necessary, hold hearings in any such city, town or village upon written or printed notice to be posted in not less than two public places in such city, town or village. Such notice to be posted at least 15 days before such meeting. In case the assessors in any city, town or village shall fail or refuse to employ the uniform standards in the preparation of assessment

rolls and that fact shall be established to the satisfaction of the Tax Commission, the Executive Director may install such uniform standards therein and the cost thereof shall be advanced by the county in the first instance and included in the next subsequent levy of county taxes against such city or town and in the event that it is a village that has failed to comply, the county may send a bill to such village for the services rendered therein.

Sec. 122.61. Equalization of assessments.

[§ 32 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

There is hereby assigned to the Tax Commission all the jurisdiction, functions, powers and duties of the Board of Legislators and of the Clerk of the Equalization Committee relating to equalization of assessments. The commission shall adopt the latest available state equalization rates for the purpose of ascertaining the valuation of property in each tax district. After adopting the latest available state equalization rate the commission shall determine the full valuation of all property in the county. Thereafter the commission shall determine the percentage of total tax to be paid by each tax district. A written copy of these tables and work sheets shall be filed with the State Board of Equalization and Assessment and a copy of the tables shall be published in the proceedings of the Board of Legislators. Such tables shall also be published in the annual report of the State Board of Equalization and Assessment. On or before the 20th day of December in each year the Commission shall file with the Clerk of the County Board and with the County Executive their report on equalized evaluations in each tax district together with the percentage of total tax to be paid by each tax district and such reports shall be binding and conclusive on the County Board as an equalization of the assessment of real property for such year. No such equalization shall be effective, however, without the concurrence of at least three members of the commission.

Sec. 122.71. Appeal to State Board of Equalization and Assessment.

[§ 33 of the Laws of 1937, Ch. 617; amended by the Laws of 1938, Ch. 303; Laws of 1943, Ch. 559; L.L. No. 3-1979]

The chief executive of a city, town or village, upon behalf of the municipality which he represents may appeal to the State Board of Equalization and Assessment from any act or decision of the Westchester County Tax Commission or its Executive Director with respect to the standardization procedure of assessment administration and the correction of assessment rolls after such appeal is first presented to the Westchester County Tax Commissioner for review. If such appeal is brought on behalf of a town, the majority of the town board of such town shall first consent to the bringing of the appeal. If such appeal is brought on behalf of any other municipality, the majority of the legislative governing body of the municipality shall first consent to the bringing of the appeal. Such appeal shall be brought within ten days after the adoption of the act apportioning the general tax levy against the various municipalities by filing in the office of the County Clerk, the Clerk of the County Board, County Tax Commission and the State Board of Equalization and Assessment a notice of the appeal with such consent endorsed thereon or attached thereto, together with the affidavit of the mayor or supervisor, as the case may be, stating that in his opinion injustice has been done to such city, town or village by the act and decision which the appeal is brought. A duplicate copy of such notice, consent and

affidavit also shall be served personally or by mail upon the County Executive and the State Board of Equalization and Assessment.

Sec. 122.81. Correction of clerical errors in county equalization.

[Added as § 33(a) by L.L. No. 1-1971; amended by L.L. No. 3-1979]

If it appears to the County Board of Legislators that a clerical error has been made by the commission and that by reason of such error injustice has been done to one or more cities and towns and that two years have not elapsed since the equalization, the error may be corrected by the County Board of Legislators. If the equalization cannot be corrected before county taxes, including county district taxes and judicial or other taxes due the state, are levied on the basis thereof, such board shall determine the amount of county taxes, including county district taxes and judicial and other taxes due the state, paid or payable by any such city or town under the equalization in excess of or less than that which such city or town would have paid under such equalization as corrected. The excess shall be subtracted, or the deficiency added, from or to the next county tax levy, including county district levies and judicial or other levies due the state in such city or town as the situation may require.

If the equalization cannot be corrected before taxes or other charges for districts lying in more than one city or town are levied on the basis thereof, and such taxes or other charges are levied by taxing jurisdictions other than the county, the County Board of Legislators shall notify the municipalities involved of the corrected equalization rate which shall be used to apportion such taxes pursuant to section 283.201 of the Westchester County Administrative Code, and of the amount of such taxes or other charges paid or payable by any such city or town under such equalization in excess of or less than that which such city or town would have paid under such equalization as corrected, and the excess shall be subtracted or the deficiency shall be added from or to the next levy in such taxing jurisdiction as the situation may require for correction as provided by law.

Sec. 122.91. Annual conference of assessors.

[§ 34 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

The Executive Director shall annually call a conference of the assessors of the tax districts of the county to meet with the director and/or commissioners at a time and place designated by the Executive Director, for the purpose of considering matters relating to taxation. Each assessor shall be entitled to the same per diem compensation now authorized by law for each day actually engaged in such conference and also to all traveling expenses actually incurred, payable by the particular tax district which he represents, but no additional compensation, other than expenses, shall be allowed or paid to any assessor who is paid an annual salary for his services.

Sec. 122.101. Reports.

[§ 35 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

The Executive Director on or before the twentieth day of December in each year, shall file with the Clerk of the County Board and with the County Executive, a report of his office together with his recommendations. Such report shall contain such information as the County Executive or the Board of Legislators may require.

Sec. 122.111. Transfer of powers to Department of Assessment.

[§ 36 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

At such time as the provisions of Article VII of this act become fully effective in the county, the County Tax Commission shall be abolished and its powers and duties transferred to and so far as applicable shall be exercised and discharged by the Department of Assessment, in accordance with the provisions of Chapter **125** hereof.

Chapter 125. DEPARTMENT OF ASSESSMENT

[This chapter is inoperative unless and until the proposition provided for in § 125.01 is adopted.]

Sec. 125.01. Vote on creation of Department of Assessment.

[§ 37 of the Laws of 1937, Ch. 617; amended by the Laws of 1942, Ch. 624]

At any general election following the adoption of this act there may be submitted to the electors of the county by act of the County Board in the manner hereinafter provided the question, "Shall there be a County Department of Assessment?" If the vote thereon, in accordance with the provisions of Article 9 of the Constitution, shall be in the affirmative, the subsequent provisions of this article shall become effective in the county. If a majority of the votes cast thereon as above provided, be in the negative, the same proposition may be submitted at any subsequent general election, but not more frequently than once in two years. Such question shall be so submitted if a petition praying its submission and signed by resident electors of the county qualified to vote at the last preceding general election equal in number to five percent of the total vote cast in such county for the office of governor at the last general election at which a governor was elected is filed with the officer or board having jurisdiction of elections in such county not less than 60 days prior to the general election at which it is to be submitted.

Sec. 125.11. Department established. [§ 38 of the Laws of 1937, Ch. 617; amended by the Laws of 1940, Ch. 559]

There shall be a Department of Assessment, the head of which shall be the Commissioner of Assessment, who shall also be the County Assessor. He shall be appointed on the basis of his knowledge of the principles and methods relating to the valuation and assessment of property for the purpose of taxation and of his executive and administrative experience, pertaining to the duties of the office. His term of office shall be for six years, to expire at the end of the calendar year.

Cross references—County Tax Commission, Ch. 122; Westchester County Tax Law, Ch. 283.

Statutory references—Real property tax, Real Property Tax Law; State Commissioner of Taxation and Finance, Tax Law, § 170 et seq.

Sec. 125.21. Powers and duties of the department.

[§ 39 of the Laws of 1937, Ch. 617]

It shall be the duty of the County Assessor to assess all property other than special franchises, situated in the county and liable to taxation for state, county, city, town, village, school district and special district purposes in accordance with the following provisions:

1. The County Assessor shall formulate and adopt such rules and regulations for the guidance of his deputy assessors as will establish a uniform and equitable system for assessing all classes and kinds of property for the purposes of taxation. When the rules and regulations have been adopted, they shall be made available in printed form to any taxpayer of the county upon application to the County Assessor;
2. He shall have the right to demand that all applications for building permits shall be filed in duplicate with such officers as are authorized to issue building permits in the county or any town, city or village therein, and such officers shall, not less frequently than once a month, deliver to the County Assessor a copy of such applications;
3. He shall have the right to demand that an abstract of all conveyances and mortgages on real property shall be delivered not less frequently than once a month by the County Clerk and/or Register to the County Assessor;
4. The County Assessor shall be responsible for the preparation of an assessment roll or rolls for each town, city, village, school and all special districts in the county as required by the General Tax Law or any special law and in accordance with the rules of the State Tax Commission for said county, town, city, village, school and special district purpose. The County Assessor shall divide the county into assessment districts and shall have the power to appoint such deputy assessors as the County Executive may deem necessary within the appropriations therefor. He shall assign and reassign one or more deputies to each district and shall supervise and direct their work in accordance with the regulations adopted by him;
5. Upon the completion of the assessment roll, one or more copies of so much of said roll as affects (a) each city and any special districts therein, (b) each village and any special districts therein, (c) each town and the school districts and all special districts therein, whether such school or special districts lie wholly or partly within such city, town or village, shall be placed on file in one or more public places in such city, village or town. The County Assessor shall forthwith cause to be published in a newspaper of general circulation in each such city, village and town a notice stating that the roll has been completed, designating the places where the several portions of the same have been placed on file and where they may be examined during business hours every business day and at least one evening each week for not less than two weeks and giving notice of the times and places not less than 21 nor more than 30 days after the date of such publication, at which any person aggrieved by the assessment may appear and be heard in relation thereto;
6. The County Assessor shall perform such duties not inconsistent with those enumerated herein as may be required by the County Executive or the County Board;
7. He shall perform all other duties of local assessors by whatever title they are now designated under the laws of this state not inconsistent with the provisions of this act.

Sec. 125.31. Assessment in separate tax districts to be shown.

[§ 40 of the Laws of 1937, Ch. 617]

The County Assessor, in addition to the requirements contained in the General Tax Law, shall make the assessment roll in such form that each separate city, town, village, school district and special district is shown thereon either by proper subdivision of the assessment roll or by separate columns therefor, or by both of such methods, and whenever necessary, make an apportionment of the assessment of the property between or among the tax districts in which such property is located.

Sec. 125.41. Completion of assessment roll.

[§ 41 of the Laws of 1937, Ch. 617]

The assessor shall complete the assessment roll or rolls on or before the first day of July in each year and shall provide in the notice stating that the rolls have been completed and where they may be examined, and that the board or boards of review will meet at a certain time or times and place or places to review the assessment.

Sec. 125.51. Duration of assessment roll.

[§ 42 of the Laws of 1937, Ch. 617]

The assessor shall on or before the first day of November in each year file the new corrected assessment roll with the County Board and copies of so much of said corrected assessment rolls as affects each city, village and town and the school district and all special districts lying wholly or partly therein with the said local units and thereafter such assessment roll shall be used for all purposes of taxation within such local units until a new assessment roll shall be filed in the following year and all taxes to be levied for the next ensuing fiscal year shall be levied and extended and carried out on the assessment rolls so filed with such local units.

Sec. 125.61. Special franchise assessment.

[§ 43 of the Laws of 1937, Ch. 617]

The State Tax Commission shall file with the County Assessor the statement of the equalized valuation of special franchises within the county as fixed by the State Tax Commission in accordance with the provisions of the Tax Law and the valuation of such franchises so fixed and determined shall be apportioned among the several tax districts according to the provisions of the statute in relation thereto and the County Assessor shall enter such apportioned valuations upon the assessment rolls for the several tax districts.

Sec. 125.71. Office of local assessors abolished.

[§ 44 of the Laws of 1937, Ch. 617]

The offices of assessor, board of assessors and tax commissioners in all cities, towns, villages, school districts and special districts in the county are abolished as of December 31, of the second year immediately succeeding the election at which this article is adopted, and all powers and duties of the said offices, except as they may be inconsistent with the provisions of this act, are

thereupon transferred to the County Assessor. All records whatsoever of any of such offices relating or pertaining to assessment or assessment procedures shall be transferred and delivered to the County Assessor by each such office immediately upon the completion of the assessment roll of each said office during the second year immediately succeeding the election at which this article is adopted, provided that the County Assessor shall thereafter make available to any local unit of government within the county for the purpose of certiorari or other proceedings such records pertaining to the assessment roll of any such local unit of government as may be necessary for the purpose of any such proceeding or action.

Sec. 125.81. Tax rolls of local units.

[§ 45 of the Laws of 1937, Ch. 617]

The assessment rolls made and completed during such second year immediately succeeding the election at which this article is adopted, in or for any local unit of government within the county shall be the assessment roll upon which taxes are levied and collected by such local unit of government for the next fiscal year, such rolls, however, are to be made up under the direction and supervision of the County Assessor.

Sec. 125.91. Review of assessments.

[§ 46 of the Laws of 1937, Ch. 617]

The County Board shall by act establish a method of procedure designed to insure prompt and equitable determination of applications for the review or correction of assessments, which act shall, among other things, provide that hearings for the review or correction of assessments shall be held at convenient places within the county and which shall further provide a method for fair and equitable apportionment of tax liens as between the county and/or the respective local units of government within the county.

Chapter 283. WESTCHESTER COUNTY TAX LAW

Sec. 283.01. Short title; definition.

[§ 521 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. This chapter shall be known as the "Westchester County Tax Law," and provides for the assessment of property and the collection of taxes and assessments in the several towns of Westchester County and in the special tax and school districts in such towns and for the payment of certain taxes to the county by such towns and provides also for the sale and transfer of tax liens for such unpaid taxes and assessments and for the foreclosure of such transfers of tax liens.
2. The term "state board" as used in this chapter, means the State Board of Equalization and Assessment, as established by law.

Cross references—County Tax Commission, Ch. 122; Department of Assessment, Ch. 125; tax exemption for senior citizens, Ch. 470.

Statutory references—Real property tax generally, Real Property Tax Law; State Commissioner of Taxation and Finance, Tax Law, § 170 et seq.; State Board of Real Property Services, Real Property Tax Law, § 200 et seq.

Sec. 283.11. Filing map.

[§ 522 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The town board of each town shall prepare and file an assessment map, as hereinafter required, to be approved by the state board. One complete copy of such map, corrected as may be necessary from time to time, shall always remain on file in the office of the town clerk or receiver of taxes of each town, and another copy thereof, corrected as aforesaid, shall be continuously kept by the Board of Assessors.

Sec. 283.21. Districts and parcels to be designated.

[§ 523 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The assessment map shall show every separate parcel of land in each town, incorporated village, school district, tax and assessment district, now created, or hereafter to be created therein, on a scale of not less than six inches to the mile, as to farm lands, and with the separate sheets whenever necessary on a scale of not less than 50 feet to the inch, as to villages, incorporated and unincorporated, lot subdivisions and closely settled portions of the towns, on which map shall be shown each road, railroad, bridge, lake, pond, river, watercourse, marsh and other physical characteristics so far as is practicable. Approval of such map or maps heretofore or hereafter given by the appropriate state agency shall be conclusive evidence of compliance with this section.

Sec. 283.31. Special requirements of map.

[§ 524 of the Laws of 1948, Ch. 852]

The map to be so prepared shall show the boundaries of each village, school district and tax district or portion thereof within the town, and so far as practicable, each building or group of buildings.

Sec. 283.41. Engineer to be employed.

[§ 525 of the Laws of 1948, Ch. 852]

The town board of each town may employ and pay a competent engineer who may be but need not be the town engineer at an agreed compensation to aid and assist it in preparing such assessment map and corrections thereof, with authority to make and prepare as many copies thereof as may be needed, in one or more sheets, and in a size of not less than 12 inches by 18 inches. In the event the person employed by the town as its town engineer under the Town Law is employed to make such Assessment Map, he may be paid therefor such compensation as may be agreed upon. In the preparation of such a map, the town board shall not be limited in the matter of compensation to the provisions of the Town Law.

Sec. 283.51. Payment for maps.

[§ 526 of the Laws of 1948, Ch. 852]

The town board of each town is hereby authorized and directed to raise by taxation or pursuant to the Local Finance Law, the amount of money required for the making and preparing of such assessment maps and such moneys shall be paid out by the supervisor of such town upon the voucher or draft usually used and employed in such town for the payment of funds, after the expenses shall have been properly approved by such board.

Sec. 283.61. Description of parcels.

[§ 527 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. The board of assessors of each town shall assist the engineer employed by the town board to prepare such assessment map as to the manner of designating the various parcels set forth on said map and shall assist such engineer, within their respective towns, to enter upon each map the boundary line of each farm or lot separately assessed by them, giving each lot or parcel separately assessed by them a distinct and separate assessment number, showing thereon, as nearly as they can learn or ascertain, the area of each farm or lot, with the name, wherever practicable, as nearly as they can learn or ascertain it, of the owner or reputed owner thereof, and also, as nearly as can be ascertained, the distance in feet of the frontage of each separately assessed lot, parcel or farm of land on the highway.
2. In case any municipality or tax district situated in whole or in part within the town has adopted an assessment map, such map may, with the approval of the state board, be adopted so far as it

describes the taxable parcels in such municipality or tax district as the official map of such town to that extent. The map or maps prepared for each town shall be certified by the town board thereof as correct, which map shall be corrected and rectified by such Town Board from time to time, and the several town boards are hereby authorized to incur the necessary expense therefor as a town charge.

Sec. 283.71. Board of Assessors, compensation and expenses.

