

5915--A

2013-2014 Regular Sessions

I N   S E N A T E

July 8, 2013

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Introduced by Sens. TKACZYK, AVELLA, BRESLIN, DILAN, GIANARIS, GIPSON, HASSELL-THOMPSON, KRUEGER, STEWART-COUSINS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to enact the "Mohawk Valley and Niagara county assessment relief act", and to amend the local finance law, in relation to real property tax refunds and credits in such county

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "Mohawk Valley and Niagara county assessment relief act".  
3     S 2. Definitions. For the purposes of this act, the following terms  
4     shall have the following meanings:  
5     1. "Eligible county" shall mean the counties of Oneida, Herkimer,  
6     Madison, Montgomery and Niagara.  
7     2. "Eligible municipality" shall mean a municipal corporation, as  
8     defined by subdivision 10 of section 102 of the real property tax law,  
9     which is either: (a) an eligible county; or (b) a city, town, village,  
10    special district, or school district that is wholly or partly contained  
11    within an eligible county.  
12    3. "Impacted tax roll" shall mean the final assessment roll which  
13    satisfies both of the following conditions: (a) the roll is based upon a  
14    taxable status date occurring prior to June 20, 2013; and (b) taxes  
15    levied upon that roll by or on behalf of a participating municipality  
16    are payable without interest on or after June 20, 2013.  
17    4. "Participating municipality" shall mean an eligible municipality  
18    that has passed a local law, ordinance, or resolution pursuant to  
19    section three of this act to provide assessment relief to property  
20    owners within such eligible municipality pursuant to the provisions of  
21    this act.

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

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1 5. "Severe weather" shall mean the storms, rains, winds, or floods  
2 which occurred within an eligible county during the period beginning on  
3 June 20, 2013 and ending July 7, 2013.

4 6. "Total assessed value" shall mean the total assessed value on the  
5 parcel prior to any and all exemption adjustments.

6 7. "Improved value" shall mean the market value of the real property  
7 improvements excluding the land.

8 8. "Property" shall mean "real property", "property" or "land" as  
9 defined under paragraphs (a) through (g) of subdivision 12 of section  
10 102 of the real property tax law.

11 S 3. Local option. An eligible municipality may exercise the  
12 provisions of this act if its governing body shall, by the forty-fifth  
13 day following the date upon which this act is approved by the governor,  
14 pass a local law or in the case of a school district a resolution adopt-  
15 ing the provisions of this act. An eligible municipality may provide  
16 assessment relief for real property impacted by severe weather located  
17 within such municipality as provided in paragraphs (i), (ii), (iii)  
18 and/or (iv) of subdivision (a) of section four of this act only if its  
19 governing body specifically elects to do so as part of such local law or  
20 resolution.

21 S 4. Assessment relief for severe weather victims in an eligible coun-  
22 ty. (a) Notwithstanding any provision of law to the contrary, where real  
23 property impacted by severe weather is located within a participating  
24 municipality, assessment relief shall be granted as follows:

25 (i) If a participating municipality has elected to provide assessment  
26 relief for real property that lost at least ten percent but less than  
27 twenty percent of its improved value due to severe weather, the assessed  
28 value attributable to the improvements shall be reduced by fifteen  
29 percent for purposes of the participating municipality on the impacted  
30 tax roll.

31 (ii) If a participating municipality has elected to provide assessment  
32 relief for real property that lost at least twenty percent but less than  
33 thirty percent of its improved value due to severe weather, the assessed  
34 value attributable to the improvements shall be reduced by twenty-five  
35 percent for purposes of the participating municipality on the impacted  
36 tax roll.

37 (iii) If a participating municipality has elected to provide assess-  
38 ment relief for real property that lost at least thirty percent but less  
39 than forty percent of its improved value due to severe weather, the  
40 assessed value attributable to the improvements shall be reduced by  
41 thirty-five percent for purposes of the participating municipality on  
42 the impacted tax roll.

43 (iv) If a participating municipality has elected to provide assessment  
44 relief for real property that lost at least forty percent but less than  
45 fifty percent of its improved value due to severe weather, the assessed  
46 value attributable to the improvements shall be reduced by forty-five  
47 percent for purposes of the participating municipality on the impacted  
48 tax roll.

49 (v) If the property lost at least fifty but less than sixty percent of  
50 its improved value due to severe weather, the assessed value attribut-  
51 able to the improvements shall be reduced by fifty-five percent for  
52 purposes of the participating municipality on the impacted tax roll.

