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

5915--B

2013-2014 Regular Sessions

I N S E N A T E

July 8, 2013

Introduced by Sens. TKACZYK, AVELLA, BRESLIN, DILAN, GIANARIS, GIPSON, HASSELL-THOMPSON, KENNEDY, KRUEGER, LATIMER, PARKER, 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 -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- 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:

Section 1. Short title. This act shall be known and may be cited as the "Mohawk Valley and Niagara county assessment relief act".

S 2. Definitions. For the purposes of this act, the following terms shall have the following meanings:

1. "Eligible county" shall mean the counties of Oneida, Herkimer, Madison, Montgomery and Niagara.

2. "Eligible municipality" shall mean a municipal corporation, as defined by subdivision 10 of section 102 of the real property tax law, which is either: (a) an eligible county; or (b) a city, town, village, special district, or school district that is wholly or partly contained within an eligible county.

3. "Impacted tax roll" shall mean the final assessment roll which satisfies both of the following conditions: (a) the roll is based upon a taxable status date occurring prior to June 20, 2013; and (b) taxes levied upon that roll by or on behalf of a participating municipality are payable without interest on or after June 20, 2013.

4. "Participating municipality" shall mean an eligible municipality that has passed a local law, ordinance, or resolution pursuant to

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

LBD11622-04-4

section three of this act to provide assessment relief to property owners within such eligible municipality pursuant to the provisions of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Upon receiving such a request, the assessor shall make a finding, as to whether the property 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 of its improved value as a result of severe weather, and thereafter the assessor, shall adopt or classify the percentage loss of improved value within one of the following ranges:

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

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

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

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

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

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

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

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

33-C. REAL PROPERTY TAX REFUNDS AND CREDITS. PAYMENTS OF EXEMPTIONS, REFUNDS, OR CREDITS FOR REAL PROPERTY TAX, SEWER AND WATER RENTS, RATES AND CHARGES AND ALL OTHER REAL PROPERTY TAXES TO BE MADE BY A MUNICIPALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION AS A RESULT OF PARTICIPATING IN THE MOHAWK VALLEY AND NIAGARA COUNTY ASSESSMENT RELIEF ACT, TEN YEARS.

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

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