[§ 528 of the Laws of 1948, Ch. 852]

Except as hereinafter provided, there shall be a board of assessors in each town, who shall be appointed in the manner prescribed by law, from time to time, for the appointment of town assessors, which board of assessors shall make and prepare all assessment rolls for the purpose of taxation within their respective towns, whether for state, county, town, special tax district or school district purpose or purposes, and who shall hold office as prescribed by law from time to time, in reference to town boards of assessors. Before entering upon their duties such board of assessors shall, except as hereinafter provided, organize by electing one of their number chairman and may, with the approval of the town board, appoint a secretary; or the town board may, if it so determines, appoint the chairman who, in addition to his regular duties, shall perform such services in connection with the assessment and taxation of property for state, county and town purposes as the town board shall direct. The town board shall fix the compensation of the person whom it designates chairman of town assessors for all services rendered to the town, both as town assessor and as chairman. The compensation of such assessors shall be fixed by the town board of each town within the county, and the town board shall fix the compensation of such secretary, which may be fixed at the same time when the salaries of such assessors are fixed, which compensation and salaries shall be in full compensation and in lieu of all fees of any kind or character and such compensation shall be a town charge. The town board may allow as a town charge the reasonable and necessary expenses of the assessors incurred in the performance of their duties, and the town board may also designate or rent an office for the board of assessors, which rent shall be a town charge. The assessors shall be residents of the town, but not necessarily residents of any other tax district for which they may be required to make an assessment.

Sec. 283.81. Appointment of one assessor and establishment of a Board of Review.

[§ 529 of the Laws of 1948, Ch. 852; amended by the Laws of 1959, Ch. 148]

1. The town board of any town in the county may by unanimous vote determine by resolution that after the 31st day of December of the year when such resolution is adopted there shall be but one assessor for such town to be appointed as provided by this section, instead of the appointed board of assessors of such town. Upon the adoption of such resolution, the term of office of the assessors of such town then in office shall terminate on the last day of that year, and no successors shall be appointed in their places. In such a town during the month of December of such year, the town board shall appoint a resident of the county as the assessor for such town who shall take office the first day of January of the following year and who shall serve at the pleasure of such town board or for a fixed term not to exceed two years as determined by resolution of the town board, at such salary as may be fixed by such board to be

paid as other town salaries are paid. A deputy assessor to such assessor and subordinates may be appointed by such town board to serve at the pleasure of such board and at such salaries as may be fixed by such board. Such Assessor, except as herein provided, shall possess all the powers conferred upon, be subject to all the obligations imposed upon and perform all the duties appertaining to the office of assessors in the town, and all references in this chapter to "the board of assessors" or "the assessors" shall, except when such board of assessors is acting as a board of review, for such town mean the assessor appointed as provided in this section. For such town there is hereby created a board of review to consist of three members to be appointed by the town board who shall be resident taxpayers of such town and who shall serve at the pleasure of the town board at such per diem compensation as such board may fix; or the town board may by resolution provide that the supervisor, assessor and a town councilman named therein shall be the board of review and act as such without compensation. Within 30 days after their appointment, the members of such board of review shall meet and organize by electing a chairman. Notwithstanding any law to the contrary, such board of review shall hear and determine complaints in relation to the assessment roll, instead of the assessor of such town.

2. In any town in the county the town board may appoint a board of review to consist of three members who shall be resident taxpayers of such town and who shall not be members of the board of assessors, and who shall meet, organize, serve and be compensated as provided above.

Sec. 283.91. Form of assessment roll.

[§ 530 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The assessment roll to be prepared by the board of assessors shall designate the property in the town by the section, lot and block number or other identification of the tax map or maps of the town, and in all other respects it shall comply with the Real Property Tax Law with relation to the preparation of assessment rolls, but there shall be the additional requirement that in each town the assessment in each separate county or town tax or assessment district shall be set forth or indicated in a separate column or subdivision of the assessment roll, and the property shall be designated in the same manner that the assessed property is designated on the tax maps of the town. The assessment roll shall provide columns for the entry of the payment of taxes as paid. The form of the assessment roll shall also be approved by the State Board.

Sec. 283.101. Assessment in separate tax districts to be shown.

[§ 531 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The board of assessors, in addition to the requirements contained in the Real Property Tax Law, shall make the assessment roll in such form that each separate village, school district and special county sewer district is shown thereon either by proper subdivision of the assessment roll or by separate columns therefor, or by both of such methods, and whenever necessary, shall make an apportionment of the assessment of the property between or among the tax districts in which such property is located. Separate assessments shall be made for each parcel shown on the tax map except that where two or more adjoining parcels so shown on the tax map are used and/or

occupied as a single unit, the assessor may assess such parcels together as one unit, provided that the tax roll shows the tax map designations, unless such parcels so shown on the tax map are divided by a village, tax or assessment district line, in which event the area and value shall be apportioned on the assessment roll as to each separate district. It shall be the duty of the assessor annually to correct the assessment map so as to show separate assessments in accordance with this section, and such correction shall be completed on or before March 1 in each year.

Sec. 283.111. Special franchise assessment.

[§ 532 of the Laws of 1948, Ch. 852; amended by L.L. No. 6-1972]

When the town clerk shall have received from the State Tax Commission the statement of the equalized valuation of a special franchise as fixed by such commission in accordance with the provisions of the Tax Law, he shall, within five days after such receipt by him, deliver a copy of such statement to the assessors of the town. The assessors shall enter upon the assessment rolls of their town the valuation of the special franchises as fixed and determined by the State Tax Commission and shall proceed to apportion the valuation of the special franchises among the several tax districts within the town according to the provisions of the statute in relation thereto and shall enter such apportioned valuations upon the assessment rolls of the several tax districts, except that such valuations shall not be apportioned against any such franchise during the enforcement of any restraint or prohibition of the collection thereof upon such franchises by an order of a court of competent jurisdiction.

Sec. 283.121. Completion and verification of assessment roll; notice of hearing to review assessments.

[§ 533 of the Laws of 1948, Ch. 852; amended by the Laws of 1958, Ch. 275; the Laws of 1962, Ch. 386]

1. The assessor or the assessors, as herein provided, shall complete and verify the assessment roll on the first day of June of each year, make out a copy thereof to be left in the office of the town clerk and forthwith cause a notice to be conspicuously posted in three or more public places in the tax district and cause to be published a similar notice in at least one newspaper either published in such town or having a general circulation therein, stating that he or they have completed the assessment roll and that a copy thereof has been left at the office of the town clerk where it may be seen and examined by any person until the third Tuesday of June in each year, and that on that day the assessors or board of review, as the case may be, will meet at a time and place specified in such notice for the purpose of reviewing any such assessment at the instance of any interested party. A board of review shall meet on the third Tuesday of June in each year and thereafter continue to meet at such time or times as may be necessary and appropriate to consider and determine the objections or grievances filed against the assessments, and in such town the notice of hearing shall so state.
2. If the office of the town clerk and the office of the assessor or assessors are located in the same building, it shall not be necessary to file a copy of the assessment roll with the town clerk, but the copy on file in the assessor's office shall be open for inspection as provided in this section and, in that case, the notice of the completion of the assessment roll shall so state.

3. A copy of the assessment roll as completed and verified on the first day of June of each year shall on or before the first day of July in the same year be filed in the office of the County Tax Commission.
4. The assessor or the assessors shall also, between the first and fifth days of June in each year, mail a notice to each corporation and person nonresident of their town who has filed with the town clerk on or before the fifteenth day of May in each year a written demand therefor. Such notice shall specify each parcel of land assessed to such corporation or nonresident and the assessed valuation thereof and the time and place where the complaints in relation thereto may be heard. During the time specified in such notice posted as aforesaid, the town clerk or the assessors shall submit the roll to the inspection of every person applying for that purpose.
5. The oath to be severally subscribed by the assessors, where there are more than one, shall be in the following form: "We, the undersigned, do severally depose and swear that we have set down in the foregoing assessment roll all the real estate situate in the tax district in which we are assessors, according to our best information; and that with the exception of those cases in which the value of any special franchise has been fixed by the state board, we have estimated the value of said real estate at the sums which a majority of the assessors have decided to be the full value thereof," which oath shall be written or printed on the assessment roll and signed and verified by the assessors. In a town having but one assessor, as provided by section 283.81 hereof, the above requirements as to the oath shall be the same, except that it shall be in the singular.

Sec. 283.131. Hearing and determination of complaints.

[§ 534 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. The assessors, or board of review, as the case may be, shall meet at the time and place specified in such notice and hear, review and determine all complaints brought before them in relation to the assessment roll, and for that purpose may adjourn from time to time. Such complainants shall file a statement under oath specifying the respect in which the assessment complained of is incorrect, which statement must be made by either the person whose property is assessed or a person authorized to make such statement and who has knowledge of the facts stated therein. The assessors, or board of review, may administer oaths, take testimony and hear proofs in regard to any such complaint and the assessment to which it relates. If not satisfied that such assessment is erroneous, they may require the person whose property is assessed, or his agent or representative or any other person, to appear before them and be examined concerning such complaint and to produce any papers relating to such assessment with respect to his property or his residence, for the purpose of taxation. If any such person or his agent or representative shall willfully neglect or refuse to attend and be so examined, or to answer any material question put to him, such person shall not be entitled to any reduction of his assessment.
2. The assessors, or board of review, shall, after said examination, review the valuation of the property so complained of and may increase or reduce the assessment thereof. In the event the assessors or board of review, as the case may be, desire to increase any such assessment, they must give the owner of the property at least ten days notice by mail addressed to his last

known address, of a hearing before them on the question of such increase, and in that event the board may adjourn the hearing for all such cases to some date subsequent to the date or dates fixed for review, but may consider at such adjourned hearing only those cases where the above notice of a proposed increase has been given.

3. Such a board of review may in the hearing of complaints employ a stenographer, at the town's expense, to take the minutes of its hearings, and such minutes shall be on file in the office of the assessor.

Sec. 283.141. Date of taxable status; time for filing complaints or applications for change in assessment.

[Added as § 534-a by the Laws of 1962, Ch. 386; amended by L.L. No. 3-2004; L.L. No. 6-2006; L.L. No. 3-2008, § 1]

1. The date of taxable status for the purpose of determining the exempt or nonexempt character of property on any annual assessment roll shall be June 1. Any town may, subject to the approval of its local legislative body, elect to have a taxable status date to be May 1. Any town electing to use the May 1 taxation date pursuant to this subdivision shall notify the Westchester County Department of Finance within 30 days of such action. Nothing in this subdivision is intended to affect any other provision of this chapter.
2. All applications or statements regarding complaints with respect to the assessment roll must be filed with the assessors or the board of review, as the case may be, not later than the third Tuesday in June, except that any such complaint may be accepted by the assessors or board of review at any adjourned hearing.
3. Any town may, subject to the approval of its local legislative body, elect the valuation date to be the same as the valuation date used by the New York State Office of Real Property Tax Services or any successor agency for Equalization Rate purposes to value the real property within said town. Any town electing to use the valuation date used by the New York State Office of Real Property Tax Services or any successor agency as the valuation date pursuant to this subdivision shall notify the Westchester County Department of Finance within 30 days of such action. Nothing in this subdivision is intended to affect any other provision of this chapter.

Sec. 283.151. Correction and verification of assessment roll by assessors or board of review.

[§ 535 of the Laws of 1948, Ch. 852; amended by the Laws of 1958, Ch. 275]

1. When the assessors, or a majority of them, shall have increased or decreased any of the assessments shown on the assessment roll, after hearing and determination of complaints as provided in section 283.131 hereof, they shall correct the roll in accordance therewith and note in the margin thereof the nature of the change and shall then appear before an officer of the county authorized by law to administer oaths and shall severally make and subscribe before such officer an oath in the following form: "We, the undersigned, do severally deposte and

swear that the foregoing assessment roll completed by us as of June first, 19__, has by reason of proof produced before us had certain items thereon increased or decreased as shown on the margin opposite such items so changed, and that we have estimated the value of such items so changed at the sums which a majority of the assessors have on review decided to be the full value thereof," which oath shall be written or printed on said assessment roll and signed by the assessors.

2. The assessors, or a majority of them, shall also prepare a statement of the changes so made in the roll, which said statement shall certify that such changes have been made in the roll as filed with the County Tax Commission or before July 1, and that the roll so filed, with the changes certified in said statement, is the same as the original final roll filed with the town clerk and constitutes a certified copy thereof and shall file said statement and certification with the County Tax Commission on or before the 15th of September.
3. When a board of review, by a majority vote, shall have determined to reduce or increase any of the assessments complained of, a schedule of their decisions in such determinations, setting forth the values at which such items of real property are to be assessed, shall be prepared in quadruplicate. The original schedule shall be signed and verified by such board of review, or a majority of them and attached to the original signed and verified assessment roll. One copy shall be filed in the Town Clerk's office and two copies delivered to the assessor or assessors so that he or they may make the changes indicated therein and certify such changes to the County Tax Commission. The assessor or assessors shall correct the assessment roll in accordance with such decisions of the board of review and shall note in the margin of said roll the nature of the changes and shall thereafter certify upon the original verified schedule of decisions that he or they have corrected said roll in accordance therewith. The assessor or assessors shall, upon the second copy of such schedule of decisions, make and certify a statement that such changes have been made in the roll as filed with the County Tax Commission on or before July 1 and that the roll so filed, with the changes certified in said statement, is the same as the original final roll filed with the town clerk and constitutes a certified copy thereof, and shall file such schedule and certified statement with the County Tax Commission on or before the 15th of September. The schedule of decisions of the board of review shall be set forth in one document, and an extract of as much thereof as shows an increase or decrease in any assessment shall be mailed to the last known address of the complainant or the party appearing in his behalf. If no reduction or increase is to be made, no decision need be made and filed. The oath to be severally made and subscribed by the members of the board of review, or a majority of them, shall be in the following form: "We the undersigned, do severally depose and swear that the foregoing schedule of decisions shows the increases or decreases made by reason of proof produced before us upon reviewing the assessment roll of the Town of for the year 1900: and that as to such items we have estimated the value thereof at the sums which a majority of the Board of Review has decided to be the full value thereof," which oath shall be written or printed on said document containing said schedule of decisions of the board of review and signed by the members of such board.

Sec. 283.161. Filing of roll and notice thereof.

[§ 536 of the Laws of 1948, Ch. 852; amended by the Laws of 1958, Ch. 275; L.L. No. 8-1967]

When the assessment roll shall have been thus reviewed, corrected and verified, the assessor or assessors shall make and certify one copy thereof, and shall, on the 15th day of September, file such certified copy in the office of the town clerk, to remain for public inspection until delivered by the Town Clerk to the supervisor of the town as hereinafter provided. The assessor or assessors shall forthwith cause a notice that such assessment roll has been reviewed and corrected and stating that such certified copy has been so filed, to be posted conspicuously in at least three public places in the tax district and to be published in one or more newspapers, if any, published in the town or, if there be none, in one or more newspapers having general circulation therein, and a copy of such notice to be mailed to the County Attorney. The original assessment roll, together with the certified copy thereof, shall on or before the 30th day of September be delivered to the supervisor of the town.

Sec. 283.171. Completed assessment roll official: duration, use and publication thereof.

[§ 537 of the Laws of 1948, Ch. 852]

On the 15th day of September in each year, the completed assessment roll shall be filed and thereafter such assessment roll shall be the official assessment roll for the town and each special tax district and school district or portion thereof lying within such town and shall be used for all purposes of taxation therein until the completed assessment roll shall be filed in the following year, and all taxes shall be levied and extended and carried out in the assessment rolls filed with the supervisor. The town board may publish or cause to be published the assessment roll in whole or in part.

Sec. 283.181. Certification of taxes.

[§ 538 of the Laws of 1948, Ch. 852]

After the lawful authorities for each town and/or special town district shall have fixed the amount of taxes to be raised therefor, the proper authorities shall certify to the supervisor of such town the amount of such tax, and it shall be the duty of the supervisor of such town, except for county sewer district taxes, to cause the same to be levied by the town board against the property within such tax district as shown on the assessment rolls. Notwithstanding any provision of law to the contrary, the supervisor shall extend or cause to be extended the amount of tax against each particular property in each tax district, extending state, county, town and special district tax and assessments unless previously extended, in one of the copies of the assessment roll delivered to him by the board of assessors, and the school tax in the other, or either copy of such assessment roll as the supervisor shall find most convenient.

Sec. 283.191. Tax budget and tax lien.

