S T A T E O F N E W Y O R K

3855

2013-2014 Regular Sessions

I N S E N A T E

February 25, 2013

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to the abatement of taxes due to a catastrophic loss caused by a natural disaster

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Article 5 of the real property tax law is amended by adding a new title 2-A to read as follows:

TITLE 2-A

ABATEMENT OF TAXES DUE TO A CATASTROPHIC LOSS CAUSED BY A NATURAL DISASTER

SECTION 548. APPLICABILITY OF OTHER PROVISIONS.

548-A. DEFINITIONS.

548-B. CATASTROPHIC LOSS TAX ABATEMENT PROCEDURE.

548-C. COORDINATION WITH SCHOOL AND VILLAGE TAX LEVIES.

548-D. ABATEMENT; STATE EXPENSE.

S 548. APPLICABILITY OF OTHER PROVISIONS. THE PROVISIONS OF TITLES ONE-A AND THREE OF THIS ARTICLE SHALL APPLY TO THIS TITLE INSOFAR AS THEY ARE NOT INCONSISTENT WITH THE PROVISIONS AND PURPOSES OF THIS TITLE, WHICH SHALL SUPERSEDE ANY INCONSISTENT PROVISION OF SUCH TITLES ONE-A AND THREE. THE PROVISIONS OF THIS TITLE SHALL APPLY TO TAXES LEVIED BY ALL MUNICIPAL CORPORATIONS ONLY UPON A ONE, TWO OR THREE FAMILY RESIDENCE.

S 548-A. DEFINITIONS. FOR THE PURPOSES OF THIS TITLE:

1. A FAMILY RESIDENCE HAS UNDERGONE A "CATASTROPHIC LOSS" WHEN IT IS TOTALLY DESTROYED OR IS SO EXTENSIVELY DAMAGED THAT AT LEAST ONE OF THE DWELLING UNITS IN SUCH RESIDENCE IS UNFIT FOR HABITATION AND CANNOT REASONABLY BE MADE FIT FOR HABITATION WITHIN A PERIOD OF NINETY DAYS AFTER THE DAMAGE OCCURRED. SUCH CATASTROPHIC LOSS SHALL BE THE CONSEQUENCE OF DAMAGE CAUSED BY A NATURAL DISASTER OR OTHER WEATHER-BASED EVENT WHICH WAS A DECLARED STATE DISASTER EMERGENCY OR LOCAL STATE OF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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EMERGENCY PURSUANT TO ARTICLE TWO-B OF THE EXECUTIVE LAW, INCLUDING, BUT NOT LIMITED TO, A HURRICANE, WIND STORM, ICE STORM, STORM SURGE, FLOOD, WILDFIRE, EARTHQUAKE, TORNADO, HIGH WATER, LANDSLIDE, MUDSLIDE OR WAVE ACTION.

2. "FAMILY RESIDENCE" MEANS AN OWNER-OCCUPIED ONE, TWO OR THREE UNIT RESIDENTIAL DWELLING.

S 548-B. CATASTROPHIC LOSS TAX ABATEMENT PROCEDURE. 1. THE PROPERTY OWNER OF A FAMILY RESIDENCE WHICH HAS UNDERGONE A CATASTROPHIC LOSS SHALL BE ELIGIBLE TO FILE A CLAIM FOR A CATASTROPHIC LOSS TAX ABATEMENT IF SUCH CATASTROPHIC LOSS OCCURRED WITHIN NINE MONTHS AFTER THE COMPLETION OF THE FINAL ASSESSMENT ROLL.

