STATE OF NEW YORK

6514

2017-2018 Regular Sessions

IN SENATE

May 30, 2017

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

AN ACT to amend the local finance law, in relation to real property tax refunds and credits for participation in the Lake Ontario and connected waterways assessment relief act; and to amend chapter 54 of the laws of 2017, enacting the Capital Projects Budget, in relation to the services and expenses of the Lake Ontario and connected waterways assessment relief act

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 "Lake Ontario and connected waterways assessment relief act".

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

1. "Eligible county" shall mean a county included in the governor's executive order 165 of 2017, declaring a state of emergency, dated May 3, 2017.

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 May 3, 2017; and (b) taxes levied upon that roll by or on behalf of a participating municipality are payable without interest on or after May 3, 2017.

4. "Participating municipality" shall mean an eligible municipality that has passed a local law, ordinance, or resolution pursuant to section three of this act to provide assessment relief to property

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

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owners within such eligible municipality pursuant to the provisions of this act.

5. "Flooding" shall mean the lake shore and inland flooding and accelerated erosion that occurred as a result of heavy rainfall and the rising water level of Lake Ontario and any connected inland waterways or estuaries within an eligible county during the period beginning April 1, 2017 and ending July 1, 2017.

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

7. "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.

§ 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 flooding located within such municipality as provided in paragraphs (a), (b), (c) and/or (d) of subdivision one of section four of this act only if its governing body specifically elected to do so as party of such local law or resolution.

§ 4. Assessment relief for flood victims in an eligible county. 1. Notwithstanding any provisions of law to the contrary, where real property impacted by flooding is located within a participating municipality, assessment relief shall be granted as follows:

(a) 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 total assessed value due to flooding, the total assessed value thereof shall be reduced by fifteen percent for purposes of the participating municipality on the impacted tax roll;

(b) 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 total assessed value due to flooding, the total assessed value thereof shall be reduced by twenty-five percent for purposes of the participating municipality on the impacted tax roll;

(c) 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 total assessed value due to flooding, the total assessed value thereof shall be reduced by thirty-five percent for purposes of the participating municipality on the impacted tax roll;

(d) 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 total assessed value due to flooding, the total assessed value thereof shall be reduced by forty-five percent for purposes of the participating municipality on the impacted tax roll;

(e) If the property lost at least fifty percent but less than sixty percent of its total assessed value due to flooding, the total assessed value thereof shall be reduced by fifty-five percent for purposes of the participating municipality on the impacted tax roll;

(f) If the property lost at least sixty percent but less than seventy percent of its total assessed value due to flooding, the total assessed value thereof shall be reduced by sixty-five percent for purposes of the participating municipality on the impacted tax roll;

(g) If the property lost at least seventy percent but less than eighty percent of its total assessed value due to flooding, the total assessed value thereof shall be reduced by seventy-five percent for purposes of the participating municipality on the impacted tax roll;

(h) If the property lost at least eighty percent but less than ninety percent of its total assessed value due to flooding, the total assessed value thereof shall be reduced by eighty-five percent for purposes of the participating municipality on the impacted tax roll;

(i) If the property lost at least ninety percent but less than one hundred percent of its total assessed value due to flooding, the total assessed value thereof shall be reduced by ninety-five percent for purposes of the participating municipality on the impacted tax roll; and

(j) If the property lost one hundred percent of its total assessed value due to flooding, the total assessed value thereof shall be reduced by one hundred percent for purposes of the participating municipality on the impacted tax roll.

2. The percentage loss in total assessed value for the purposes of subdivision one of this section shall be adopted by the assessor, determined in a manner provided by this act, subject to review by the board of assessment review.

3. No reduction in total assessed value shall be granted pursuant to this act except as specified in subdivision one of this section for such counties. No reduction in total 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.

4. 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 office of real property services within 90 days following the date upon which this act is approved by the governor. Such request shall attach any and all reports prepared by, but not limited to, an insurance adjuster, real property appraiser or broker that describe in reasonable detail the damage caused to the property by the flooding and the condition of the property following the flooding and shall be accompanied by any other supporting documentation.

5. Upon receiving such a request, the assessor shall make a finding, as to whether the property lost at least 50 percent of its total assessed value or, if a participating municipality has elected to provide assessment relief for real property that lost a lesser percentage of total assessed value, such lesser percentage of its total assessed value as a result of flooding, and thereafter the assessor, shall adopt or classify the percentage loss of total assessed value within one of the following ranges:

(a) 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 total assessed value due to flooding, the total assessed value shall be reduced by at least ten percent but less than twenty percent;

(b) 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 total assessed value due to flooding, the total assessed value shall be reduced by at least twenty percent but less than thirty percent;

(c) 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 total assessed value due to flooding, the total assessed value shall be reduced by at least thirty percent but less than forty percent;

(d) 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 total assessed value due to flooding, the total assessed value shall be reduced by at least forty percent but less than fifty percent;

(e) If a participating municipality has elected to provide assessment relief for real property that lost at least fifty percent but less than sixty percent of its total assessed value due to flooding, the total assessed value shall be reduced by at least fifty percent but less than sixty percent;