[§ 539 of the Laws of 1948, Ch. 852; amended by the Laws of 1949, Ch. 81; the Laws of 1958, Ch. 715]

1. No tax shall be certified to the supervisor of any town except upon the adoption of a tax budget, including in specific items, the amount which is to be raised for each particular purpose. If, before the fixing of the state, county and county district tax by the County Board, the supervisor of any town files with the County Board a certified copy of a resolution passed by such Town Board, requesting the County Board to estimate for such town the probable amount of state, county and county district taxes and/or assessments and any other taxes and assessments and statutory items chargeable to such town other than town, town district and school district taxes and assessments, to be levied and assessed upon the taxable property of such town, said County Board shall estimate the probable amount thereof and direct its clerk to advise the town board of such town. Such estimated amount shall be the amount to be certified as provided by section 283.201 of this chapter and extended as provided by section 283.211 of this chapter. The clerk of the County Board shall certify to the County Commissioner of Finance said estimated amount, which amount shall be paid to the County Commissioner of Finance by such town as provided in this chapter, except as hereinafter set forth. If the estimated amount for the town or any district or part of a district therein exceeds the amount actually apportioned to such town and the separate districts therein, the apportioned amount only shall be paid to the County Commissioner of Finance, and the surplus shall be deducted by the supervisor from the estimated amount in the next succeeding year. In the event that the estimated amount for the town or any district or part of a district therein is less than the apportioned amount, the town board is authorized to borrow, as provided by the Local Finance Law, the amount necessary to make good the deficiency, which amount, with interest, if any, shall be added by the supervisor to the next year's estimated amount.
2. State, county, county district, town and town district taxes and assessments shall become a lien on the taxable property of a town and/or tax district on April 1 in each year and shall be payable on April 1 as the tax for that calendar year, except that in a town where said taxes are estimated in advance, they shall become a lien on the taxable property of such town and/or tax district on February 1 in each year and shall be payable one-half of the total levy on February 1 and one-half on June 1; and school district taxes and assessments shall become a lien on the taxable property of such district on September 1 in each year and shall be payable on September 1 as the tax for that school fiscal year. Such tax or taxes shall be designated by the year in which they become a lien. Such lien shall be a continuing lien subject to cancellation as in this chapter otherwise provided.

Sec. 283.201. Determination and levy of tax.

[§ 540 of the Laws of 1948, Ch. 852; amended by L.L. No. 9-1990; L.L. No. 10-1998]

1. The amount of the annual state, county and county district taxes and assessments shall be fixed, determined and levied by the County Board. The amount of the state, county and county district taxes and assessments, including any other statutory charges, shall be thereafter apportioned against each tax district and levied against the taxable property of such district. The amount so apportioned and levied shall be duly certified to each tax district by the clerk of the County Board before March 1 in each year.

2. Notwithstanding any general or special law to the contrary, the amount of the annual town and town district taxes and/or assessments, including any other statutory charges or assessments which are chargeable against the real property in such town, shall be fixed, determined and levied by the Town Board. The amount or amounts so levied and assessed shall be raised by tax upon the real property of the town liable therefor at the time and in the manner in this chapter provided for the raising of the state, county and county district taxes and assessments.
3. The amount of the annual tax and special assessments of each school district shall be fixed and determined as the law provides by the trustees and the board of education of each school district and shall be certified to the supervisor of the town before June 1 in each year. In the case of a school district lying in more than one town, the supervisors of the towns in which such school district lies shall apportion the school tax to the parts lying in their respective towns according to the full value of such property lying in each town, to be determined by the equalization rate for such town as fixed by the County Board for the assessment roll upon which such school tax is to be extended. Provided that, in the event that a segment special equalization rate has been determined by the New York State Board of Real Property Services for the apportionment of school taxes and such segment special equalization rate has the same valuation date as the equalization rate or rates used to apportion school taxes in the other town or towns located within the school district, the supervisors of those towns for which a segment special equalization rate has been determined shall apportion the school tax for such segment for that year by applying any such segment special equalization rate. Such segment special equalization rate shall be adjusted for any change in level of assessment within such segment. The change in level of assessment shall reflect the change from the assessment roll for which the New York State Board of Real Property Services established the segment special rate to the assessment roll upon which the tax is levied.
4. The calculation of the county tax, including the amount of state, county and county district taxes and assessments, and any other statutory charges to be chargeable or apportioned against each tax district to be fixed, determined and levied by the County Board and the preparation of the proposed Acts of the County Board fixing the tax distribution tables and determining the amounts of county taxes to be levied against the various towns and cities and the preparation of warrants for the collection of the county tax shall be undertaken and provided in each year by the Commissioner of Finance, who shall submit said calculation and documents to the County Board on or before February 1 in each year.

Sec. 283.211. Extension of tax and tax warrant.

[§ 541 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

Upon receiving such certification, the supervisor of each town shall immediately extend or cause to be extended the tax or assessment for such certified tax district, as well as the town levies, and shall execute and deliver to the receiver of taxes his warrant for the collection of all taxes or assessments, as provided in section 283.301 of this chapter.

Sec. 283.221. Penalties.

[§ 542 of the Laws of 1948, Ch. 852; amended by the Laws of 1958, Ch. 715; the Laws of 1962, Ch. 386; L.L. No. 19-1995]

1. The following scale of penalties is hereby prescribed for the neglect to pay the state, county, county district, town and town district taxes or assessments after the levy thereof; if paid during the month of April, no penalty; if paid during the month of May, two percentum; if paid during the months of June and July, five percentum; if paid during the months of August and September, seven percentum.
2. Where said taxes are estimated as provided in section 283.191, then the part of said tax which becomes payable on February 1 of each year, if paid during the month of February, no penalty; if paid during the month of March, two percentum; if paid during the months of April and May, five percentum; if paid during the months of June and July, six percentum; if paid during the month of August, seven percentum.
3. Where said taxes are estimated as provided in section 283.191, then that part of said tax which becomes payable on June 1 of each year, if paid during June, no penalty; if paid during the month of July, two percentum; if paid during the month of August, five percentum.
4. The aggregate of said installments which become payable on February 1 and June 1, respectively, if paid during September, seven percentum.
5. All taxes and assessments which become payable either February, April or June 1, if paid during the months of October, November or December, ten percentum; if paid thereafter and
 - (a) If the taxes and assessments became liens before January 1, 1995, 12 percentum up to the time of sale, as hereinafter provided; or
 - (b) If paid thereafter and if the taxes and assessments became liens on or after January 1, 1995, then:
 - (i) If the municipality has not chosen to opt out of the enforcement procedures of Article 11 of the New York State Real Property Tax Law pursuant to Subdivision 2 of Section 1104 of said Law or has opted out but the exemption has expired, then 12 percentum up to the first day of May of the year following the year in which the tax or assessment became a lien and if paid thereafter, an additional one percentum per month (i.e. May—13 percent, June—14 percent, etc.) on the "delinquent tax", as such phrase is defined in Section 1102, Subsection 2, of the New York State Real Property Tax Law, up to such time as either all taxes and assessments have been paid or the municipality has taken title to the property; and in such case where the municipality has taken title to the property and the property is thereafter redeemed in accordance with applicable law, from the time title passes to the municipality, an additional one percentum per month, until the date of redemption; or
 - (ii) To the extent that the municipality has opted out of the enforcement procedures set forth in Article 11 of the New York State Real Property Tax Law in accordance with the

requirements of Subsection 2 of Section 1104 of said Law and such exemption is still in effect, then 12 percentum up to the time of sale, as hereinafter provided.

6. The following scale of penalties is hereby prescribed for neglect to pay school taxes after the levy thereof: if paid during the month of September, no penalty; if paid during the month of October, two percentum; if paid during the month of November, five percentum; if paid during the months of December and January, seven percentum; if paid during the months of February and March, ten percentum; if paid thereafter and
 - (a) If the taxes and assessments became liens before January 1, 1995, 12 percentum up to the time of sale, as hereinafter provided; or
 - (b) If paid thereafter and if the taxes and assessments became liens on or after January 1, 1995, then:
 - (i) If the municipality has not chosen to opt out of the enforcement procedures of Article 11 of the New York State Real Property Tax Law pursuant to Subdivision 2 of Section 1104 of said Law or has opted out but the exemption has expired, then 12 percentum up to the first day of May of the year following the year in which the tax or assessment became payable and if paid thereafter, an additional one percentum per month (i.e. May—13 percent, June—14 percent, etc.) on the "delinquent tax", as such phrase is defined in Section 1102, Subsection 2, of the New York State Real Property Tax Law, up to such time as either all taxes and assessments have been paid or the municipality has taken title to the property; and in such case where the municipality has taken title to the property and the property is thereafter redeemed in accordance with applicable law, from the time title passes to the municipality, an additional one percentum per month, until the date of redemption; or
 - (ii) To the extent that the municipality has opted out of the enforcement procedures set forth in Article 11 of the New York State Real Property Tax Law in accordance with the requirements of Subsection 2 of Section 1104 of said Law and such exemption is still in effect, then 12 percentum up to the time of sale, as hereinafter provided.

Sec. 283.231. Compensation of supervisor.

[§ 543 of the Laws of 1948, Ch. 852]

The annual salary of the supervisor as fixed by the town board shall include his compensation for carrying out the provisions of this chapter, except for the necessary incidental expenses and disbursements including necessary compensation, if any, for extension of taxes, which shall be a town charge.

Sec. 283.241. Receiver of taxes.

[§ 544 of the Laws of 1948, Ch. 852]

There shall be elected in each town a receiver of taxes, who shall hold office for a period of four years and take office on the first day of January after his election, whose duties it shall be to collect all state, county, town, school, county district and town district taxes and assessments levied or assessed upon any taxable property within such town. He shall also when directed by resolution of the town board collect all water rates, water taxes, water charges, fixed and determined, whether current or in arrears against owners or property within such town, all fees and charges for street opening permits, sewer and water connecting permits, and do and perform such acts and things as the town board may, from time to time, by resolution direct. Such receiver of taxes shall be a resident of the town but not necessarily a resident of any other tax district for which he may be required to collect taxes or assessments. He shall hold no other elective public office, except that he may act as the receiver of taxes and assessments of any village or villages in such town in the event that, with the approval of the town board, he is so designated and appointed by the action of the village board. The town may make such arrangements for the collection of the village taxes as to it shall seem just and proper, and any compensation for the receiver of taxes so acting shall be paid to the town. In the event that the town receiver of taxes shall be designated to collect the taxes of any village within the town for which he was elected receiver of taxes, he shall be governed by the provisions of law applicable to the collection of taxes in such village, except as herein otherwise provided or authorized. The cost of any undertaking required by the village of such receiver of taxes for the faithful discharge of his duties and accounting for all money collected shall be a charge against such village. Subject to the approval of the town board any of the duties of the receiver of taxes may, under his direction, be performed by any employee in his office. A vacancy in the office of receiver of taxes occurring except by expiration of term shall be filled in the manner provided by law, for the unexpired balance of the term of such receiver.

Sec. 283.251. Receiver of taxes to file bond.

[§ 545 of the Laws of 1948, Ch. 852]

Before entering upon the performance of his duties, such receiver of taxes shall make and file an undertaking, the amount thereof and the sureties thereon to be approved by the town board, and the members of such town board shall endorse their approval upon such bond, and the same shall be filed in the office of the County Clerk and become a lien on all the real estate held by the receiver or his sureties within the county at the time of the filing thereof and shall continue to be such lien, until its condition, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied. The bond of any receiver of taxes, after the expiration of his term of office, shall be cancelled by the town board when satisfied that he has fully accounted for and duly paid over all moneys received by him; and said bond shall be cancelled in the office of the County Clerk upon the filing in the office of the County Clerk of a certified copy of the resolution of the town board cancelling such bond.

Sec. 283.261. Compensation of receiver of taxes.

[§ 546 of the Laws of 1948, Ch. 852]

The town board of each town shall fix the salary of the receiver of taxes before he shall have begun the performance of his duties, which salary shall be payable monthly or semimonthly as

other town salaries are paid, and which salary shall be in full compensation and in lieu of all fees of any kind. The receiver of taxes shall keep the records of unpaid taxes in the manner prescribed by the town board.

Sec. 283.271. Office and office hours of receiver of taxes.

[§ 547 of the Laws of 1948, Ch. 852; amended by the Laws of 1954, Ch. 262; the Laws of 1962, Ch. 386]

The town board of each town shall provide a suitable office for the receiver of taxes, with the necessary furniture and fixtures, and the receiver of taxes shall attend on such days and hours and at such places in his town as the town board may, by resolution, direct. The expense of maintaining such office shall be a town charge and shall be raised by taxation in the same manner as other town charges.

Sec. 283.281. Receipts and payments by receiver.

[§ 548 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

Such receiver of taxes shall deposit to the credit of such town all taxes, assessments, penalties and moneys collected and received by him in a bank or banks to be designated by the town board. Such deposits shall be made daily or as directed by resolution of the town board. Such deposits shall be withdrawn and/or transferred by the check or draft of the supervisor to the several accounts, appropriations or funds kept by him, except that in towns having a comptroller the same shall be transferred and/or paid out only upon the warrant and/or draft of the comptroller signed by the supervisor. Such receiver shall file with the supervisor duplicate deposit slips or receipts showing the amount of each of such deposits. He shall on or before the fifth day of each month file a report with the supervisor, to be presented to the town board at its next meeting, showing the amount of state, county, town, school district and special district taxes and assessments collected and received by him. He shall on or before the fifth day of each month file with the treasurer of each school district within such town, a report showing the amount of taxes and assessments belonging to such school district collected by him during the preceding month. He shall on the 15th day of October of each year file with the County Commissioner of Finance a report showing the amount of state and county taxes and assessments uncollected by him since the first day of February, April and/or June, as the case may be, last preceding. The town board on the application of any member thereof may authorize an examination and audit of the books of the receiver of taxes or supervisor, and the expense thereof shall be a town charge to be paid as are other town expenses.

Sec. 283.291. Payments by supervisor.

[Added as § 549 by the Laws of 1962, *Editor's Note: Former § 549 was repealed by the Laws of 1962, Ch. 386, § 9. Ch. 386*]

1. The supervisor shall pay to the County Commissioner of Finance on or before the 25th day of May in each year, not less than 60 percent of the taxes, special ad valorem levies and special assessments, if any, due to be paid to the County Commissioner of Finance during such

calendar year, and the balance thereof shall be paid on or before the 15th day of October in each year. In the event that any town fails to pay to the County Commissioner of Finance on or before the 15th day of October in any calendar year the full amount due for such calendar year and tax anticipation notes are issued by the county pursuant to the Local Finance Law for the amount of the deficiency, the County Commissioner of Finance shall certify to the County Board and also to the town on account of whose failure to pay any tax anticipation notes have been issued, the amount of such deficiency, adding thereto interest at the rate of six percentum per annum from the 15th day of October to the first day of June in the following year. Upon receiving such certification the County Board shall apportion to and levy upon such town the amount of such deficiency together with the interest thereon. Such town shall cause the amount of such deficiency and interest to be inserted in and become a part of the levy for its next fiscal year. After such apportionment and levy against any such town by the County Board, all taxes thereafter collected in such town to the amount of such deficiency and interest shall either be paid over to the County Commissioner of Finance as collected, or deposited in a special account to be held for and paid over to the County Commissioner of Finance on or before the 25th day of May in the year in which the tax anticipation notes are due. The amounts so paid to the County Commissioner of Finance shall be used only to pay such notes and interest and the balance, if any, shall be applied to general county purposes.

2. Each town shall pay to the County Commissioner of Finance each month as collected the proportionate share of taxes, special ad valorem levies and special assessments due to be paid to the County Commissioner of Finance. In the event that the monthly payments so made are insufficient to meet the percentage payments due under subdivision 1. hereof, the balance shall in each case be paid as provided in such subdivision. It shall be the duty of each town charged with the making of such payments to cause such payments to be made as provided in this section.
3. The supervisor of each town shall pay to the treasurer of any school district within the town on the fifth day of each month from school district taxes collected the proportionate share of taxes and special assessments due to be paid to said school district or districts.
4. Any state, county, town, special district or school district taxes collected after the supervisor has received the report of unpaid taxes from the receiver, as provided by section 283.361 of this chapter, shall belong to the town and shall be paid over to the supervisor by the receiver of taxes, except as provided in the second paragraph of such section.

Sec. 283.292. Adjustments for uncollected taxes.

[Added by the Laws of 1983, Ch. 1012]

1. At the time a town in Westchester county shall obtain title to a parcel of real property on account of nonpayment of taxes, special ad valorem levies and special assessments levied upon such parcel, the town may, for a period of one year after the date of such acquisition, apply to the county commissioner of finance for an adjustment of county taxes paid by the town to the county attributable to such parcel under section 283.291 subsequent to January 1, 1982. The town's application shall be in such form and provide such information as the county

commissioner of finance may from time to time require and shall certify the amount of county taxes paid by the town to the county attributable to such parcel which were not actually collected by the town for that parcel. Upon receipt of a properly completed application by a town, the county commissioner of finance shall pay to the town an amount equal to the amount of county taxes certified by the town in such application as paid to the county that were not actually collected by the town with respect to such parcel.

2. Repayment by a town to the county of the sums provided under subdivision 1. of this section shall be made as follows:
 - a. Upon a determination by the town to utilize the subject parcel for municipal purposes, the town shall forthwith repay to the county the full amount of any payment made by the county to the town pursuant to this section pertaining to such parcel.
 - b. Upon receipt by the town of full payment of taxes due on such parcel by tax sale or otherwise, the town shall forthwith repay to the county the full amount of any payment made by the county to the town pursuant to this section pertaining to such parcel.
 - c. Upon receipt by the town of partial payment for taxes due on such parcel by tax sale or otherwise, the town shall forth-with repay to the county a proportionate share of any payment made by the county to the town pursuant to this section pertaining to such parcel. The proportionate share to which the county will be entitled will be the proportion that county taxes bear to all real property taxes due against such parcel.
3. The county, on notice to the town, shall be entitled to inspect all books and records of the town and to perform audits and inspections of such books and records, including, but not limited to, on-sight [site] audits and inspections, for the purpose of auditing any payments made, to be made or that should be made under this section.
4. For purposes of the administration of this section, or if the town shall fail to timely make payments to the county as required hereunder, the county commissioner of finance may set off amounts due a town under this section against other amounts due the county from the town under this section. The foregoing rights of set off shall not affect or limit any other right or remedy to which the county may be entitled in case of failure of the town to make timely payments under this section.
5. For purposes of this section, the term "county taxes" shall include taxes, special ad valorem levies and special assessments imposed by Westchester county and any special district thereof.

