STATE OF NEW YORK

4027

2009-2010 Regular Sessions

IN ASSEMBLY

January 29, 2009

Introduced by M. of A. SWEENEY, WEISENBERG, FIELDS, ENGLEBRIGHT, ALESSI, RAMOS, EDDINGTON -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to creating a county commercial assessment ratio

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

Section 1. The real property tax law is amended by adding a new section 1215 to read as follows:

S 1215. ESTABLISHMENT OF A COUNTY COMMERCIAL ASSESSMENT RATIO. 1. FOR PURPOSES OF THIS SECTION:

(A) "MARKET VALUE RATIO" MEANS THE RATIO OF ASSESSED VALUE TO FULL VALUE OF THE TAXABLE REAL PROPERTY ON A FINAL ASSESSMENT ROLL;

(B) "MAJOR TYPE B" PROPERTY MEANS A GROUP OF TAXABLE PARCELS DESIGNATED AS COMMERCIAL PROPERTY INCLUDING APARTMENTS, INDUSTRIAL PROPERTY, RECREATION AND ENTERTAINMENT PROPERTY, TAXABLE COMMUNITY SERVICES PROPERTY, AND PUBLIC SERVICES PROPERTY NOT CONTAINED WITH MAJOR TYPE D PROPERTY: EXCEPT IN A HOMESTEAD ASSESSING UNIT, MAJOR TYPE B PROPERTY ALSO INCLUDES RESIDENTIAL PROPERTY NOT IN MAJOR TYPE A;

(C) "NON-REASSESSMENT MUNICIPALITY" MEANS ANY MUNICIPALITY THAT IS NOT DESIGNATED AS A REASSESSMENT MUNICIPALITY;

(D) "MAJOR TYPE A" PROPERTY MEANS RESIDENTIAL REAL PROPERTY OTHER THAN APARTMENTS, EXCEPT THAT FOR A HOMESTEAD ASSESSING UNIT, MAJOR TYPE A DESIGNATES THE HOMESTEAD CLASS AS DEFINED IN SECTION NINETEEN HUNDRED ONE OF THIS CHAPTER; AND

(E) "MAJOR TYPE D" DESIGNATES PUBLIC SERVICES UTILITY REAL PROPERTY, NOT INCLUDING CEILING RAILROAD AND SPECIAL FRANCHISE PROPERTY.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR AN ASSESSING UNIT CONTAINED IN ANY COUNTY WITH A POPULATION OF MORE THAN ONE MILLION FOUR HUNDRED THOUSAND AS DETERMINED BY THE TWO THOUSAND FEDERAL DECENNIAL CENSUS AND WHICH COUNTY IS NOT WHOLLY CONTAINED WITHIN

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

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A CITY, THERE SHALL BE ESTABLISHED A COMMERCIAL ASSESSMENT RATIO AS FOLLOWS:

(A) UPON FINAL COMPLETION EACH YEAR OF THE ASSESSMENT ROLL OF EACH CITY, TOWN AND VILLAGE, THE STATE BOARD SHALL ESTABLISH THE COMMERCIAL ASSESSMENT RATIO FOR SUCH CITY, TOWN OR VILLAGE PROVIDED THAT (I) THE STATE BOARD IS REQUIRED BY LAW TO ESTABLISH A STATE EQUALIZATION RATE FOR SUCH CITY, TOWN OR VILLAGE, AND HAS ESTABLISHED SUCH EQUALIZATION RATE, AND (II) THAT SUCH CITY, TOWN OR VILLAGE IS NOT A SPECIAL ASSESSING UNIT AS DEFINED IN SECTION EIGHTEEN HUNDRED ONE OF THIS CHAPTER, AND (III) THE CITY, TOWN OR VILLAGE IS NOT COMPLETING A REVALUATION OR UPDATE. IN THE CASE OF A CITY IN A COUNTY HAVING A COUNTY DEPARTMENT OF ASSESSMENT WITH THE POWER TO ASSESS REAL PROPERTY, THE STATE BOARD ALSO SHALL ESTABLISH A COMMERCIAL ASSESSMENT RATIO FOR THAT PORTION OF THE COUNTY ROLL CONTAINING THE ASSESSMENTS OF TAXABLE REAL PROPERTY IN SUCH CITY.

(B) SUCH COMMERCIAL ASSESSMENT RATIO SHALL BE THE MARKET VALUE RATIO FOR MAJOR TYPE B PROPERTY FOR NON-REASSESSMENT MUNICIPALITIES ESTABLISHED PURSUANT TO THE RULES, REGULATIONS AND PROCEDURES PROMULGATED BY THE STATE BOARD FOR THE ESTABLISHMENT OF STATE EQUALIZATION RATES.

3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY ASSESSING UNIT UNLESS THE COUNTY IN WHICH THE ASSESSING UNIT IS LOCATED ADOPTS SUCH PROVISIONS BY LOCAL LAW OR RESOLUTION.

S 2. Subdivision 3 of section 720 of the real property tax law, as amended by chapter 679 of the laws of 1986, subparagraph 2 of paragraph (b) as added by section 5-a of part B of chapter 389 of the laws of 1997 and subparagraph 3 of paragraph (b) as amended by chapter 318 of the laws of 1998, is amended to read as follows:

3. (a) For the purposes of this subdivision:

(1) "Major type of property" in special assessing units for assessments on rolls completed before January first, nineteen hundred eighty-two and in other than special assessing units means each of the following:

(i) residential: all one, two and three family residential real property including such dwellings used in part for non-residential purposes but which are used primarily for residential purposes, except such property held in cooperative or condominium forms of ownership provided, however, that in any approved assessing unit which has adopted the provisions of section nineteen hundred three of this chapter the residential type shall be the homestead class as defined in this chapter;

(ii) farm, forest and vacant: all real property used primarily for agricultural or forestry purposes and all real property which contains no significant improvement;

(iii) public utility: all real property primarily used for the provision to the public of communications or transportation services, electric power, water or gas;

(iv) all other: all real property not included in any other major type.