(f) If a participating municipality has elected to provide assessment relief for real property that lost at least sixty percent but less than seventy percent of its total assessed value due to flooding, the total assessed value shall be reduced by at least sixty percent but less than seventy percent;

(g) If a participating municipality has elected to provide assessment relief for real property that lost at least seventy percent but less than eighty percent of its total assessed value due to flooding, at least seventy percent but less than eighty percent;

(h) If a participating municipality has elected to provide assessment relief for real property that lost at least eighty percent but less than ninety percent of its total assessed value due to flooding, the total assessed value shall be reduced by at least eighty percent but less than ninety percent;

(i) If a participating municipality has elected to provide assessment relief for real property that lost at least ninety percent but less than one hundred percent of its total assessed value due to flooding, the total assessed value shall be reduced by at least ninety percent but less than one hundred percent; and

(j) If a participating municipality has elected to provide assessment relief for real property that lost one hundred percent of its total assessed value, the total assessed value shall be reduced by one hundred percent.

6. The assessor shall mail written notice of such findings to the property owner and the participating municipality. Where the assessor finds that the loss in total assessed 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 10 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.

7. Where property has lost at least fifty percent of its total assessed value or, if a participating municipality has elected to provide assessment relief for real property that lost a lesser percentage of total assessed value, such lesser percentage due to flooding, the total assessed value of the property on the impacted assessment roll

shall be reduced by the appropriate percentage specified in subdivision one 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 this 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.

8. 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.

§ 5. Guidance memorandum. 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.

§ 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.

§ 7. Lake Ontario and connected waterways flood mitigation program. 1. Contingent upon available funding, and not to exceed $100,000,000, moneys from the urban development corporation shall be available for an eligible municipality as defined in subdivision two of section two of this act that has enacted a local law pursuant to section three of this act adopting the provisions hereof, where on or after April 1, 2017, flooding of Lake Ontario and associated inland waterways and estuaries has caused a reduction in the real property tax collections.

2. Such moneys attributable to such flooding as described in executive order 165 of 2017, shall be paid annually on a first come, first served basis by the urban development corporation to such eligible municipalities within a reasonable time upon confirmation from the state office of real property tax services that such flooding has resulted in a reduction in the real property tax collections, provided, however, that the urban development corporation shall not provide assistance to such local government entity for more than 7 years, and shall award

payments reflecting the loss of revenues due to the loss of assessed property value resulting from such flooding as follows:

Award Year	Maximum Potential Award
1	no more than one hundred percent of loss of revenues
2	no more than eighty percent of loss of revenues
3	no more than sixty percent of loss of revenues
4	no more than forty percent of loss of revenues
5	no more than twenty percent of loss of revenues

3. A local government entity shall be eligible for only one payment of funds pursuant to this section per year. An eligible municipality shall seek assistance under the Lake Ontario and connected waterways flood mitigation program on the next taxable status date of the assessment roll for the eligible municipality. The date of submission of an eligible municipality's application for assistance shall establish the order in which assistance is paid to program applicants. The determination of the amount of such annual payment shall be determined by the president of the urban development corporation.

§ 8. Notwithstanding any other provision of law the director of the division of the budget is authorized and directed to make a contribution to the urban development corporation for the purposes of this act, an amount not to exceed $50,000,000 for the state fiscal year commencing April 1, 2017, and an additional amount not to exceed $50,000,000 for the state fiscal year commencing April 1, 2018.

§ 9. Section 1 of chapter 54 of the laws of 2017, enacting the "Capital Projects Budget", is amended by repealing the items hereinbelow set forth in brackets and by adding to such section the items underscored in this section:

NEW YORK STATE URBAN DEVELOPMENT CORPORATION

CAPITAL PROJECTS 2017-18

For the comprehensive construction programs, purposes and projects as herein specified in accordance with the following:

	APPROPRIATIONS	REAPPROPRIATIONS
Capital Projects Funds - Other	[~~2,560,778,000~~] **2,660,778,000**	5,743,248,000
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All Funds	[~~2,560,778,000~~] **2,660,778,000**	5,743,248,000
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ECONOMIC DEVELOPMENT (CCP) .... [~~2,560,778,000~~] **2,660,778,000**

Capital Projects Funds - Other
Capital Projects Fund
Economic Development Purpose

The sum of $100,000,000 is hereby appropriated for the services and expenses of the

Lake Ontario and connected waterways assessment relief act 100,000,000

§ 10. Bonds authorized. Serial bonds, and in advance of such, bond anticipation notes, are hereby authorized pursuant to subdivision 33-b 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.

§ 11. Paragraph a of section 11.00 of the local finance law is amended by adding a new subdivision 33-d to read as follows:

33-d. 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 Lake Ontario and connected waterways assessment relief act, ten years.

§ 12. 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.

§ 13. This act shall take effect immediately; provided, however, that sections seven and eight of this act shall be deemed to have been in full force and effect on and after April 1, 2017.