Sec. 283.301. Tax warrants and notice of collection of tax or assessment.

[§ 550 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. The town supervisor shall deliver to the receiver of taxes separate warrants for the collection of taxes, as follows: a warrant for the collection of state, county, county district, town and town district taxes and assessments; and one or more warrants for the collection of school taxes and

assessments. Such warrants must be delivered by the supervisor to the receiver of taxes at least ten days before the time fixed for the collection of the taxes or assessments. In case the execution of any warrant shall not be completed during the term of office of a receiver of taxes, such warrant shall be continued to his successor in office.

2. The collection of state, county, county district, town and town district taxes and assessments shall begin on the first days of February, April and/or June, as the case may be, in each year. The collection of school taxes and assessments shall begin on the first day of September in each year.
3. Within seven days after the receipt of any warrant from the supervisor, the receiver of taxes shall advertise the collection of such tax or assessment by causing a notice of the reception of such warrant to be posted in five conspicuous places in the town, and at least one notice within each tax district and in addition to posting such notice the receiver of taxes shall publish the same notice once in such newspaper or newspapers as the town board may direct. Such notice shall also contain a statement of the penalties for deferred payment of the taxes or assessments as herein provided. If the town board shall require the receiver of taxes to sit for the collection of taxes and assessments at any place other than the office of the tax receiver, the notice shall also specify such place or places in the town and several villages and tax districts therein, and the dates and hours when he will attend thereat.
4. It shall be the duty of the receiver of taxes to receive all payments of all taxes and assessments, whether made before or after the sale of property for the nonpayment of taxes and/or assessments, and to receive and receipt for all payments for the redemption of property previously sold for taxes and/or assessments and to deposit all receipts therefrom as provided in section 283.281 of this chapter.
5. No further notice than that herein required shall be deemed necessary in the case of property owned by either a resident or a nonresident. The town board may, however, direct the receiver to mail to each taxpayer in the town whose address is known to said receiver a tax bill for all taxes and assessments, the expense thereof to be a town charge.
6. Any person or corporation whether a resident or nonresident of the tax or assessment district, who is the owner of or has an interest in real property liable to assessment in the town may file with the receiver of taxes of the town in which such real property is situated, a notice stating his name, residence and post office address or, in the case of a corporation, its principal office, a description of the premises with its number or other designation on the tax map, which notice shall be valid and continue in effect for not to exceed five years, unless sooner invalidated by a change of ownership or cancelled by such person or corporation.
7. The receiver of taxes shall, within ten days after receiving any warrant for the collection of taxes and/or assessments, mail to each person or corporation filing such notice, at the post office address stated therein, a duplicate tax bill for all taxes and assessments upon such real property included in such warrant. But the failure of the receiver of taxes to mail such duplicate tax bill shall not invalidate such tax or assessment or prevent the accruing of any interest or penalty imposed for the nonpayment of such taxes or assessments, as hereinbefore

provided, but such receiver of taxes shall be personally liable to the person or corporation filing such notice for any damages sustained by such person or corporation by reason thereof.

Sec. 283.311. Payment of school taxes in installments.

[Added as § 550-a by the Laws of 1962, Ch. 386; amended by L.L. No. 12-1997]

1. The town board may by resolution authorize the receiver of taxes to accept from any taxpayer two partial payments in equal installments for or on account of school taxes and apply such payments on account thereof, in the manner prescribed by the said resolution, but the second partial payment of school taxes shall be made in the month of January and no installments may be paid unless the first installment of current school taxes, including interest and penalties, shall have been paid or is paid at the same time. If the second partial payment is received during the month of January, no interest or penalty shall be charged against the second partial payment.
2. Unless the first partial payment is received during the month of September and the second partial payment is received during the month of January, penalties provided for the payment of school taxes prescribed in section 283.221 of this chapter shall apply respectively to such partial payments received subsequently to the month of September and/or the month of January.
3. The acceptance of a part of such taxes shall not be deemed to affect any rights and power of the town under this chapter, but such rights and powers shall remain in full force and effect to enforce collection of the unpaid balance of such taxes or tax liens together with interest, penalties and other lawful charges.
4. Whenever a resolution has been adopted pursuant to this section, the notice required to be given by the collecting officer shall state that school taxes may be paid in installments as provided in the resolution. Warrants for the collection of taxes levied while such resolution continues in force shall contain appropriate directions for the collection of taxes in the manner specified in such resolution. If the second installment of taxes is paid on or before the date when due, no interest shall be charged thereon.
5. Where two partial payments of school taxes in equal installments are authorized under this section, the first installment shall be due and payable on September 1 and the second installment shall be due and payable on January 1. Notwithstanding the payment of school taxes in installments under this section, school taxes shall become a lien on the taxable property of the school district on September 1.

Sec. 283.321. Receipt of taxes.

[§ 551 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. Every receiver of taxes shall deliver a receipt wholly written in ink or partly printed and filled out in ink or indelible pencil or typed, to each person paying any tax or assessment, specifying

the date of such payment, the name of the last known owner and the amount of such tax, a description of the property as shown on the assessment roll and the assessed valuation thereof, and, for special franchise tax, the amount thereof; and the receiver of taxes shall keep a duplicate copy of the same. The town board of each town shall prescribe the form of such receipts and they shall be furnished to the receiver of taxes by the town at the expense of the town. On the back of such receipt, there shall be printed a statement showing the total assessed valuation of real estate, the total assessed valuation of special franchises, the total assessed valuation of all property taxable within the town or other tax district, the tax rate and the total taxes, together with a summary of the tax budget and the rate for each tax district, as well as the information required by section 980 of the Real Property Tax Law.

2. The town board may provide that such statement be printed separately, in which case the receiver of taxes shall mail with each receipt for taxes a printed copy of such statement.

Sec. 283.331. Reports by receiver of taxes.

[§ 552 of the Laws of 1948, Ch. 852]

Such receiver of taxes shall at any time upon ten days' written notice by the town board or the board of education or trustees or trustee in any school district in the town, file a verified report with such town board, board of education, trustees or trustee, which, upon demand of the town board shall show every item of state, county, town, school and town district tax and assessment uncollected by him during the current fiscal year and which upon demand of the board of education, trustees or trustee of any school district shall show the total amount of taxes and assessments of such school district uncollected by him during the current fiscal year.

Sec. 283.341. Collection of taxes and assessments in arrears.

[§ 553 of the Laws of 1948, Ch. 852]

All taxes and assessments which have been or shall have been imposed in any town or in any tax district located within the boundaries of any town shall be collected by the receiver of taxes and the power heretofore vested in the supervisor and town clerk by the provisions of the Laws of 1874, Ch. 610 and the acts amendatory thereto, empowering them to assign or cancel the leases of any property within the town which has been heretofore leased to such town for nonpayment of taxes, shall be vested in the receiver of taxes, and the proper officers of each tax district shall certify to the receiver of taxes, all taxes and assessments and sales and leases for the same which have been or shall have been imposed before that date, and it shall be the duty of the receiver of taxes to collect all such taxes and assessments and to deposit the same as provided in section 283.281 of this chapter. In case of all taxes and assessments which shall have accrued and been imposed in any tax district, the receiver of taxes is hereby authorized, directed and empowered to collect such taxes, with interest and penalties, pursuant to the provisions of the law under which such taxes and assessments accrued or were imposed and in the manner provided by law to collect such taxes or assessments at the time of their imposition.

Sec. 283.351. Report of unpaid taxes and assessments.

[§ 554 of the Laws of 1948, Ch. 852]

Each of the several receivers of taxes of the towns in the county shall, on the first day of April in each year, preliminary to tax sale as provided in this chapter, make and deliver to the supervisor of the town an account of all taxes and assessments mentioned in any tax rolls of the previous year remaining unpaid at the time of such report. Such receiver of taxes, at the time of making such report, shall add in a separate column to be provided for the purpose, the penalties hereinbefore prescribed for deferred payment of taxes and assessments, which percentage shall be for the use and benefit of the town and shall be added to the amount of such unpaid taxes and assessments and collected therewith.

Sec. 283.361. Town to pay certain unpaid taxes or assessments.

[§ 555 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. On the first day of October in each year the receiver of taxes shall render to the supervisor a statement or account of unpaid state, county, county district, town and town district taxes and/or assessments for the current year, and the supervisor shall then pay to the Commissioner of Finance the amount of such unpaid state, county and county district taxes and assessments included in such report or account as provided in section 283.291 of this chapter, and on the 31st day of March the receiver of taxes shall render to the supervisor a statement or account of unpaid school taxes levied the preceding year, and the supervisor shall thereupon pay to the treasurer of each school district the amount of such unpaid school taxes of such district as included in such statement or report. Such payments shall be made from the proceeds of tax anticipation notes issued pursuant to the Local Finance Law or from other moneys of the town which are available therefor. The supervisor shall retain from such moneys the amount of unpaid town or town district taxes included in such report; and such taxes and assessments with the penalty, interest, percentage and expenses shall be collected as in this chapter provided.
2. In the event the town cannot dispose of tax anticipation notes issued for the purpose of providing funds for any such payments, then the receiver of taxes shall continue to keep a record of such state, county, county district and school taxes and assessments and the supervisor shall as herein provided continue to pay the same to the Commissioner of Finance and to the school districts.

Sec. 283.371. Payment of tax anticipation notes.

[§ 556 of the Laws of 1948, Ch. 852]

The supervisor shall include in and as a part of any annual tax levy such part or portion of such outstanding tax anticipation notes represented by tax liens which were purchased by the town, as the town board shall by resolution authorize and direct, and the amount when so levied and collected shall be applied to pay or reduce the amount of such tax anticipation notes. In the event that there are no such outstanding tax anticipation notes and/or where the aggregate amount of such tax anticipation notes outstanding shall be placed in the annual tax budget of a town and

levied as a tax, such moneys so collected and received for redemption of transfers of tax liens, shall be kept by the supervisor in a fund and retained as a reserve. The town board may from time to time borrow from such fund on one or more tax anticipation notes, and as the taxes are collected in anticipation of which the notes were issued, such notes shall be paid off and the amount so borrowed, returned or repaid to said fund. Except as the moneys in such reserve fund may be borrowed on tax anticipation notes actually issued to such fund as herein provided, the same shall be used only on authorization of the town board to reduce the annual town estimate.

Sec. 283.381. Correction of errors in assessment rolls by town boards.

[§ 557 of the Laws of 1948, Ch. 852]

1. If it shall be made to appear to the Town Board of any town upon the verified petition of a majority of the assessors of said town:
 - a. That any taxable property therein has by mistake been placed on the assessment roll or any separate tax district column thereof for the current year, at a value different from what the assessors intended for such property, such board may cause the assessment roll to be corrected and if the value is increased to cause to be inserted thereon the additional amount of tax or assessment due because of such increase and if the value is decreased to cause to be credited thereon so much of the tax or assessment as is represented by the amount of decrease.
 - b. Second. That any taxable property therein has been omitted from any assessment roll or any separate tax district column thereof for any preceding year or years, such board shall cause the same to be inserted on the roll for the current year at a valuation to be fixed by the assessors in their petition, which shall be the value for the year or years omitted and shall also cause to be inserted thereon in addition to the amount of tax or assessment for the current year and in a separate column properly designated, the amount of tax or assessment which such property should have borne for the year or years when such property was omitted, which shall be at the rate percentum of all such omitted years.
 - c. Third. That any taxable property therein has been omitted from the assessment roll or any separate tax district column thereof for the current year, such board shall cause the same to be placed thereon at a value to be fixed by the assessors in their petition and shall cause the amount of tax or assessment to be placed thereon which shall be at the rate percentum of the current year.
 - d. Fourth. That any taxable property therein has been assessed erroneously or illegally, such board shall cause such value of assessment and the tax or assessment thereon to be cancelled.
 - e. Fifth. That any taxable property therein has been assessed in any assessment roll or any separate tax district column thereof including the current roll with property of another, or another person, or persons, have become owners of a part or parts of such property since the

making of the current roll, such board may cause the assessed valuation and the amount of tax or assessment thereon to be apportioned accordingly.

- f. Sixth. That any taxable property therein was indefinitely assessed, or for good and sufficient reason the tax or assessment on such property indefinitely assessed was not paid, such board may waive the penalties, charges, costs and interests thereon.
2. A copy of the petition under the first, second or third subdivision of this section, with a notice of the presentation thereof to the town board, shall be served in such manner as the town board may direct or approve on the person or corporation who is the owner of the property liable to taxation, and the town board shall take no action on such petition unless proof of the manner of service of such petition and notice be made to them by affidavit. The town board shall give to the person or corporation who is the owner of the property liable to taxation an opportunity to be heard and on such hearing and review, the town board shall have all the powers that the assessors have in reviewing and correcting the assessment roll. Such person or corporation shall within ten days after the determination to change any such assessment roll be given written notice either personally or by mail of such change. Within 15 days thereafter such person or corporation may apply for a writ of certiorari as provided by the tax law to review such determination of the town board. If under the fourth subdivision of this section any tax or assessment shall be erroneous, such town board shall cause the same to be reassessed as omitted property under subdivision b. If under the first subdivision of this section the value of the assessment is decreased, such board shall cause so much of the tax as is not due to be refunded if same has been paid. If under the fourth subdivision of this section any tax or assessment is illegal or erroneous, such board shall cause the same to be refunded or adjusted if same has been paid. If under the fifth subdivision of this section any tax or assessment is apportioned, the receiver of taxes of said town shall receive the same separately when so apportioned. If under the sixth subdivision of this section any penalty, charge, cost or interest on any tax or assessment is waived, the receiver of taxes of said town shall receive the amount of tax or assessment without such when a certified copy of the resolution waiving the same is filed with him. If under the fourth subdivision of this section any tax or assessment shall be illegal or under the first subdivision of this section any tax or assessment shall be decreased, or in case of a reassessment of an erroneous tax or assessment, the amount of tax or assessment finally due is less than the amount of tax or assessment as shown on the roll, or any separate tax district column thereof before such tax or assessment was found to be erroneous, the amount thereof, or the amount of difference of such tax or assessment as the case may be, shall in the case of a district tax or assessment be certified by the supervisor of the town to the proper officials of such tax district and shall be included in the next levy of taxes made for such district and duly paid to the town, and in the case of a tax or assessment other than a district tax or assessment may be included in the next levy of taxes made for such town. Any addition to the rolls of omitted taxable real property, as herein provided, or any reassessment of any tax or assessment, as herein provided, or any correction of an error as herein provided, by which the tax is made greater than was the original assessment shall not cause such additional amount to be a lien on the real property as against purchasers or mortgages in good faith.

Sec. 283.391. Sales of tax liens for taxes and assessments; proceedings.

[§ 558 of the Laws of 1948, Ch. 852; amended by the Laws of 1957, Ch. 153, the Laws of 1962, Chs. 386, 388]

1. The right of the town to receive taxes and assessments and the lien thereof may be sold by the town and after such sale shall be transferred in the manner provided by this chapter. The right and lien so sold shall be called "tax lien" and the instrument by which it is assigned shall be called "transfer of tax lien."
2. Whenever any tax on lands or tenements, any assessment on lands or tenements for local improvements or any town district tax or assessment, levied subsequent to January 1, 1915, or school district tax or assessment levied subsequent to January 1, 1914, shall remain unpaid as shown on the return of the receiver of taxes provided for by section 283.351 of this chapter, it shall be lawful for the supervisor to advertise the tax liens on such lands and tenements, or any of them, for sale. Such advertisement shall include the tax lien for all items up to a date named in the advertisement for which a sale has not been had or a lease given, and by such advertisement the owner or owners of such lands and tenements shall be required to pay the amount of such taxes and assessments with the penalties thereon, as hereinbefore provided, so remaining unpaid, together with the charges of the notice and advertisement, to the receiver of taxes of such town, and notice shall be given by such advertisement that if default shall be made in such payment the tax lien on such lands and tenements will be sold at public auction at a day and place to be specified therein for the lowest rate of interest, not exceeding 12 percentum per annum, at which person or persons shall offer to take the same in consideration of advancing such taxes and assessments and penalties as the case may be, together with the charges of the above-mentioned notices and advertisement and all other costs and charges accrued thereon.
3. If, notwithstanding such notice, the owner or owners shall refuse or neglect to pay such tax, assessment and penalties and the charges attending such notice and advertisement, it shall be lawful for the supervisor to cause such tax lien on such lands and tenements to be sold at public auction for the purpose and in the manner expressed in the advertisement, and such sale shall be made on the day and at the place for that purpose mentioned in such advertisement, and shall be continued from time to time, if necessary, until all the tax liens on the lands and tenements so advertised shall be sold.
4. The tax lien on houses or land, or improved or unimproved lands, shall not be sold at public auction for the nonpayment of any tax and assessment which may be due thereon unless notice of such sale shall have been posted in five public places in the town at least three weeks before the day fixed for such sale, and, if there be one or more newspapers published in the town, such notice shall be published at least once in each of the three calendar weeks consecutively next preceding the calendar week in which the day of sale is fixed, in one such newspaper published in the town as shall be designated by the town board of such town, and, if no newspaper is published in such town, the town board may authorize the publication of such notice in a newspaper published in the county and having a general circulation in the town.
5. Said notice so posted and published as aforesaid shall have appended thereto a particular and detailed statement of the property on which the tax lien is to be sold, by giving the section,

block and lot number or other identification of the tax map or maps of the town, together with such other description, if any, as the supervisor may direct; or the supervisor at his option may cause such detailed statement and description of the premises so to be sold to be printed in a pamphlet, in which case copies of the pamphlet shall be deposited in the office of the receiver of taxes of the town and shall be delivered to any person applying therefor. Such detailed statement and description shall also give the total sum for the nonpayment of which a tax lien is to be sold.