2. SUCH A CLAIM MUST BE FILED WITH THE ASSESSOR OR BOARD OF ASSESSORS WITHIN ELEVEN MONTHS AFTER THE COMPLETION OF THE FINAL ASSESSMENT ROLL. A STATEMENT OF THE FACTS CONSTITUTING THE BASIS OF THE CLAIM SHALL BE FILED ON A FORM PRESCRIBED BY THE COMMISSIONER. SUCH STATEMENT SHALL BE MADE BY THE OWNER OF THE REAL PROPERTY, OR BY A PERSON AUTHORIZED IN WRITING BY THE CLAIMANT OR HIS OR HER ATTORNEY OR AGENT TO MAKE SUCH STATEMENT WHO HAS KNOWLEDGE OF THE FACTS STATED THEREIN. SUCH WRITTEN AUTHORIZATION SHALL BE MADE A PART OF SUCH STATEMENT. SUCH STATEMENT SHALL ALSO CONTAIN THE FOLLOWING SENTENCE: "I CERTIFY THAT ALL STATEMENTS MADE ON THIS APPLICATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND I UNDERSTAND THAT THE MAKING OF ANY WILLFULLY FALSE STATEMENT OF MATERIAL FACT HEREIN WILL SUBJECT ME TO THE PROVISIONS OF THE PENAL LAW RELEVANT TO THE MAKING AND FILING OF FALSE INSTRUMENTS." UPON THE FILING OF SUCH STATEMENT, ALL COLLECTION OF TAX EFFORTS SHALL BE SUSPENDED AND THE ACCRUAL OF INTEREST OR PENALTIES OR BOTH SHALL ALSO BE SUSPENDED. IF THE CLAIM IS SUSTAINED, NO INTEREST OR PENALTY SHALL BE DUE, AND ANY INTEREST OR PENALTY PAID PRIOR TO THE FILING OF THE STATEMENT SHALL BE REFUNDED. IF THE CLAIM IS DENIED, ALL COLLECTION OF TAX EFFORTS SHALL RESUME, AND INTEREST OR PENALTIES OR BOTH SHALL RESUME THEIR ACCRUAL RETROACTIVELY TO THE DATE OF SUSPENSION.

3. THE CLAIM SHALL BE HEARD AND DETERMINED BY THE BOARD OF ASSESSMENT REVIEW OR ASSESSMENT REVIEW COMMISSION, AS THE CASE MAY BE. THE PROCEEDINGS IN HEARING AND DETERMINING THE CLAIM SHALL BE MODIFIED AS NECESSARY TO SERVE THE PURPOSES OF THIS TITLE AND SHALL BE IN ACCORDANCE WITH THE REGULATIONS OF THE COMMISSIONER. ALL CLAIMS SHALL BE HEARD AND DECIDED NOT LATER THAN TWO MONTHS AFTER THE LAST DAY FOR FILING A CLAIM.

4. UPON THE DETERMINATION OF A CLAIM, THE BOARD OF ASSESSMENT REVIEW OR ASSESSMENT REVIEW COMMISSION, AS THE CASE MAY BE, SHALL GIVE NOTICE OF THE DETERMINATION TO THE ASSESSOR OR BOARD OF ASSESSORS AND THE CLAIMANT WITHIN FIVE DAYS OF SUCH DETERMINATION. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, IF THE CLAIM IS DETERMINED TO BE IN FAVOR OF THE CLAIMANT, THE ASSESSOR OR BOARD OF ASSESSORS SHALL CORRECT THE TENTATIVE ASSESSMENT ROLL, FINAL ASSESSMENT ROLL OR TAX ROLL, AS THE CASE MAY BE, WITHIN FIVE DAYS OF RECEIVING SUCH NOTICE.

S 548-C. COORDINATION WITH SCHOOL AND VILLAGE TAX LEVIES. THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO COORDINATE ASSESSMENT ROLLS AND TAX LEVIES OF COUNTIES, CITIES AND TOWNS WITH THOSE OF SCHOOL DISTRICTS AND VILLAGES.

S 548-D. ABATEMENT; STATE EXPENSE. 1. THE ABATEMENT GRANTED TO A PROPERTY OWNER PURSUANT TO THIS TITLE SHALL BE A STATE CHARGE, WHICH SHALL BE PAYABLE AS PROVIDED IN THIS SECTION.

2. A TAXING AUTHORITY SEEKING STATE AID PURSUANT TO THIS SECTION SHALL SUBMIT AN APPLICATION THEREFOR TO THE COMMISSIONER. THE APPLICATION SHALL INCLUDE SUCH INFORMATION AS THE COMMISSIONER SHALL REQUIRE.

3. UPON APPROVING AN APPLICATION FOR STATE AID PURSUANT TO THIS SECTION, THE COMMISSIONER SHALL COMPUTE AND CERTIFY THE AMOUNTS PAYABLE TO A TAXING AUTHORITY. SUCH STATE AID SHALL BE PAYABLE UPON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2013; provided that any and all rules and regulations and any other measures necessary to implement any provision of this act shall be promulgated and taken on an emergency basis, respectively, within 30 days after this act shall have become a law.