

5733

2009-2010 Regular Sessions

I N S E N A T E

June 1, 2009

Introduced by Sen. FOLEY -- 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 creating a county commercial assessment ratio

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

1 Section 1. The real property tax law is amended by adding a new
2 section 1215 to read as follows:
3 S 1215. ESTABLISHMENT OF A COUNTY COMMERCIAL ASSESSMENT RATIO. 1. FOR
4 PURPOSES OF THIS SECTION:
5 (A) "MARKET VALUE RATIO" MEANS THE RATIO OF ASSESSED VALUE TO FULL
6 VALUE OF THE TAXABLE REAL PROPERTY ON A FINAL ASSESSMENT ROLL;
7 (B) "MAJOR TYPE B" PROPERTY MEANS A GROUP OF TAXABLE PARCELS DESIGNATED
8 AS COMMERCIAL PROPERTY INCLUDING APARTMENTS, INDUSTRIAL PROPERTY,
9 RECREATION AND ENTERTAINMENT PROPERTY, TAXABLE COMMUNITY SERVICES PROPERTY,
10 AND PUBLIC SERVICES PROPERTY NOT CONTAINED WITH MAJOR TYPE D PROPERTY;
11 EXCEPT IN A HOMESTEAD ASSESSING UNIT, MAJOR TYPE B PROPERTY ALSO
12 INCLUDES RESIDENTIAL PROPERTY NOT IN MAJOR TYPE A;
13 (C) "NON-REASSESSMENT MUNICIPALITY" MEANS ANY MUNICIPALITY THAT IS NOT
14 DESIGNATED AS A REASSESSMENT MUNICIPALITY;
15 (D) "MAJOR TYPE A" PROPERTY MEANS RESIDENTIAL REAL PROPERTY OTHER THAN
16 APARTMENTS, EXCEPT THAT FOR A HOMESTEAD ASSESSING UNIT, MAJOR TYPE A
17 DESIGNATES THE HOMESTEAD CLASS AS DEFINED IN SECTION NINETEEN HUNDRED
18 ONE OF THIS CHAPTER; AND
19 (E) "MAJOR TYPE D" DESIGNATES PUBLIC SERVICES UTILITY REAL PROPERTY,
20 NOT INCLUDING CEILING RAILROAD AND SPECIAL FRANCHISE PROPERTY.
21 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR AN
22 ASSESSING UNIT CONTAINED IN ANY COUNTY WITH A POPULATION OF MORE THAN
23 ONE MILLION FOUR HUNDRED THOUSAND AS DETERMINED BY THE TWO THOUSAND
24 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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1 A CITY, THERE SHALL BE ESTABLISHED A COMMERCIAL ASSESSMENT RATIO AS
2 FOLLOWS:

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

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

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

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

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

29 (1) "Major type of property" in special assessing units for assess-
30 ments on rolls completed before January first, nineteen hundred eighty-
31 two and in other than special assessing units means each of the follow-
32 ing:

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

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

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

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

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

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

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

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

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

7 The parties shall mutually agree on the methods of stratification,
8 computation of ratio and selection of the parcels to be appraised, the
9 number of such parcels and the number of witnesses to be heard with
10 respect to such issue. Such parcels shall be selected so as to consti-
11 tute a stratified random sample of all locally assessed taxable parcels
12 on the assessment roll containing the assessment under review or the
13 latest assessment roll sampled by the board in establishing the state
14 equalization rate for such roll; provided, however, for assessments on
15 rolls completed after December thirty-first, nineteen hundred eighty-
16 one, in special assessing units such parcels shall constitute a strati-
17 fied random sample of all locally assessed taxable property in the major
18 type of property in which the property under review is classified;
19 provided further, however, for assessment rolls completed after December
20 thirty-first, nineteen hundred eighty-one, in special assessing units
21 public utility property shall be sampled as the parties agree, or if the
22 parties fail to agree, as the court directs. In special assessing units
23 for assessment rolls completed prior to January first, nineteen hundred
24 eighty-two and in other than special assessing units public utility
25 property shall be added to the parcels selected for the stratified
26 random sample when such property is a significant portion of the total
27 locally assessed taxable assessed value of the assessing unit; in such
28 case, representative parcels shall be agreed upon by the parties or
29 selected by the court if no such agreement is reached. In the event that
30 proceedings for more than one year are consolidated for trial, evidence
31 may be introduced to adjust the ratio derived from the selected parcels
32 provided for in this subdivision so as to make such ratio applicable to
33 the other assessment rolls included in such consolidation. For the
34 purpose of this subdivision, stratification shall be based on major type
35 of property and assessed value within each such major type; provided
36 however, that for assessments on rolls completed after December thirty-
37 first, nineteen hundred eighty-one, in special assessing units stratifi-
38 cation shall be based on the assessed value of parcels within the major
39 type of property in which the assessment under review is classified.
40 Nothing in this subdivision shall prevent the parties from agreeing,
41 with approval of the court, to any other method of stratification in
42 place of or in addition to major type of property or assessed value of
43 property. Stratification shall be made in accordance with the informa-
44 tion contained on the assessment roll from which the parcels to be
45 appraised are to be selected. The assessment under review shall be
46 excluded from the stratification and the sample.

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

52 In the event the parties fail to agree on such methods or selected
53 parcels or on the number of witnesses, upon application of either party
54 the court or referee shall select a qualified expert, who shall devise
55 such methods and select the parcels to be appraised, or shall determine
56 the number or witnesses, or both, as the case may be. Before any testi-

1 many is given by either party as to the value of such parcels, each
2 party shall simultaneously file with the court or referee, on a date
3 fixed by the court or referee, a written statement or tabulation of the
4 appraised values placed upon such parcels by the witnesses of the
5 respective parties, and each party shall serve on the other at the same
6 time a copy of such statement or tabulation of values stated by his
7 witnesses.

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

10 (3) By other methods.

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

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

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

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

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

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

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