6. In the event that the supervisor causes such detailed statement and description together with the total sum for the nonpayment of which a tax lien is to be sold, to be printed in pamphlet form, as herein provided, the notice to be posted and published as hereinbefore provided shall state that such detailed statement, description and statement of taxes is printed in pamphlet form, deposited in the office of the receiver of taxes of the town and that any person can receive the same by applying therefor during the office hours of the receiver of taxes as herein provided. No other notice or advertisement of the taxes or assessments shall be required to authorize the sale of tax liens on any lands or tenements as hereinbefore provided.
7. The sale of tax liens under the provisions of this chapter shall be held on such day during the week beginning with the third Monday of May in each year as the supervisor may determine.

Sec. 283.401. Postponement of sales.

[§ 559 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. It shall be lawful for the supervisor to suspend or postpone any sale or sales of tax liens on lands and tenements, or any portion thereof, which shall have been advertised for sale, to any time not more than 30 days after date specified in any such advertisements. All sales which shall be so postponed or suspended may be made without further advertisement other than a general notice of such postponement to be published and posted as provided in section 283.391 hereof.

Sec. 283.411. Sales of tax liens to be conducted by the supervisor.

[§ 560 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. The supervisor or, in the event of his absence or inability to act, the receiver of taxes, shall conduct the sales hereinbefore provided to be made, and no auctioneer other than the supervisor, or the receiver of taxes as herein provided, shall be employed to make such sale, and no auctioneer's fees shall be charged thereon. The supervisor shall require from each purchaser of a tax lien at the time of such sale a deposit on account of 25 percentum of the amount of the tax lien purchased by him, for which the receiver of taxes shall give his receipt, and not later than ten days after the date of the sale the balance shall be paid to the receiver of taxes at his office.
2. If no bid shall be received for a tax lien offered for sale, the supervisor for and on behalf of the town shall bid in the said tax lien, and upon such bid no deposit or payment in cash shall be

required from the town. When the town has bid in any tax lien a transfer of the tax lien to the town shall be executed by the supervisor in the form and manner prescribed for other transfers of tax liens, and the town shall have the same rights in, to and under such transfer of tax lien as purchaser, as if the same had been bought by any other person. A transfer of tax lien in the possession of a municipal subdivision entitled thereto shall be a continuing lien until paid, transferred or otherwise discharged. The supervisor of the town at any time either before or after the institution of a foreclosure action may accept a deed of conveyance of the property covered by the transfer of tax lien conveying to the town the fee of said premises, but such deed shall not be taken subject to any mortgage, lien, judgment, or other incumbrance, except taxes, tax liens and transfers of tax liens, due and owing to the town or a village wholly or partly within the town, leases and restrictive covenants of record.

3. The supervisor shall sell any such property so acquired either at public or private sale as the town board may by resolution direct and upon such terms and conditions and for such sum or sums as the town board shall by resolution fix and determine and convey title thereof in the name of the town. He may also obtain and pay for a title search and policy insuring the title to the property in the name of the town.
4. Transfer of tax lien shall be made and delivered to the purchaser without charge upon the payments therein shown to be due. In case any purchaser shall not complete his purchase in accordance with the terms prescribed as herein provided, then the amount deposited by him at the time of the sale shall be forfeited to the town, and the entire tax lien upon the lands affected by such purchase shall be sold again, such resale to be held at such time as the supervisor may direct, and notice thereof shall be posted and published as hereinbefore provided for the original sale of such tax liens. All deposits forfeited, as aforesaid, shall be paid to the supervisor and by him credited to the general town account.

Sec. 283.421. Transfer of tax liens.

[§ 561 of the Laws of 1948, Ch. 852]

A transfer of tax lien shall operate to transfer and assign the tax lien upon the lands or tenements described therein for taxes and assessments and penalties thereon and the charges of the notices and advertisement given pursuant to section 283.391 of this chapter, and all other costs and charges so advertised for sale and to create a lien upon property affected thereby for the interest to which the purchaser may be entitled under his bid, but such tax lien so sold shall be subject to all taxes and assessments, including school taxes or interest acquired from the sale or lease of the premises for the same, which are still unpaid and due and owing to the town making the sale; also subject to all town taxes, special district assessments and school taxes which have or may become a lien subsequent to the taxes or assessments for which the tax lien is sold, also subject to any and all subsequent transfers of tax liens against said premises. A transfer of tax lien shall contain a transfer and assignment by the town of the tax lien sold to the purchaser, the date of the sale, the aggregate amount of the tax lien so transferred and the items of taxes, assessments and penalties composing the tax lien, the annual rate of interest which the purchaser has bid and will be entitled to receive, the date when the amount of the tax lien will be due and the description of the real property affected by the tax lien, and shall refer for certainty to the designation of said

property on the official town map by its section, block and lot number, and such other identifying description as the supervisor may deem proper to advertise. Each transfer of tax lien shall be subscribed by or on behalf of the official making the sale, or his successor in office, and shall be acknowledged by the officer subscribing the same in the manner in which a deed is required to be acknowledged, to be recorded in the county in which the real property affected is situate.

Sec. 283.431. Record of transfer of tax liens.

[§ 562 of the Laws of 1948, Ch. 852]

The receiver of taxes of the town shall keep in his office a public record of sales of tax liens, and a copy of each transfer of tax lien issued by him. Assignments of transfers of tax liens, duly acknowledged, may be filed and recorded in the office of the receiver of taxes. Assignments of transfers of tax liens held by the town shall be executed by the receiver of taxes. A transfer of tax lien, and any assignment thereof duly acknowledged, shall be deemed conveyance under the provisions of the Real Property Law and may be recorded in the office of the recording officer of any county in which the real property which it affects is situate. Transfers of tax liens, and all assignments thereof, shall be recorded by the recording officer in the same manner as mortgages and assignments thereof, but without payment of the tax under Article 11 of the Tax Law. The record in the office of the receiver of taxes of sales of tax liens, of a transfer of tax lien and of a copy of a transfer of tax lien and of an assignment of transfer of tax lien, a record of transfer of tax lien in the office of a recording officer and of an assignment of transfer of tax lien duly acknowledged in the office of a recording officer, shall be evidence in any court of the state without further proof. A transcript of any record enumerated in this section, duly certified, shall be evidence in any court in the state with like effect as the original instrument of record. Neither the tax lien nor the rights transferred or created by a transfer of tax lien shall be impaired by failure of a recording officer to record a transfer of tax lien made by the town through the receiver of taxes.

Sec. 283.441. Rights of purchaser of tax lien.

[§ 563 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The aggregate amount of tax lien transferred pursuant to this chapter shall be due three years from the date of the sale. Until such aggregate amount is fully paid and discharged, the holder of the transfer of tax lien shall be entitled to receive interest on such aggregate amount from the day of sale, on the first day of December following the sale and semiannually thereafter, at the rate which the purchaser shall have bid. At the option of the holder of any transfer of tax lien the aggregate amount thereof shall become due and payable after the expiration of nine months from the date of sale either after default in the payment of interest on such transfer of tax lien for three months and/or after default for three months after the date of the sale of the tax lien in the payment of any taxes or assessments which become a lien subsequent to the taxes and assessments for which the tax lien so held is sold. The holder of a tax lien may pay to the receiver of taxes, after default, the amount of any subsequent taxes or assessments which have become a lien subsequent to the taxes and/or assessments for which the lien so held was sold, and the amount so paid shall bear interest at the rate of six percentum per annum from the date of such payment and the amount so paid with interest may be added to the aggregate amount of the

tax lien upon foreclosure of the tax lien. Upon the payment of such tax or assessment as aforesaid by the holder of such a tax lien the receiver of taxes shall note such payment with the name and address of the holder of such tax lien on the tax record. The owner of the property affected thereby shall have the right to repay the amount of any tax or assessment so paid with interest at any time before the starting of an action to foreclose the tax lien. In any instance where the town has bid in the tax lien and received a transfer thereof and the assessed value of the lot or parcel of land as assessed upon any subsequent roll is less than \$100.00, the supervisor is authorized to advance on behalf of the town the amount of any subsequent tax or assessment, and in that event the tax lien for the amount of such tax so paid shall not be sold, but the amount so paid with 12 percentum interest from the date of such payment shall be due and payable upon any redemption of the transfer of tax lien so held or upon foreclosure thereof as hereinafter provided as a part of such tax lien.

Sec. 283.451. Payment of tax liens.

[§ 564 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. Any person having an interest as owner or mortgagee in the property affected by a tax lien may satisfy or obtain an assignment of the same by payment to the receiver of taxes of the town in the following manner:
 - a. At any time prior to the service of notice to redeem, as provided in section 283.491, the payment shall consist of the principal amount due and/or unpaid for or on account of such transfer of tax lien with interest at the rate bid to 30 days after the date of payment, less any payments made by any party on account thereof.
 - b.
 - i. The holder of the transfer of tax lien or any party to an action to foreclose the same or any party in interest may give written notice to the receiver of taxes of the town that notice to redeem has been served or that an action to foreclose has been commenced, and upon receiving such written notice such receiver of taxes shall require the payment of the amounts hereinafter set forth.
 - ii. Notice that an action to foreclose has been commenced shall have attached to it a copy of the notice of pendency of action with a statement of the date when the same was filed in the County Clerk's office.
 - c. After the service of notice to redeem, if payment is made within the 30 days provided in such notice, such payment shall consist of the amount set forth in the notice to redeem or, if such payment be made after the expiration of such 30 days but prior to the time that the receiver of taxes shall have had notice of the commencement of a foreclosure thereof, attached to a copy of the lis pendens with the date of filing in the County Clerk's office endorsed thereon, the payment shall consist of the amount unpaid and due on such transfer of tax lien with interest at the rate bid for all unpaid interest thereon to 30 days after the date of payment with disbursements as set forth in section 283.491 hereof.

- d. After the receiver of taxes shall have had notice of the commencement of an action to foreclose such transfer of tax lien, with a copy of the notice of pendency of action attached as above stated, and prior to judgment of foreclosure, any person having an interest as owner or mortgagee in the property affected by such tax lien may file in the office of the receiver of taxes of the town a written notice of his intention to redeem and shall pay to such receiver of taxes a sum equal to the principal amount unpaid and due on such tax lien with interest at the rate bid to 30 days after the date of payment. Such notice and payment shall stay the proceedings in the foreclosure action except as hereinafter provided. Upon receiving such notice and payment, the receiver of taxes shall thereupon within five days give notice of such filing and payment personally or by mail to the attorney for the holder of such tax lien at the address appearing on the copy of lis pendens filed with the lien and therein direct that costs be taxed by the clerk of the court in which the action is pending on five days' written notice to the person filing notice of intention to redeem, mailed to the address stated in such notice of intention. The bill of costs shall not exceed \$10.00 for costs and may include disbursements actually made or incurred not exceeding \$25.00 for all authorized title searches for each tax parcel and postage paid in connection with the service of notice to redeem and not exceeding \$2.00 for each person served with a summons together with the other taxable disbursements, including referees's fees, if any, actually paid or incurred to which the plaintiff may be entitled and \$5.00 for discontinuance, cancellation and other services as hereinafter provided. Such bill of costs shall also set forth the names and addresses of the persons to whom such disbursements were paid or are payable and the nature of each item of disbursement. After such costs have been taxed by the clerk of the court in which the action is pending, a certified copy thereof shall be filed in the office of the receiver of taxes. If such certified copy of bill of costs be filed with the receiver of taxes within 25 days after the filing of such notice of intention to redeem and payment, the transfer of tax lien, by the further payment to the receiver of taxes of the amount of such bill of costs within said period of 30 days after the filing of the notice of intention to redeem as above provided, shall be discharged and satisfied of record or an assignment thereof given. If no such certified copy of bill of costs be filed with the receiver of taxes within said 25 days as above provided the holder of such transfer of tax lien shall immediately execute and deliver to the party redeeming, a duly acknowledged satisfaction or a duly acknowledged assignment thereof. At the time of the delivery of any satisfaction or assignment as in this subdivision provided and before the payment by the receiver of taxes of any sum to the holder of the transfer of tax lien or to his attorney, such holder of the transfer of tax lien shall cause to be delivered without any further payments the original transfer of tax lien and any and all assignments thereof, if any, also a consent to the discontinuance of the action and a cancellation of the lis pendens without costs, also an affidavit showing the parties served, the date of service and whether any of them have appeared, attaching to the affidavit the original or a copy of all notices of appearances and answers, if any. If payment of costs is not made in the manner above provided, the stay of proceedings shall be thereby vacated and the plaintiff authorized to continue the action but shall give credit in the judgment of foreclosure for all amounts paid as hereinafter provided.
- e. All payments made to the receiver of taxes as in this section provided shall be received by him for the benefit of the holder of the tax lien so paid and he shall give notice thereof to such holder or a personal representative or assignee by mail addressed to such address as

may appear on the records of the receiver of taxes. The receiver of taxes shall pay the amount of such payments so received to the person who, according to the records of his office, appears to be entitled thereto, or to the personal representative of such person, upon such receiver of taxes receiving a surrender of such transfer of tax lien with assignment thereof, if any, together with a certificate of cancellation or an assignment thereof as requested by the party paying and in the event a foreclosure of such tax lien is pending a consent to the discontinuance of such action and the cancellation of the lis pendens without costs. If a foreclosure action shall have been pending at the time of payment and such payment shall have been insufficient to discharge said transfer of tax lien as in Subdivision d hereof provided and shall so continue within the times therein provided, the receiver of taxes shall pay the amount so received by him to the person who, according to the records of his office, appears to be entitled thereto or the personal representative of such person. Any foreclosure of tax lien action may be ordered discontinued, and any notice of pendency of such action ordered cancelled, by the court in which such action is pending upon proof of the discharge of the tax lien being foreclosed in the manner aforesaid.

2. Any person having an interest as owner or mortgagee in property affected by a tax lien may pay the amount due on such tax lien directly to the holder thereof. The amount payable shall be the same amount as may be paid to the receiver of taxes of the town, and it shall be unlawful to demand or receive a greater amount in payment of a transfer of tax lien than that provided in subdivision 1. hereof. Upon making such payment such person shall be entitled to receive from the holder of said tax lien the same documents as if such payment had been made to the receiver of taxes all as provided in subdivision 1.d. hereof.
3. The record owner or holder of a transfer of tax lien shall, on request by any person having a legal or beneficial interest in property affected by such transfer of tax lien, furnish a statement of the balance due and unpaid on account of any such lien giving balance due on account of principal; and interest thereon, giving rate and date from which interest is charged to date of statement.
4. The receiver of taxes shall furnish suggested forms for assigning and also for satisfying transfers of tax liens.

Sec. 283.461. Apportionment of tax liens.

[§ 565 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The assessor or assessors shall at the written request of the owner, mortgagee or prospective purchaser or mortgagee apportion any transfer of tax lien affecting property which is to be or has been subdivided, or of which a part is to be or has been sold or mortgaged, or where two or more lots have been assessed together, and file such apportionment with the receiver of taxes. The receiver of taxes shall upon the filing of such apportionment in his office give written notice thereof by mail to the holder of any transfer of tax lien so apportioned and also to all owners or mortgagees as are shown in an affidavit to be filed by the applicant for such apportionment. The applicant shall file with the receiver of taxes an affidavit showing who are the owners of the property, with their names and addresses and also the names and addresses of all mortgagees

holding mortgages against the whole or any part of the property in reference to which the transfer of tax lien is to be apportioned. The holder of any such transfer of tax lien or any owner or mortgagee may within ten days thereafter give to the receiver of taxes written notice of objections to the apportionment and shall within ten days after filing written notice proceed to review by certiorari the action of the assessor in making such apportionment. In the event of the failure of the holder of any transfer of tax lien or owner or mortgagee to file objections to the apportionment within ten days, or if he files objections, to proceed to review such apportionment within 20 days after the filing of the written notice of the apportionment, such apportionment shall be effective and the receiver of taxes or the holder of such transfer of tax lien shall thereupon accept payment of the amount so apportioned as affecting any part of the property so apportioned and thereafter all provisions of this chapter in reference to the payment of the transfer of tax lien, or the foreclosure thereof, shall apply to the apportioned amounts. Nothing herein contained shall require the assessor or assessors to apportion any transfer of tax lien where such apportionment would so divide the property assessed that a sale thereof as so divided would result in a violation of any ordinance, statute or law or under like circumstances would be detrimental to the interests of the town or to the property if so divided.

Sec. 283.471. Discharge of tax liens.