53 (vi) If the property lost at least sixty but less than seventy percent  
54 of its improved value due to severe weather, the assessed value attrib-  
55 utable to the improvements shall be reduced by sixty-five percent for  
56 purposes of the participating municipality on the impacted tax roll.

1 (vii) If the property lost at least seventy but less than eighty  
2 percent of its improved value due to severe weather, the assessed value  
3 attributable to the improvements shall be reduced by seventy-five  
4 percent for purposes of the participating municipality on the impacted  
5 tax roll.

6 (viii) If the property lost at least eighty but less than ninety  
7 percent of its improved value due to severe weather, the assessed value  
8 attributable to the improvements shall be reduced by eighty-five percent  
9 for purposes of the participating municipality on the impacted tax roll.

10 (ix) If the property lost at least ninety but less than one hundred  
11 percent of its improved value due to severe weather, the assessed value  
12 attributable to the improvements shall be reduced by ninety-five percent  
13 for purposes of the participating municipality on the impacted tax roll.

14 (x) If the property lost one hundred percent of its improved value due  
15 to severe weather, the assessed value attributable to the improvements  
16 shall be reduced by one hundred percent for purposes of the participat-  
17 ing municipality on the impacted tax roll.

18 (xi) The percentage loss in improved value for this purpose shall be  
19 determined by the assessor in the manner provided by this act, subject  
20 to review by the board of assessment review.

21 (xii) No reduction in assessed value shall be granted pursuant to this  
22 act except as specified above for such counties. No reduction in  
23 assessed value shall be granted pursuant to this section for purposes of  
24 any county, city, town, village or school district which has not adopted  
25 the provisions of this act.

26 (b) To receive such relief pursuant to this section, the property  
27 owner shall submit a written request to the assessor on a form approved  
28 by the director of the state office of real property tax services within  
29 ninety days following the date upon which this act is approved by the  
30 governor. Such request shall describe in reasonable detail the damage  
31 caused to the property by severe weather and the condition of the prop-  
32 erty following the severe weather and shall be accompanied by supporting  
33 documentation, if available.

34 (c) Upon receiving such a request, the assessor shall make a finding,  
35 as to whether the property lost at least fifty percent of its improved  
36 value or, if a participating municipality has elected to provide assess-  
37 ment relief for real property that lost a lesser percentage of improved  
38 value, such lesser percentage of its improved value as a result of  
39 severe weather, and thereafter the assessor, shall adopt or classify the  
40 percentage loss of improved value within one of the following ranges:

41 (i) If a participating municipality has elected to provide assessment  
42 relief for real property that lost at least ten percent but less than  
43 twenty percent of its improvement value due to severe weather, at least  
44 ten percent but less than twenty percent,

45 (ii) If a participating municipality has elected to provide assessment  
46 relief for real property that lost at least twenty percent but less than  
47 thirty percent of its improved value due to severe weather, at least  
48 twenty percent but less than thirty percent,

49 (iii) If a participating municipality has elected to provide assess-  
50 ment relief for real property that lost at least thirty percent but less  
51 than forty percent of its improved value due to severe weather, at least  
52 thirty percent but less than forty percent,

53 (iv) If a participating municipality has elected to provide assessment  
54 relief for real property that lost at least forty percent but less than  
55 fifty percent of its improved value due to severe weather, at least  
56 forty percent but less than fifty percent,

- (v) At least fifty percent but less than sixty percent,
- (vi) At least sixty percent but less than seventy percent,
- (vii) At least seventy percent but less than eighty percent,
- (viii) At least eighty percent but less than ninety percent,
- (ix) At least ninety percent but less than one hundred percent, or
- (x) one hundred percent.

(d) The assessor shall mail written notice of such finding to the property owner and the participating municipality. Where the assessor finds that the loss in improved value is less than fifty percent or, if a participating municipality has elected to provide assessment relief for real property located within such participating municipality for a lesser percentage, is less than such lesser percentage, or classifies the loss within a lower range than the property owner believes is warranted, the property owner may file a complaint with the board of assessment review. Such board shall reconvene upon ten days written notice to the property owner and assessor to hear the appeal and determine the matter, and shall mail written notice of its determination to the assessor and property owner. The provisions of article 5 of the real property tax law shall govern the review process to the extent practicable. For the purposes of this act only, the applicant may commence within 30 days of service of a written determination, a proceeding under title 1 of article 7 of the real property tax law, or, if applicable, under title 1-A of article 7 of the real property tax law. Sections 727 and 739 of the real property tax law shall not apply.