(2) "Major type of property" in special assessing units, for assessments on rolls completed after December thirty-first, nineteen hundred eighty-one, shall mean classes one, two, three and four as defined in subdivision one of section eighteen hundred two of this chapter.

(3) "Stratified random sample" means the sorting of all taxable parcels except public utility property, on the assessment roll to be used for the selection of parcels, into a number of mutually exclusive categories each of which is sampled independently in such a manner that

each parcel in each such category shall have an equal opportunity to be selected.

(b) Evidence on the issue of whether an assessment is unequal shall be limited to the following as hereinafter provided.

(1) By the selected parcels method as determined by stratified random sample.

The parties shall mutually agree on the methods of stratification, computation of ratio and selection of the parcels to be appraised, the number of such parcels and the number of witnesses to be heard with respect to such issue. Such parcels shall be selected so as to constitute a stratified random sample of all locally assessed taxable parcels on the assessment roll containing the assessment under review or the latest assessment roll sampled by the board in establishing the state equalization rate for such roll; provided, however, for assessments on rolls completed after December thirty-first, nineteen hundred eighty-one, in special assessing units such parcels shall constitute a stratified random sample of all locally assessed taxable property in the major type of property in which the property under review is classified; provided further, however, for assessment rolls completed after December thirty-first, nineteen hundred eighty-one, in special assessing units public utility property shall be sampled as the parties agree, or if the parties fail to agree, as the court directs. In special assessing units for assessment rolls completed prior to January first, nineteen hundred eighty-two and in other than special assessing units public utility property shall be added to the parcels selected for the stratified random sample when such property is a significant portion of the total locally assessed taxable assessed value of the assessing unit; in such case, representative parcels shall be agreed upon by the parties or selected by the court if no such agreement is reached. In the event that proceedings for more than one year are consolidated for trial, evidence may be introduced to adjust the ratio derived from the selected parcels provided for in this subdivision so as to make such ratio applicable to the other assessment rolls included in such consolidation. For the purpose of this subdivision, stratification shall be based on major type of property and assessed value within each such major type; provided however, that for assessments on rolls completed after December thirty-first, nineteen hundred eighty-one, in special assessing units stratification shall be based on the assessed value of parcels within the major type of property in which the assessment under review is classified. Nothing in this subdivision shall prevent the parties from agreeing, with approval of the court, to any other method of stratification in place of or in addition to major type of property or assessed value of property. Stratification shall be made in accordance with the information contained on the assessment roll from which the parcels to be appraised are to be selected. The assessment under review shall be excluded from the stratification and the sample.

In addition to the selected parcels, additional parcels shall be selected in the same manner for use as substitutes for selected parcels for which the parties agree that an appraisal cannot be made. If the parties fail to agree on the feasibility of appraising a selected parcel or an appropriate substitute the court shall make such determinations.

In the event the parties fail to agree on such methods or selected parcels or on the number of witnesses, upon application of either party the court or referee shall select a qualified expert, who shall devise such methods and select the parcels to be appraised, or shall determine the number or witnesses, or both, as the case may be. Before any testimony is given by either party as to the value of such parcels, each party shall simultaneously file with the court or referee, on a date fixed by the court or referee, a written statement or tabulation of the appraised values placed upon such parcels by the witnesses of the respective parties, and each party shall serve on the other at the same time a copy of such statement or tabulation of values stated by his witnesses.

(2) By actual sales of real property within the assessing units that occurred during the year in which the assessment under review was made:

(3) By other methods.

The parties shall be limited in their proof on the trial of such issue to such parcels and witnesses, except that in any event, whether or not parcels are selected as [hereinabove] provided IN THIS SECTION, evidence may be given by either party as to the following:

[(a)] (I) in all assessing units other than special assessing units as defined in section eighteen hundred one of this chapter, the state equalization rate established for the roll containing the assessment under review;

[(b)] (II) in all special assessing units as defined in section eighteen hundred one of this chapter, only for proceedings commenced with respect to assessment rolls completed prior to January first, nineteen hundred eighty-two, the latest applicable equalization rate established for the roll containing the assessment under review; or

[(c)] (III) in all special assessing units as defined in section eighteen hundred one of this chapter, only for proceedings commenced with respect to assessment rolls completed after December thirty-first, nineteen hundred eighty-one, the latest applicable class ratio established for the roll containing the assessment under review; or

[(d)] (IV) in all assessing units, the uniform percentage of value stated on the tax bill for the roll containing the assessment under review.

(V) IN ALL ASSESSING UNITS, OTHER THAN SPECIAL ASSESSING UNITS AS DEFINED IN SECTION EIGHTEEN HUNDRED ONE OF THIS CHAPTER, AND UPON THE REVIEW OF AN ASSESSMENT OF MAJOR TYPE B PROPERTY AS DEFINED IN SECTION TWELVE HUNDRED FIFTEEN OF THIS CHAPTER, THE COMMERCIAL ASSESSMENT RATIO ESTABLISHED FOR THE ROLL CONTAINING THE ASSESSMENT UNDER REVIEW.

S 3. This act shall take effect immediately and shall apply beginning with the 2009 assessment roll.