[§ 566 of the Laws of 1948, Ch. 852; amended by the Laws of 1959, Ch. 95]

A tax lien sold pursuant to the provisions of this chapter must be discharged upon the record thereof by the receiver of taxes when payment is made to him of the amount due under the transfer of tax lien as in this chapter provided, or when the transfer of tax lien is surrendered to him for cancellation and there is presented to him a certificate executed by the purchaser, or the personal representative or assignee of the purchaser, acknowledged so as to be entitled to be recorded in the county in which the real property affected by such tax lien is situate, certifying that the tax lien has been paid or has been otherwise satisfied and discharged. The transfer of tax lien thus surrendered and such certificate of discharge must be filed by the receiver of taxes and he must note upon the margin of the record of such sale, upon such transfer of tax lien and upon the copy of the transfer of tax lien kept in his office, a minute of such discharge and the date of filing thereof. If the transfer of tax lien shall have been lost or destroyed or mutilated and if payment of the amount due thereon be made to the receiver of taxes, such amount shall not be paid to the alleged holder or owner of such transfer of tax lien, except on an order of the court after notice of application to the party or person paying such amount due and due proof that such transfer of tax lien has been lost, destroyed or mutilated and the filing of a certified copy of such order with the receiver of taxes to be taken in the place and stead of the transfer of tax lien so lost, destroyed or mutilated. The receiver of taxes shall upon demand issue his certificate showing the discharge of any tax lien which may have been duly discharged as provided in this section, and such certificate may be filed in any office where the transfer of tax lien is recorded, and any recording officer with whom such a certificate is filed shall record the same, and upon the margin of the record of such transfer of tax lien in his office shall note a statement that the same has been discharged with a reference to the record of such certificate in his office.

Sec. 283.481. Exemption from taxation.

[§ 567 of the Laws of 1948, Ch. 852]

Tax liens and transfers of tax liens shall be exempt from taxation by the state or any local subdivision thereof, except transfer and estate taxes imposed by the general tax law. The real property affected by any tax lien shall not be exempt from taxation by reason of this section.

Sec. 283.491. Foreclosure of tax liens.

[§ 568 of the Laws of 1948, Ch. 852; amended by the Laws of 1953, Ch. 839]

1. If the amount of any tax lien which shall have been transferred by a transfer of tax lien shall not be paid, or redeemed after notice as in this chapter provided, when under the terms and provisions of this chapter and of the transfer of tax lien such amount shall be due, the holder of such tax lien may maintain an action in the Supreme Court, or in the County Court, to foreclose such tax lien. No action to foreclose a tax lien or transfer of tax lien shall be instituted hereunder unless the holder of such tax lien or transfer of tax lien shall have served, after the right to foreclose has accrued, notice to redeem upon the record owner or owners of the premises affected by such lien, also on the mortgagee or mortgagees affected by such tax liens; provided, however, that the service of any such notice to redeem shall not be required or necessary prior to the institution of an action to foreclose a tax lien, or transfer of tax lien, held by a town, if the owner of the premises affected by such tax lien or transfer of tax lien shall commit or permit or fail to enjoin the commission of waste upon said premises or any part thereof, or shall do or permit the doing of any other damage thereto; or if the owner of any person claiming an interest in said premises shall enter into a contract for the commission of waste upon said premises, or any part thereof, or the doing of any other damage thereto; in either of which events any municipality holding or owning a tax lien or transfer of tax lien shall be entitled to an injunction to prevent a waste or other damage and in addition thereto, without notice, be entitled as a matter of right to the appointment of a receiver of the rents and profits arising from said premises and to stay pending such appointment. A notice to redeem shall be of not force and effect if served prior to the occurrence of the defaults under which the lien described in said notice may be foreclosed in pursuance of this chapter. Said notice to redeem shall require the persons served to pay the amount due under such tax lien or transfer of tax lien to the receiver of taxes of the town or to the holder of such tax lien or transfer of tax lien within 30 days from the service of said notice and shall set forth a verified statement of the amount required for redemption, which shall consist of the amount due on account of such tax lien with interest at the rate bid up to the date of the expiration of such 30-day period together with disbursements actually made or incurred not exceeding \$10.00 for all authorized searches for each tax parcel and disbursements for postage. The notice shall be served by registered mail addressed to the last known address, if any, of the persons served, as shown by the records in the office of the receiver of taxes and/or in the office of the County Clerk, division of land records. In the event that such records fail to disclose the names of such owners or mortgagees or fail to disclose the addresses of any such owners or mortgagees, the receiver of taxes shall, at the request of the owner of such tax lien or transfer of tax lien or his representative, post such notice in his office and upon the expiration of 30 days from the date of such posting the tax lien or transfer of tax lien holder shall have the same rights as if the registered notice was given as herein provided. In an action to foreclose a tax lien or transfer of tax lien any person shall be a proper party if the plaintiff alleges positively or upon information and belief that such person has or may have an interest in or claim upon the real property affected by the tax lien or transfer of tax lien. Except as otherwise provided in this

chapter an action to foreclose a tax lien or transfer of tax lien shall be regulated by the provisions of the civil practice act, including the right to the appointment of a receiver of the rents and profits pending such foreclosure proceedings as in the case of the foreclosure of a mortgage, the same rules and laws applying; by the provisions of Article 15 of the Real Property Law applicable to an action to determine claims where the foreclosure was void or voidable; and by all other provisions of law and rules of practice applicable to actions to foreclose mortgages on real property. The people of the State of New York may be made party to an action to foreclose a tax lien or transfer of tax lien in the same manner as a natural person. Where the people of the State of New York or the town is made a party defendant, the complaint shall set forth, in addition to the other matters required to be set forth by law, detailed facts showing the particular nature of the interest in or the lien of the people of the State of New York or the town on the real property involved and detailed facts showing the particular nature of the interest in or the lien on such real property which plaintiff has reason to believe that the people of the State of New York or the town has or may have in such real property, and the reason for making the people of the State of New York or the town a party defendant. Upon failure to state such facts the complaint shall be dismissed as to the people of the State of New York or the town. Separate transfers of tax liens against the same lot or against two or more lots or parcels of land may be foreclosed in one action. In the event that any defendant to such an action desires to have the action severed, an order to that effect may be granted upon due notice to the plaintiff and continued as to such defendant or defendants under such conditions as the court may provide, or the complaint dismissed as to such defendants, but without costs; or the action may be served on the application of the plaintiff as to one or more defendants upon due notice to such defendants as to whom the severance is sought who have appeared but upon such conditions as the court may provide, or the complaint dismissed as to such defendants but without costs.

2. In any tax lien or transfer of tax lien foreclosure brought by or on behalf of the town where the property affected thereby has either prior or subsequent to the date of the lien being foreclosed been sold for any lien against the same and all back taxes and assessments due at the time of such sale are not paid within 35 days after the date of such sale, the town shall not be required to give notice to redeem prior to the institution of such action to foreclose.
3. In all cases where the town is the plaintiff it shall be entitled to the appointment of a receiver of the rents and profits of the property being foreclosed, and application for such appointment may be made ex parte. On such application, the court shall appoint the receiver of taxes of the town in which the property is situate as the receiver of the rents and profits and such receiver shall serve without any additional fee or compensation and without giving any additional security other than the security he shall be required to give as the receiver of taxes.
4. A description of the property by section, block, lot, subdivision or other description, as shown on the tax map, used in the tax rolls and shown in the tax lien or transfer of tax lien shall be sufficient for such foreclosure.
5. The referee or other official making the sale shall sell each tax map, tax roll or tax lien or transfer of tax lien parcel separately, except that he may sell adjoining parcels with a frontage of not to exceed 75 feet in width on the street front together or where such parcels have been

used and/or occupied as one plot or parcel by one owner, but the court in and by the judgment may direct such other or different method as may seem just and proper.

6. The referee or other official making the sale may insert such additional description in the deed as to him shall seem proper for convenience of record identification.
7. The attorney for the plaintiff in the foreclosure of a tax lien or transfer of tax lien shall append to the notice of sale the approximate amount, including penalties and interest due for unpaid real property taxes and assessments, including the amount due on the tax lien or transfer of tax lien being foreclosed, which is a lien against the premises so being sold.
8. The terms of sale shall contain or have appended to and made a part thereof an itemized statement of the amount of all tax liens and penalties due and chargeable against the property to be sold.

Sec. 283.501. Pleading transfer of tax lien.

[§ 569 of the Laws of 1948, Ch. 852]

Whenever a cause of action, defense or counterclaim is for the foreclosure of a tax lien, or is in any manner founded upon a tax lien or a transfer of tax lien, the production in evidence of an instrument executed by the supervisor, in the form prescribed in section 283.421 for a transfer of tax lien subscribed by or on behalf of the supervisor, shall be presumptive evidence that the lien purported to be transferred by such an instrument was a valid and enforceable lien and that it has been duly assigned to the purchaser, and it shall not be necessary to plead or prove any act, proceeding, notice or action preceding the delivery of such transfer of tax lien nor to establish the validity of the tax lien transferred by such transfer of tax lien. If a party or person in interest in any such action or proceeding claims that a tax lien is irregular or invalid, or that there is any defect therein, or that a transfer of tax lien is irregular, invalid or defective, such invalidity, irregularity or defect must be specifically pleaded or set forth, and must be established affirmatively by the party or person pleading or setting forth the same.

Sec. 283.511. Judgment upon tax lien.

[§ 570 of the Laws of 1948, Ch. 852]

In every action for the foreclosure of a tax lien, and in every action or proceeding in which a cause of action, defense or counterclaim is in any manner founded upon a tax lien or transfer of tax lien, such transfer of tax lien and the tax lien which it transfers shall be presumed to be regular and valid and effectual to transfer to the purchaser named therein a valid and enforceable tax lien. Unless in such an action or proceeding such tax lien or transfer of tax lien be found to be invalid, it shall adjudged to be enforceable and valid for the amount thereof and the interest to which the holder may be entitled.

Sec. 283.521. Judgment of foreclosure of tax liens.

[§ 571 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. In an action to foreclose a tax lien, unless the defendants obtain judgment, the plaintiff shall be entitled to a judgment establishing the validity of the tax lien and of the transfer of tax lien, so far as the same shall not be adjudged invalid, and directing the sale of the real property affected thereby or such part thereof as shall be sufficient to discharge the tax lien or such items thereof as shall not be adjudged invalid, and the interest thereon and all other accrued taxes, assessments and water rents affecting the real property, together with the expenses of the sale and the costs of the action, except that the fees and/or allowances to a referee or other official appointed to compute shall not exceed \$10.00 unless there are five or more tax parcels in the action, in which event the allowance shall not exceed \$20.00, and the fee and/or allowance to the referee or other official appointed to sell shall be at not to exceed the rate allowed to the referee appointed to compute.
2. Costs in any foreclosure action brought under the provisions of this chapter shall be in the discretion of the court, but in no event shall such costs exceed the sum of \$20.00 unless there are five or more separate tax parcels included in one action in which event the costs shall not exceed \$40.00. The award of costs in any action shall carry with it the right to recover taxable disbursements, together with such amount as the court shall allow for authorized searches not to exceed \$10.00 for each tax parcel included in the action.
3. The judgment of foreclosure shall direct the payment of (1) the costs, disbursements and expenses of the foreclosure action; (2) all taxes and special district assessments, school taxes and penalties payable to the receiver of taxes under this chapter, also all tax liens or transfers of tax liens for same which are a lien against the premises so sold subsequent to the taxes or assessments covered by the lien so foreclosed or that the tax parcel be sold subject thereto and if sold subject thereto the notice of sale shall state the approximate amount thereof including penalties and interest; (3) all taxes and assessments, including school taxes or interest acquired from the sale of a tax lien or liens or lease of the premises for the same, which are still unpaid and due and owing to the town as of the date of the taxes for which such tax lien has been sold, or that the tax parcel be sold subject thereto and if sold subject thereto the notice of sale shall state the approximate amount thereof including penalties and interest; (4) and the amount of the transfer of tax lien foreclosed with interest thereon.
4. In the event that the town is the plaintiff, the holder of any town tax lien affecting the tax parcel sought to be sold shall be made a party to the action. The property affected by any tax lien so being foreclosed by the town shall be sold free and clear of all town tax liens and/or taxes due or owing the town for state, county and town and school taxes and special district assessments and the proceeds of such a sale after paying the costs and disbursements as herein provided, shall be applied to the cancellation of all such taxes and special district assessments or tax liens therefor as follows: (1) to the payment of all town tax liens subsequent to the original town tax lien being foreclosed; (2) to the payment of all other tax liens owned or held by the town; (3) to the payment of all other town tax liens, in the inverse order of the dates of the liens of such taxes or assessments.
5. The judgment of foreclosure and sale shall also recite the transfer of the tax lien and each assignment thereof and unless such transfer of tax lien and each assignment thereof has been

duly recorded in the office of the County Clerk the same shall be attached to and form a part of the judgment.

6. In the event that the owners of two or more parcels are joined as defendants, the judgment of foreclosure and sale shall provide for an equitable division of the costs and disbursements as against each parcel to be sold as in said judgment provided.
7. The plaintiff in any action to foreclose any tax lien or his attorney, shall file with the receiver of taxes a copy of any judgment entered with a notice stating the date of its entry, and the receiver of taxes shall keep a record of the judgments of foreclosure filed with him and a notice upon the margin of the record of sale and upon the copy of the transfer of tax lien in his office the date of entry of such judgment of foreclosure.

Sec. 283.531. Effect of judgment foreclosing tax lien.

[§ 572 of the Laws of 1948, Ch. 852]

Every final judgment in an action to foreclose a tax lien shall be binding upon each defendant upon whom the summons is served or who appeared in the action either in person or by attorney; each person claiming from, through or under such a defendant by title accruing after the filing of notice of pendency of the action or after the entry of the judgment and filing of the judgment roll in the proper County Clerk's office; and each person not in being when the judgment is rendered, who afterward might have become entitled to a beneficial interest attaching to, or an estate or interest in such real property or any portion thereof, provided that the person through whom such party might be entitled to such beneficial interest, estate or interest is a party to such action or bound by such judgment. Every conveyance upon a sale pursuant to such judgment shall transfer to and vest in the purchaser all the right, title, interest and estate in the real property affected by such judgment of the plaintiff, subject if the town is not the plaintiff, to the taxes and assessments provided for in subdivisions 2. and 3. of the preceding section, if the property is sold subject thereto as in said subdivisions provided. In the event that the town is not the plaintiff and the property is not sold subject to the taxes and assessments as provided in subdivisions 2. and 3. of the preceding section, and the amount bid at such foreclosure sale is not sufficient to pay the taxes, assessments, interest and penalties due the town, then the conveyance shall be made subject to the lien of the same after deducting the amount actually paid on account thereof in connection with such sale, but the Town Board may after such sale direct that the whole or any part of such taxes, interest and penalties be cancelled, if it finds the total thereof exceeds the fair value of the property so sold. So much of Section 217 of the Civil Practice Act as requires the court to allow a defendant to defend an action after final judgment shall not apply to an action to foreclose a tax lien. Delivery of the possession of real property affected by a judgment to foreclose a tax lien may be compelled in the manner prescribed in section 985 of the Civil Practice Act.

Sec. 283.541. Surplus.

[§ 573 of the Laws of 1948, Ch. 852]

Any surplus of proceeds of sale after paying the expenses of sale and the costs and disbursements, together with the payments as provided in this chapter, must be paid into court for the use of the person or persons entitled thereto, and the judgment shall provide that if such surplus remains in court for a period of upwards of three months and no application has been made therefor that the same may be invested for the benefit of the person or persons entitled thereto.

Sec. 283.551. Agreement between municipalities as to tax liens.

[§ 574 of the Laws of 1948, Ch. 852]

1. In the event any town shall be the owner of any tax lien on property upon which another town or village shall also have a lien for unpaid taxes and/or assessments, it shall be lawful for such towns or villages by resolution of their respective governing bodies to enter into an agreement whereby any one or more of such tax liens may be foreclosed and upon a sale of the property in foreclosure the same shall be sold free and clear of town, school and village taxes and any assessments which are a lien on such premises on or prior to the date of sale and the proceeds of sale after paying the costs and expenses of sale, and all taxes and assessments which became a lien against the property subsequent to the sale in the foreclosure, if insufficient to pay all other taxes and assessments in full, shall be divided between such towns and villages proportionately to the amount due each as of the day of sale.
2. In the event such an agreement is entered into, the affidavit of regularity shall so state and a copy of such agreement shall be attached thereto, whereupon, notwithstanding anything in this chapter to the contrary, the judgment shall refer to such agreement and provide for the sale of such premises free and clear of all town, school and village taxes and any assessments which are a lien on said premises on or prior to the date of sale, and for a division of such proceeds as in such agreement and this chapter provided.

Sec. 283.561. Reimbursement for defective tax liens or transfers of tax liens.

[§ 575 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

If a transfer of tax lien be vacated or be set aside or cancelled, or if it be adjudged in any action that a transfer of tax lien is invalid or defective, or not sufficient to transfer a tax lien to the purchaser thereof, or if in any action to foreclose a tax lien it be adjudged that the entire tax lien is void and not a valid lien on the premises which it purports to affect, and that the complaint be dismissed, the purchaser may surrender such transfer of tax lien, together with a certified copy of such judgment or decree, to the supervisor and thereupon shall be repaid by the town the amount paid for such transfer of tax lien, with interest from the time of such payment at the rate set forth in the transfer of tax lien, but at not more than three per centum per annum, and the town shall pay the taxed costs and disbursements of any action or proceeding in which such adjudication is made. But no such payment shall be made unless the application therefor is made within five years from the date of such tax lien.