(e) Where property has lost at least fifty percent of its improved value or, if a participating municipality has elected to provide assessment relief for real property that lost a lesser percentage of improved value, such lesser percentage due to severe weather, the assessed value attributable to the improvements on the property on the impacted assessment roll shall be reduced by the appropriate percentage specified in subdivision (a) of this section, provided that any exemptions which the property may be receiving shall be adjusted as necessary to account for such reduction in the total assessed value. To the extent the total assessed value of the property originally appearing on such roll exceeds the amount to which it should be reduced pursuant to this act, the excess shall be considered an error in essential fact as defined by subdivision 3 of section 550 of the real property tax law. If the error appears on a tax roll, the tax roll shall be corrected in the manner provided by section 554 of the real property tax law or a refund or credit of taxes shall be granted in the manner provided by section 556 or section 556-b of the real property tax law. If the error appears on a final assessment roll but not on a tax roll, such final assessment roll shall be corrected in the manner provided by section 553 of the real property tax law. The errors in essential fact found pursuant to the Montgomery county assessment relief act on either the tax roll or final assessment roll, upon application to the county director of real property tax services, shall be forwarded by the county director of real property tax services immediately to the levying body for an immediate order setting forth the appropriate correction.

(f) The rights contained in this act shall not otherwise diminish any other legally available right of any property owner or party who may otherwise lawfully challenge the valuation or assessment of any real property or improvements thereon. All remaining rights hereby remain and shall be available to the party to whom such rights would otherwise be available notwithstanding this act.

1 S 5. The commissioner of taxation and finance is authorized to develop  
2 a guidance memorandum for use by assessing units. Such guidance memoran-  
3 dum shall assist with the implementation of this act and shall be deemed  
4 to be advisory on all assessing units in counties which implement the  
5 provisions of this act. The guidance memorandum shall have no force or  
6 effect or serve as authority for any other act of assessing units or of  
7 the interpretation or implementation of the laws of the state of New  
8 York except as they relate to the specific implementation of this act.

9 S 6. School districts held harmless. Each school district that is  
10 wholly or partially contained within an eligible county shall be held  
11 harmless by the state for any reduction in state aid that would have  
12 been paid as tax savings pursuant to section 1306-a of the real property  
13 tax law incurred due to the provisions of this act.

14 S 7. Bonds authorized. Serial bonds, and in advance of such, bond  
15 anticipation notes, are hereby authorized pursuant to subdivision 33-b  
16 of paragraph a of section 11.00 of the local finance law, provided,  
17 however, that any federal community development block grant funding  
18 received by such participating municipality, in relation to loss of  
19 property tax funding, shall first be used to defease, upon maturity, the  
20 interest and principal of any such bond or note so outstanding.

21 S 8. Paragraph a of section 11.00 of the local finance law is amended  
22 by adding a new subdivision 33-b to read as follows:

23 33-B. REAL PROPERTY TAX REFUNDS AND CREDITS. PAYMENTS OF EXEMPTIONS,  
24 REFUNDS, OR CREDITS FOR REAL PROPERTY TAX, SEWER AND WATER RENTS, RATES  
25 AND CHARGES AND ALL OTHER REAL PROPERTY TAXES TO BE MADE BY A MUNICI-  
26 PALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION AS A RESULT OF PARTIC-  
27 IPATING IN THE MOHAWK VALLEY AND NIAGARA COUNTY ASSESSMENT RELIEF ACT,  
28 TEN YEARS.

29 S 9. Severability clause. If any clause, sentence, paragraph, subdivi-  
30 sion, section or part of this act shall be adjudged by any court of  
31 competent jurisdiction to be invalid, such judgment shall not affect,  
32 impair, or invalidate the remainder thereof, but shall be confined in  
33 its operation to the clause, sentence, paragraph, subdivision, section  
34 or part thereof directly involved in the controversy in which such judg-  
35 ment shall have been rendered. It is hereby declared to be the intent of  
36 the legislature that this act would have been enacted even if such  
37 invalid provisions had not been included herein.

38 S 10. This act shall take effect immediately and shall be deemed to  
39 have been in full force and effect on and after June 20, 2013.