Sec. 283.571. Reimbursement when part of tax lien is defective.

[§ 576 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

If, in any action to foreclose a tax lien, it shall be adjudged that some, but not all, of the items constituting such tax lien are void and not a valid lien on the premises covered by such tax lien, or if, in the action or proceeding, it be adjudged that a transfer of tax lien is invalid or defective, as to some, though not as to all, of the items transferred, the holder of the transfer of tax lien, by instrument in writing duly acknowledged, shall retransfer to the town the items thus affected and shall be repaid by the town such portion of the amount paid for such transfer of tax lien as may be applicable to the items thus affected, with interest from the time of such payment at the rate set forth in the transfer of tax lien, but at not more than three percentum per annum, and the town shall pay the taxed costs and disbursements of any action or proceeding, other than an action to foreclose the tax lien, in which such adjudication is made. But no such payment shall be made unless the application therefor is made within five years from the date of such tax lien.

Sec. 283.581. Repurchase of defective transfers of tax lien by town.

[§ 577 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

If the holder of a transfer of tax lien shall present an affidavit to the supervisor whereby it appears that such a transfer of tax lien is invalid, defective or insufficient or that some items therein are void and not a valid lien on the premises covered by such transfer of tax lien, then the supervisor, after a reasonable investigation and determination that such transfer of tax lien is invalid, defective or insufficient in whole or in part and upon the authorization of the town board, may repurchase such transfer of tax lien or items in such transfer of tax lien with interest thereon up to the date of such repurchase at the rate set forth in such transfer of tax lien but at not more than three percentum per annum. But no such repurchase shall be made unless the application therefor is made within five years from the date of such transfer of tax lien.

Sec. 283.591. Owners may question transfers of tax liens.

[§ 578 of the Laws of 1948, Ch. 852]

Any person interested in or holding a lien upon any real property affected by an unpaid tax lien or transfer of tax lien, may file a written notice with the supervisor claiming that such transfer of tax lien is invalid or defective or that such tax lien which has been transferred pursuant to this chapter or which is advertised to be transferred is invalid, defective, void or ineffectual or should be vacated or set aside. The supervisor shall examine into the facts and proceedings resulting in the tax lien or transfer of tax lien mentioned in such notice; before a determination is had the supervisor shall serve a copy of such notice upon the holder of the transfer of a tax lien which is thus questioned or which transfers the items thus questioned and shall give such holder an opportunity to be heard. The supervisor, if he concludes that a defense in an action to foreclose the tax lien would succeed in whole or in part, shall so certify to the town board, and shall recommend what action shall be taken by the town concerning the same. If the town board shall by resolution conclude that such defense would succeed in whole or in part and recommend repayment by the town of the amount or a portion of the amount paid for a transfer of a tax lien which would be applicable to any item, and if it be approved by the supervisor, the town shall require the surrender of the transfer of tax lien or the retransfer to it of the item or items of such

tax lien which are found to be void or defective and shall make repayment therefor in the same manner as if such transfer of tax lien, tax lien or items have been adjudicated in the manner provided in sections 283.561 and 283.571. Neither the provisions of this section nor any act or proceeding thereunder shall impair or in any other manner affect the rights or remedies of any person interested in, or holding any lien upon, real property to question the validity of any tax, assessment, water rents or tax liens, or any part or item of any tax lien.

Sec. 283.601. Supervisor to protect interest of the town.

[§ 579 of the Laws of 1948, Ch. 852]

No claim shall be made against the town under sections 283.561 and 283.571 by the holder of any tax lien, or transfer of tax lien, unless action to foreclose the tax lien or transfer of tax lien upon which such claim is founded be commenced within five years from the time of the sale resulting in such transfer of tax lien; nor shall any claim be made against the town under said sections unless, within ten days after the commencement of any action or proceeding to vacate, set aside or cancel a tax lien or transfer of tax lien, or an item mentioned in a tax lien or transfer of tax lien, or within ten days after the service of any pleadings or other paper in an action or proceeding in which any tax lien or transfer of tax lien, or item mentioned in a tax lien or transfer of tax lien, is brought into question, sought to be set aside, vacated or cancelled or which sets forth or pleads any defense to an action to foreclose a tax lien or transfer of tax lien, a notice in writing is served upon the supervisor of the town setting forth the question or objection raised to the best knowledge of the holder of the tax lien or transfer of tax lien, or his attorney-at-law, and demanding that the town take up the prosecution or defense of the action or proceeding. All proceedings in such action or proceeding shall be stayed for 30 days or such shorter time as the supervisor, or the attorney, representing him, shall stipulate in writing. It shall be the duty of the supervisor to examine, or cause to be examined the questions raised, and, in order to protect the interests of the town, the attorney for the town shall have the right to be substituted for the attorney of record of the holder of the tax lien or transfer of tax lien, or to appear as attorney of record for the holder of any such tax lien or transfer of tax lien, to conduct or defend any such action or proceeding in the name of the holder of the tax lien or transfer of tax lien, and to bring any other action or proceeding for, on behalf of and in the name of the holder of such tax lien or transfer of tax lien as he may deem advisable, to take appeals and to argue appeals taken by the adverse party as he may deem advisable. It shall be the duty of the supervisor to protect the interest of the town in all matters, actions and proceedings relating to tax liens and transfers of tax liens; to intervene on behalf of the town or of the holder of a tax lien or transfer of a tax lien in, or to make the town a party to, any action in which he believes it to be to the interest of the town so to do, by reason of any matter arising under or relating to any tax lien or transfer of tax lien, or advertisement of sale of tax liens. In any action or proceeding in which the attorney for the town pursuant to this section shall be substituted, or shall appear, it shall be without expense to the holder of the tax lien or transfer of tax lien, or advertisement of sale of tax liens. In any action or proceeding in which the attorney for the town pursuant to this section shall be substituted, or shall appear, it shall be without expense to the holder of the tax lien or transfer of tax lien, and all costs recovered on behalf of such holder of a tax lien or transfer of tax lien in any action or proceeding conducted or defended by such attorney shall belong to the town and shall be collected, applied and disposed of in the manner as are other costs recovered by the town.

Sec. 283.611. Purchase and sale of tax lien property.

[§ 580 of the Laws of 1948, Ch. 852]

1. Upon the foreclosure of any tax lien or transfer of a tax lien held by the town, the supervisor shall have the right to bid in and take title on behalf of the town, of the property so sold, provided always that the amount of the bid does not exceed the amount it would be necessary for the property to bring in order to protect the interest of the town, after paying all previous charges in accordance with the terms of the judgment.
2. The town board shall have the right and is hereby authorized to grant by resolution easements to the owner or owners of abutting properties in, over, under and across any such lands, property and real estate which may have been heretofore or may hereafter be so acquired by the town.
3. The supervisor shall sell, either at public or private sale, as the town board may by resolution direct, and upon such terms and conditions and for such sum or sums as the town board shall by resolution approve, fix and determine, any property or any part or parts thereof acquired by the town by reason of any tax lien or transfer of tax lien and convey title thereof in the name of the town. Deeds and conveyances thereof shall be by bargain and sale deed without covenant against grantor and shall be executed on behalf of the town by the supervisor. Upon any such sale the supervisor, when so authorized by resolution of the town board, shall have the right and is hereby authorized to take back in the name of the town a purchase money bond and mortgage or bonds and mortgages as a part of the consideration therefor in an amount or amounts not to exceed 60 percent of the sale price and upon such terms and conditions as may be authorized and fixed by resolution of the town board and in enforcing the lien of any such mortgage the town shall have and be entitled to all the same rights and remedies as an individual or private corporation under the provisions of the Real Property Law and the Civil Practice Act and Rules of the State of New York.
4. Any such property may be sold on an installment contract of and, in that event the property so sold shall be assessed on the next succeeding tax roll. Upon any property so sold the contract of sale shall provide that the purchaser, in addition to making the installment payments, shall pay as they become due all taxes and assessments so assessed. The town shall not permit the subordination of any mortgage it may hold or subsequently acquire.

Sec. 283.621. Defective or invalid transfer of tax lien; proceeding anew.

[§ 581 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

If a transfer of tax lien be vacated or be set aside or cancelled or if it be adjudged that a transfer of tax lien is invalid or defective, or insufficient to transfer a tax lien to the purchaser thereof, or if in any action to foreclose a transfer of tax lien it be adjudged that a transfer of tax lien is not a valid lien on the premises which it purports to affect because of some irregularity in the proceedings had, and if, in pursuance of any such adjudication, the purchaser of said transfer of tax lien shall have surrendered such transfer of tax lien to the supervisor and shall have been

repaid by the town the amount paid for such transfer of tax lien, with interest at a rate of not more than three percentum per annum and costs and disbursements of the action or proceeding in which such adjudication was made or, if the town shall repurchase the transfer of tax lien in the manner provided in section 283.581 hereof, the tax lien which was purported to be transferred and assigned in such transfer of tax lien shall remain as a valid lien upon the premises which it affects, except to such extent as it may have been adjudged irregular or invalid, and the supervisor shall proceed to sell anew, as provided in section 283.391 of this chapter, so much of the said tax lien as is not invalid as if no prior sale purporting to transfer the said tax lien had taken place. Such sale of the tax lien so surrendered or repurchased shall be made at the next ensuing tax sale and shall be labeled or designated in such tax lien sale as resale of lien.

Sec. 283.631. Delivery of duplicate in case of lost transfer of tax lien.

[§ 582 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

Whenever any transfer of tax lien given by the supervisor as in this chapter provided shall be lost, the supervisor may receive evidence of such loss and on satisfactory proof of the fact may execute and deliver a duplicate to such person or persons who shall appear entitled thereto, and may also, in his discretion, require a bond of indemnity to the town. Such bond of indemnity shall be issued by a surety company authorized to do business in the State of New York and shall be approved by resolution of the town board as to its form and sufficiency.

Sec. 283.641. Collection of tax.

[§ 583 of the Laws of 1948, Ch. 852; amended by L.L. No. 1-1966]

1. Notwithstanding any general, special or local law to the contrary, whenever any tax or local assessment levied or assessed upon or against the property of any persons, copartnership or corporation, public or private, except a municipal corporation, with the fees, penalties, additions and expenses, which by this chapter have been added thereto, shall at any time remain unpaid, such unpaid tax or assessment shall become the personal liability of the owner of the property, and the supervisor shall, when directed by the town board, maintain an action in the name of the town against the owner or owners of such property for the amount of such tax, penalties, interest, fees, additions and expenses remaining unpaid and uncollected for more than one year upon or against the property of any person, copartnership or corporation, public or private, except a municipal corporation, liable for such tax or assessment, or the representatives of such person, copartnership or corporation, public or private, in the County Court or in the Supreme Court of the Ninth Judicial District, with like effect as in civil actions generally under the Civil Practice Law and Rules, with the right to institute supplementary proceedings upon such judgment irrespective of the amount of the judgment recovered. The amount collected by any such action or proceeding shall be used and applied by the receiver of taxes in the same manner as if the same had been collected by the sale of real estate under the provisions of this chapter relating to unpaid taxes. The warrant delivered to the receiver of taxes shall be presumptive evidence that all previous proceedings, including the assessing and levying of the tax or assessment, were regular and according to law. A judgment in such action in favor of the town shall not release or in any manner affect the lien of any tax or assessment until such judgment is satisfied, and nothing in this section shall be construed or held to repeal

or abridge any other remedy or power given for the collection of taxes or assessments on behalf of any town in the County of Westchester.

2. Real property owned by a municipal corporation shall not be sold or conveyed by foreclosure or otherwise for the nonpayment of any tax or special assessment. Any tax or special assessment validly levied or charged against real property owned by a municipal corporation shall be paid in the same manner as a general municipal charge. Notice of claim, setting forth the nature and amount of the tax and a tax map description of the property against which the tax is levied, must be served on the municipality owning the real property within 30 days after the same became a lien, by delivery of such notice of claim, personally or by mail, to the chief executive officer or clerk of said municipal corporation or such tax or assessment shall be deemed invalid. For the purposes of this section, a tax bill, containing the information above required for such notice of claim, shall be deemed a notice of claim. If any such tax or special assessment remains unpaid for more than 60 days after service of said notice of claim as hereinbefore set forth, payment may be enforced by a proceeding brought pursuant to Article 78 of the Civil Practice Law and Rules. No penalty or interest shall accrue on said claim until the expiration of 60 days from the service of said notice of claim. Any proceeding brought under this section to enforce such a claim shall be commenced within one year and 60 days from the service of said notice of claim and shall be an exclusive remedy for the enforcement of said claim. If the municipal corporation owning the real property determines that the value thereof is insufficient to justify payment of the tax or special assessment levied thereon, in lieu of payment it may consent to an order directing sale of the property at public auction on such notice as the court may order to satisfy the claim.

Sec. 283.651. Collection of water rents.

[§ 584 of the Laws of 1948, Ch. 852]

Whenever an incorporated village in the county, having a population of less than 5,000 as determined by the federal census, or a water district in any town in the county, established pursuant to the provisions of the Town Law, shall, pursuant to the provisions of the Village Law or pursuant to the provisions of the Town Law, sell water to an individual or corporation outside such village, or water district, the board of water commissioners of such village may direct the village clerk, or the board of water commissioners of such water district may direct its clerk or superintendent, to file with the supervisor of the town in which the premises to which such water is supplied are situated a verified statement of the amount of unpaid rents for water supplied to said premises with penalties thereon. Such statement shall be filed before February 15th in each year. Such statement shall contain a brief description of the property upon which the water was used, the names of the persons or corporations liable to pay for the same and the amount chargeable to each. The supervisor shall submit such statement to the town board which shall levy such sums against the property liable and shall collect the same in the same manner as town taxes and shall state the amount of such water rent in the annual tax roll of said town in a separate column under the name of "village water rent" or "district water rent," as the case may be. Upon the filing of such statement and the entry thereof on said tax roll the amount of such water rents and penalties shall constitute a lien upon said premises, on a parity with the lien of taxes and assessments extended on such roll and shall be entitled to all the rights and subject to

all provisions affecting such taxes and assessments. Such water rents, and the penalties thereon, shall, when collected, be paid and delivered to the board of water commissioners of such village or of such water district. All of the provisions of this chapter covering the enforcement and collection of unpaid taxes and assessments not inconsistent herewith, shall apply to the collection of such unpaid water rent.

Sec. 283.661. Other remedies to collect taxes not affected.

[§ 585 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The actions to enforce personal liability and the foreclosure actions herein provided for are in addition to the other methods provided for the collection of taxes by the towns of the County of Westchester, including procedure for the collection of delinquent taxes under Article II, Title 1 of the Real Property Tax Law and not dependent upon them or any of them or any step thereof, nor is any other method which by any other statute is available to a town for the collection of taxes dependent on any of the provisions of this chapter.

Sec. 283.671. Legislative intent.

[§ 586 of the Laws of 1948, Ch. 852]

No act done or right accruing, accrued or acquired, nor any penalty or forfeiture incurred, prior to the time when this chapter takes effect, shall be affected or impaired by virtue of the repeal of any act by this code as hereinafter specified; but such right, penalty or forfeiture may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this chapter had not been enacted. No tax liens heretofore issued nor any tax sale heretofore had shall be affected by this chapter, but the rights of all persons with respect thereto shall be the same as if this chapter had not been enacted, except as in this chapter otherwise specifically provided, and all actions, suits, proceedings or prosecutions pending when this chapter takes effect may be prosecuted and defended to final determination in the same manner as they might prior to the effective date of this chapter. For the purpose of determining their effect on any other provisions of any other law heretofore enacted similar to the provisions herein contained, and by this code repealed, the provisions of this chapter shall not be construed as having been enacted or reenacted at the time of the effective date of this chapter, but as having been enacted as of the various times when such similar provisions were first enacted by the legislature. The true purpose and intent of this section is to prescribe that so far as the provisions of this chapter are a substantial reenactment of the Laws of 1916, Ch. 105, as amended, or of any other special tax law applicable only to the County of Westchester, they shall be of the same force and effect hereunder as they were before the enactment hereof.

APPENDIX C

Status of Lawsuits filed against the County Administration by certain members of the County Board or the entire County Board since 2010.

Table of Contents

<u>Lawsuit</u>	<u>Page</u>
Lawsuit Regarding raising the Day Care Parent Share cost to 35% (Judge Neary)	2
Lawsuit Regarding Failure to Accept Applications for Childcare Assistance (Judge Hubert)	3
Lawsuit regarding Capital Projects (Judge Hubert)	4
Lawsuit regarding the Board of Acquisition and Contract (“Board of A&C”) (Judge Warhit)	6
Lawsuit regarding a cancelled Bus Route (Judge Neary)	7

Lawsuit Regarding raising the Day Care Parent Share cost to 35% (Judge Neary)

KENNETH W. JENKINS, in his Individual capacity and in his capacity as a Westchester County Resident and Taxpayer, Chairman and Member of the Westchester County Board of Legislators; LYNDON WILLIAMS, in his Individual capacity as in his capacity as Westchester County Resident and Taxpayer, and Westchester Vice-Chairman and Member of the Westchester County Board of Legislators, and PETER HARCKHAM, in his Individual Capacity and in his capacity as a Westchester County Resident and Taxpayer and as Member of the Westchester County Board of Legislators; and MARY JANE SHIMSKY in her Individual Capacity and in her capacity as a Westchester County Resident and Taxpayer and as Member of the Westchester County Board of Legislators, v. ROBERT P. ASTORINO, in his Individual capacity and as Westchester County Executive and Member of the Westchester County Board of Acquisition & Contract, KEVIN McGUIRE, in his Individual capacity and as the Commissioner of the Department of Social Services, and GLADYS CARRION, in her official capacity as Commissioner of the New York State Office of Children and Family Services.

Westchester County, through the Westchester County Department of Social Services (“DSS”) provides a day care subsidy program for low income families. Such program provides financial assistance for day care to eligible low income families to enable a parent or caretaker to work at a job leading to self-sufficiency or to participate in DSS mandated employment related activities while their child is attending a day care facility. In addition to the financial assistance for day care through DSS, each recipient is required to pay a portion of their income or a weekly “family share” toward the cost of day care for their child[ren]. In establishing the family share for Westchester County, the County must select an appropriate percentage from 10% to 35% of a recipient’s income to use in calculating the family share for day care costs.

In December 2011, the Westchester County Board of Legislators (“County Board”) passed and subsequently overrode County Executive Astorino’s veto of the County Board’s addition of \$4.3 million dollars to the family share lines of the 2012 County Budget Act for fiscal year 2012 thereby establishing the County Board’s policy with respect to maintaining the family share for day care for eligible families at 20% of a recipient’s income. The County Board also passed and overrode County Executive Astorino’s subsequent veto of an accompanying Act to the 2012 Budget Act, Act 2011-191, which mandated among other things, that “no changes to policies, programs and services contained in the finally adopted budget shall take place without the prior approval of the County Board of Legislators....” Notwithstanding the foregoing, in February and March of 2012, the County Executive and DSS Commissioner McGuire announced that budgeted funds would not be adequate to meet projected child day care demand during 2012, and an increase in the family share percentage to 35% would be necessary to continue the child day care subsidy program for the duration of year 2012.

This action, filed in May of 2012, challenges the Administration’s attempt to increase the day care parent share cost for eligible low income County residents from 20% to 35% without the approval of the County Board and in violation of the 2012 finally adopted County Budget. Plaintiffs

sought and the Court issued a temporary restraining order (“TRO”) which prevented the increase in the family share to 35%. The TRO was subsequently lifted when the Court issued a decision granting the Defendants’ motion to dismiss the lawsuit. The Defendants argued that the DSS Commissioner had unbridled discretion to raise the family share rate without County Board approval and that the County Board could not set the rate by budget act. Plaintiffs’ opposed said motion to dismiss on the basis that the County Board, a necessary party, was not a party to the action and, consequently, the Court lacked jurisdiction to pass on the validity of any part of the 2012 finally adopted County Budget much less the act setting the childcare share rate at 20%. The County Board subsequently filed a non-party motion to vacate the decision. The motion is pending.

Plaintiffs appealed the decision and obtained a TRO from the Second Department when Defendants again attempted to raise the rate effective November 1, 2012. While that TRO was eventually lifted, the appeal is still pending and the childcare rate remained at 20% through the end of 2012 because of Plaintiffs’ actions.

Lawsuit Regarding Failure to Accept Applications for Childcare Assistance (Judge Hubert)

In the Matter of KENNETH W. JENKINS, Chairman of the Westchester County Board of Legislators on behalf of the WESTCHESTER COUNTY BOARD OF LEGISLATORS v. ROBERT P. ASTORINO, in his individual capacity and in his capacity as Westchester County Executive, KEVIN McGUIRE in his individual capacity and in his capacity as Commissioner of the Westchester County Department of Social Services, and LAWRENCE SOULE, in his individual capacity and in his capacity as Westchester County Budget Director.

In December 2011, the County Board passed and subsequently overrode Respondent CE Astorino’s veto of the County Board’s addition of \$3.5 million dollars to the “Indirect Social Services” line and \$800, 000 to the “Daycare” line of the County Budget Act for fiscal year 2012 (“2012 Budget Act”). In February and March of 2012, Respondent Astorino and Respondent McGuire announced that the budgeted funds would not be adequate to meet projected child day care demand during 2012. Consequently, the County Board Committee on Community Services met with Respondent McGuire, DSS representatives, and the Respondent Budget Director on several occasions to review concerns on the adequacy of funding of the child day care subsidy program for fiscal year 2012. Committee discussion noted the possibility of additional revenue to alleviate a potential funding shortfall in childcare funding such as: 1. unaccounted revenue from the Child Care Block Grant and 2. any other surplus funds available to DSS from unaccounted revenue in the finally adopted 2012 Budget Act which could be transferred to DSS. Respondent Budget Director had advised the County Board that DSS was forecasting a \$7,519,423 Relief appropriation surplus. Notwithstanding the foregoing, by Public Notice dated September 18, 2012, DSS advised potential applicants for day care subsidies that except for cases in the “guaranteed categories,” no new applications for day care subsidies would be accepted after September 18, 2012, due to lack of funding. As a result of raising the daycare family share percentage, qualified applicants for child care subsidies would very well be unable

to obtain affordable day care and, consequently, it would be necessary for such applicants to stop working to care for their children and possibly be required to apply for public assistance.

This action filed in September of 2012, challenges the Administration's attempt to cut off any new applications for childcare assistance effective November 1, 2012 on the basis that the program was out of money even though the Social Services 2012 Budget contained approximately \$5 million in surplus funds that could be transferred to cover any purported shortfall. Plaintiffs sought and the Court issued a TRO which prevented DSS from refusing to accept day care subsidy applications which remains in place. Defendants moved to dismiss the lawsuit on the basis that the DSS Commissioner has unbridled discretion to use DSS funds as he sees fit. Plaintiffs opposed the motion to dismiss in essence based upon the Laws of Westchester County ("LWC") and New York State ("NYS") County Law which provide in part that the County Board has powers with respect to the administration of social services and public assistance and care and that the DSS Commissioner is required to perform duties as directed by the County Board. The motion papers were fully submitted. By Notice of Discontinuance dated January 10, 2013, this matter was discontinued by Plaintiffs. It was discontinued because the issue involved the failure to accept new applications for day care subsidies in 2012, therefore, since the 2012 calendar year has passed, the issue in this matter is now moot.

Lawsuit regarding Capital Projects (Judge Hubert)

KENNETH W. JENKINS, Chairman of the Westchester County Board of Legislators on behalf of the WESTCHESTER COUNTY BOARD OF LEGISLATORS, ROBERT P. ASTORINO, in his capacity as Westchester County Executive and LAWRENCE SOULE in his capacity as Budget Director.

On or about November 9, 2010, the County Executive filed his proposed 2011 County Budget, Appropriations Act and Tax Levy Act with the County Board and County Board Committee on Budget and Appropriations in accordance with LWC Section 167.81. On December 6, 2010, the County Board Committee on Budget and Appropriations filed with the County Board a Memorandum of Additions to the proposed County Budget pursuant to LWC section 167.81. Included in the Memorandum of Additions were various new capital projects. On December 10, 2010, the County Board passed the 2011 County Budget authorizing the capital projects added by the Board in accordance with LWC 167.101(1). After presentation of the Budget Acts to the County Executive, on December 14, 2010, the County Executive issued approximately 260 line item vetoes to the County Budget, including vetoes of the capital projects added by and subsequently authorized by the County Board. On December 23, 2010, the County Board overrode approximately 246 of the County Executive's vetoes including his vetoes of the capital projects added by and subsequently authorized by the County Board by a two-thirds majority, thereby enacting the finally adopted 2011 County Budget Act. In the past, there has been no objection by the County Executive to the County Board adding capital projects to the proposed capital budget and authorizing them in a similar manner. On January 18, 2011, the Westchester County Attorney issued a formal opinion in which he opined that, among other things, because the County Board did not follow the process that County "departments",

“institutions”, “offices” and “agencies” must follow according to the LWC, to have their capital projects considered by the County Executive for inclusion in his proposed budget and subsequently authorized by the County Board during the County Budget process, the capital projects added by and subsequently authorized by the County Board could not be included in the 2011 Capital Budget Act. In essence, the County Attorney believes that the County Board is required to follow the same process as other departments, agencies and offices in order to add capital projects to the County Executive’s proposed Budget, while the County Board believes that as a separate coequal branch of government, they would not be required to follow such process and need only add capital projects into the County Boards’ Memorandum of Additions, that if not deleted by the full County Board or vetoed by the County Executive, would be a part of the Capital Budget. The County Executive and Budget Director, relying on the County Attorney’s Opinion did not acknowledge, initiate¹ and/or proceed with any of the capital projects added by and subsequently authorized by the County Board in the 2011 County Budget Act. Moreover, the Budget Director did not include any of the capital projects added by and subsequently authorized by the County Board in the 2011 Capital Budget Act to the printed 2011 Capital Budget book.

On or about November 15, 2011, the County Executive filed his proposed 2012 County Budget, Appropriations Act and Tax Levy Act with the County Board and County Board Committee on Budget and Appropriations. Similarly with regard to the 2012 County Budget, on December 5, 2011, the County Board Committee on Budget and Appropriations filed with the County Board a Memorandum of Additions to the proposed 2012 County Budget, which included various new capital projects. On December 8, 2011, the County Board passed the 2012 Westchester County Budget authorizing the capital projects added by the Board, and on December 15, 2011, the County Executive issued approximately 29 line item vetoes to the 2012 County Budget. No capital projects added by the County Board were vetoed. On December 22, 2011, the County Board overrode the County Executive’s vetoes by a two-thirds majority, thereby enacting the finally adopted 2012 County Budget Act. The County Executive and Budget Director, relying on the County Attorney’s Opinion refused to acknowledge, initiate and/or proceed with any of the capital projects added by and subsequently authorized by the County Board in the 2012 Capital Budget Act. Moreover, the Budget Director did not insert any of the capital projects added by and subsequently authorized by the County Board in the 2012 Capital Budget Act to the printed 2012 Capital Budget.

Accordingly, this action filed in July of 2012, challenges the Administration’s failure to recognize the capital projects added by the County Board to the 2011 and 2012 finally adopted County Budgets. Defendants moved to dismiss the lawsuit on the basis that the County Board cannot add projects to the capital budget during the budget process, notwithstanding the fact that capital projects have consistently been added to proposed County Budgets in many years past. The County Board opposed the motion to dismiss the lawsuit on the basis that the court lacked jurisdiction to consider the validity of any of the capital projects because no action had been commenced against the County Board challenging their additions of capital projects to proposed

¹ All capital projects require approvals for planning, financing, etc., by appropriate County Boards, Committees and the County Board in accordance with New York State law and the Laws of Westchester County.

budgets as part of their additions to other portions of proposed budgets. The motion papers have been fully submitted and we are awaiting a decision.

Lawsuit regarding the Board of Acquisition and Contract (“Board of A&C”) (Judge Warhit)

KENNETH W. JENKINS, in his Individual capacity and in his capacity as a Westchester County Resident and Taxpayer, Chairman and Member of the Westchester County Board of Legislators, and Member of the Westchester County Board of Acquisition & Contract; LYNDON WILLIAMS, in his Individual capacity as in his capacity as Westchester County Resident and Taxpayer, and Westchester Vice-Chairman and Member of the Westchester County Board of Legislators, and PETER HARCKHAM, in his Individual Capacity and in his capacity as a Westchester County Resident and Taxpayer and as Member of the Westchester County Board of Legislators, v. ROBERT P. ASTORINO, in his Individual capacity and as Westchester County Executive and Member of the Westchester County Board of Acquisition & Contract, JAY T. PISCO, in his Individual capacity and as the purported Commissioner/Acting Commissioner of the Department of Public Works & Transportation and as a purported Member of the Westchester County Board of Acquisition & Contract, and ROBERT F. MEEHAN, in his Individual capacity and as Westchester County Attorney.

According to the LWC, the Board of A&C, consisting of the County Executive, the Commissioner of the Department of Public Works and Transportation (“DPWT”) and the Chairman of the Westchester County Board of Legislators (“County Board”), approves all County contracts except for contracts executed by the Bureau of Purchase and Supply and short form contracts under \$20,000 made by heads of Departments. On November 29, 2011, the County Board passed Local Law 4115-2011 (a/k/a “Local Law 6-2012”) and presented it to the County Executive pursuant to the LWC. Local Law 6-2012 amended, among other things, the LWC Section 161.01 changing the statutory composition of the Board of A&C by replacing the Commissioner of the Department of Public Works and Transportation (“DPWT”) with the County Budget Director and amended other sections of Chapter 161 of the LWC with respect to the operations of the Board of A&C. By correspondence to the County Board dated December 10, 2011, the County Executive vetoed Local Law 415-2011, and on December 22, 2011, the County Board overrode the County Executive’s veto. Given that Local Law 415-2011 changed provisions of the LWC relating to “public bidding, purchases or contracts,” it was subject to a referendum on petition (“permissive referendum”) pursuant to LWC Sections 209.171 and 209.181. No petition “signed and acknowledged by resident qualified electors of the county in number equal to at least ten per centum of the total number of votes cast for Governor at the last gubernatorial election in the county....” was filed with the Westchester County Board of Elections within 60 days of enactment of such law--- February 22, 2012 --- protesting Local Law 415-2011. Respondent/Defendants believe first that the Local Law is ineffective because the Local Law was subject to a mandatory rather than permissive referendum and further, while the County Board published notice that the Local Law was subject to a permissive referendum, the Board did not follow the requirements of a New York State Law regarding notice and publication for permissive referenda. To date, Respondent(s)/Defendant(s) have refused to

implement or comply with Local Law 6-2012 in its entirety and have allowed Respondent/Defendant Pisco, Commissioner of DPWT, to consider and/or vote on more than 50 million dollars of County contracts at A&C meetings held on March 1, 2012, March 8, 2012, March 15, 2012, and March 22, 2012 notwithstanding the written and verbal objections of the Petitioner(s)/Plaintiff(s).

This action filed in April of 2012, challenges the Administration's failure to enforce Local Law 6-2012 modifying provisions of the LWC concerning the operation of the Board of A&C. Defendants/Respondents moved to dismiss the action claiming the Local Law was not properly enacted and, consequently, they did not have to follow it. The Court denied the motion on the basis that it lacked jurisdiction to consider the Law's validity because the County Board, a necessary party because it was the body that enacted the law, was not a party to the action and no action had been commenced against such County Board challenging its purported failure to properly enact the Law. Consequently, the Court found that the Defendants did not have any defense to the action and directed them to submit an answer. Defendants submitted an answer and Plaintiffs' submitted a reply requesting all of the relief sought in their petition including a judgment compelling Defendants to comply with the Law. We are awaiting a decision.

Lawsuit regarding a cancelled Bus Route (Judge Neary)

KENNETH W. JENKINS, Chairman of the Westchester County Board of Legislators on behalf of the WESTCHESTER COUNTY BOARD OF LEGISLATORS, v. ROBERT P. ASTORINO, in his capacity as Westchester County Executive and Member of the Westchester County Board of Acquisition & Contract, JAY T. PISCO, in his individual capacity and as the purported Commissioner/Acting Commissioner of the Department of Public Works & Transportation, JOAN McDONALD, in HER official capacity as the Commissioner of the New York State DEPARTMENT OF TRANSPORTATION, and LIBERTY LINES TRANSIT, INC.

On or about November 15, 2011, the County Executive filed his proposed 2012 County Budget, Appropriations Act and Tax Levy Act with the County Board and County Board Committee on Budget and Appropriations in accordance with the LWC. The proposed 2012 County Budget did not contain funding for the then existing Route 76 Bus Line. On December 5, 2011, the County Board Committee on Budget and Appropriations filed with the County Board a Memorandum of Additions to the proposed County Budget and included an addition restoring funding for the Route 76 Bus. On December 8, 2011, the County Board passed the 2012 County Budget Act, and following presentation of the 2012 County Budget Act to the County Executive, on December 15, 2011, the County Executive issued approximately 29 line item vetoes to the 2012 County Budget, including a veto of the County Board's addition restoring funding for the Route 76 Bus Line. On December 22, 2011, the County Board overrode the County Executive's vetoes by a two-thirds majority thereby restoring funding for the Route 76 Bus Line and enacting the finally adopted 2012 County Budget Act. The County Board also passed and overrode Astorino's subsequent veto of an accompanying Act to the 2012 Budget Act, Act 2011-191, which mandated, among other things, that "no changes to policies, programs and services

contained in the finally adopted budget shall take place without the prior approval of the County Board of Legislators....” Notwithstanding the foregoing, Respondents/Defendants allowed the Route 76 Bus Line to be discontinued or cancelled and thereafter, allowed the Route 13 Bus Line to be amended to cover part of the discontinued or cancelled Route 76 Bus Line. No report was furnished to the County Board by Astorino concerning the renewal, extension or amendment of the Route 76 or 13 Bus Lines, nor was an Act published and passed by the County Board permitting the discontinuance of Route 76 and/or the modification of Route 13 to include portions of the Route 76 line, in accordance with LWC Sections 188.01 or 241.331.

Accordingly, this action was filed in August of 2012, challenging the administration’s failure to follow the process set forth in the LWC to modify a County bus route funded by the County Board in the finally adopted 2012 County budget. Only New York State filed any responsive papers moving to dismiss the action against them based on the fact that they are not a necessary party to the action. No decision on this motion has been received. The County Administration’s response has not been filed as yet based upon adjournments agreed to by the County Board and the County Administration. The action is pending.