

2009-2010 Regular Sessions

I N S E N A T E

January 12, 2009

Introduced by Sens. LARKIN, BONACIC, FARLEY, GOLDEN, LEIBELL, MORAHAN,
VOLKER -- 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 the abatement
of taxes in certain cases of catastrophic loss

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

1 Section 1. Article 5 of the real property tax law is amended by adding
2 a new title 2-A to read as follows:

3 TITLE 2-A

4 ABATEMENT OF TAXES IN THE CASE OF CATASTROPHIC LOSS

5 SECTION 548. APPLICABILITY OF OTHER PROVISIONS.

6 548-A. DEFINITIONS.

7 548-B. CATASTROPHIC LOSS TAX ABATEMENT PROCEDURE.

8 548-C. COORDINATION WITH SCHOOL AND VILLAGE TAX LEVIES.

9 S 548. APPLICABILITY OF OTHER PROVISIONS. THE PROVISIONS OF TITLES
10 ONE-A AND THREE OF THIS ARTICLE SHALL APPLY TO THIS TITLE INSOFAR AS
11 THEY ARE NOT INCONSISTENT WITH THE PROVISIONS AND PURPOSES OF THIS
12 TITLE, WHICH SHALL SUPERSEDE ANY INCONSISTENT PROVISION OF SUCH TITLES
13 ONE-A AND THREE. THE PROVISIONS OF THIS TITLE SHALL APPLY TO TAXES
14 LEVIED BY ALL MUNICIPAL CORPORATIONS ONLY UPON A ONE, TWO OR THREE FAMI-
15 LY RESIDENCE.

16 S 548-A. DEFINITIONS. FOR THE PURPOSES OF THIS TITLE:

17 1. A ONE, TWO OR THREE FAMILY RESIDENCE HAS UNDERGONE "CATASTROPHIC
18 LOSS" WHEN IT IS TOTALLY DESTROYED OR IS SO EXTENSIVELY DAMAGED THAT ALL
19 DWELLING UNITS IN SUCH RESIDENCE ARE UNFIT FOR HABITATION AND CANNOT
20 REASONABLY BE MADE FIT FOR HABITATION WITHIN A PERIOD OF ONE HUNDRED
21 EIGHTY DAYS AFTER THE DAMAGE OCCURRED.

22 2. "FAMILY RESIDENCE" MEANS AN OWNER-OCCUPIED RESIDENTIAL DWELLING.

23 S 548-B. CATASTROPHIC LOSS TAX ABATEMENT PROCEDURE. 1. A PROPERTY
24 OWNER IS ELIGIBLE TO FILE A CLAIM FOR A CATASTROPHIC LOSS TAX ABATEMENT

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

LBD04238-01-9

1 IF THE CATASTROPHIC LOSS OCCURRED WITHIN SIX MONTHS AFTER THE COMPLETION
2 OF THE FINAL ASSESSMENT ROLL.

3 2. SUCH A CLAIM MUST BE FILED WITH THE ASSESSOR OR BOARD OF ASSESSORS
4 WITHIN SIX MONTHS AFTER THE COMPLETION OF THE FINAL ASSESSMENT ROLL. A
5 STATEMENT OF THE FACTS CONSTITUTING THE BASIS OF THE CLAIM SHALL BE
6 FILED ON A FORM PRESCRIBED BY THE STATE BOARD. SUCH STATEMENT SHALL BE
7 MADE BY THE OWNER OF THE REAL PROPERTY, OR BY A PERSON AUTHORIZED IN
8 WRITING BY THE CLAIMANT OR HIS OR HER ATTORNEY OR AGENT TO MAKE SUCH
9 STATEMENT WHO HAS KNOWLEDGE OF THE FACTS STATED THEREIN. SUCH WRITTEN
10 AUTHORIZATION SHALL BE MADE A PART OF SUCH STATEMENT AND BEAR A DATE
11 WITHIN THE SAME CALENDAR YEAR DURING WHICH THE COMPLAINT IS FILED. SUCH
12 STATEMENT SHALL ALSO CONTAIN THE FOLLOWING SENTENCE: "I CERTIFY THAT ALL
13 STATEMENTS MADE ON THIS APPLICATION ARE TRUE AND CORRECT TO THE BEST OF
14 MY KNOWLEDGE AND BELIEF AND I UNDERSTAND THAT THE MAKING OF ANY WILLFUL-
15 LY FALSE STATEMENT OF MATERIAL FACT HEREIN WILL SUBJECT ME TO THE
16 PROVISIONS OF THE PENAL LAW RELEVANT TO THE MAKING AND FILING OF FALSE
17 INSTRUMENTS." UPON THE FILING OF SUCH STATEMENT, ALL COLLECTION OF TAX
18 EFFORTS SHALL BE SUSPENDED AND THE ACCRUAL OF INTEREST OR PENALTIES OR
19 BOTH SHALL ALSO BE SUSPENDED. IF THE CLAIM IS SUSTAINED, NO INTEREST OR
20 PENALTY SHALL BE DUE, AND ANY INTEREST OR PENALTY PAID PRIOR TO THE
21 FILING OF THE STATEMENT SHALL BE REFUNDED. IF THE CLAIM IS DENIED, ALL
22 COLLECTION OF TAX EFFORTS SHALL RESUME, AND INTEREST OR PENALTIES OR
23 BOTH SHALL RESUME THEIR ACCRUAL RETROACTIVELY TO THE DATE OF SUSPEN-
24 SION.

25 3. THE CLAIM SHALL BE HEARD AND DETERMINED BY THE BOARD OF ASSESSMENT
26 REVIEW OR ASSESSMENT REVIEW COMMISSION, AS THE CASE MAY BE. THE
27 PROCEEDINGS IN HEARING AND DETERMINING THE CLAIM SHALL BE MODIFIED AS
28 NECESSARY TO SERVE THE PURPOSES OF THIS TITLE AND SHALL BE IN ACCORDANCE
29 WITH THE REGULATIONS OF THE STATE BOARD. ALL CLAIMS SHALL BE HEARD AND
30 DECIDED NOT LATER THAN TWO MONTHS AFTER THE LAST DAY FOR FILING A CLAIM.

31 4. UPON THE DETERMINATION OF A CLAIM, THE BOARD OF ASSESSMENT REVIEW
32 OR ASSESSMENT REVIEW COMMISSION, AS THE CASE MAY BE, SHALL GIVE NOTICE
33 OF THE DETERMINATION TO THE ASSESSOR OR BOARD OF ASSESSORS AND THE
34 CLAIMANT WITHIN FIVE DAYS OF SUCH DETERMINATION. NOTWITHSTANDING ANY
35 INCONSISTENT PROVISION OF LAW, IF THE CLAIM IS DETERMINED TO BE IN FAVOR
36 OF THE CLAIMANT, THE ASSESSOR OR BOARD OF ASSESSORS SHALL CORRECT THE
37 TENTATIVE ASSESSMENT ROLL, FINAL ASSESSMENT ROLL OR TAX ROLL, AS THE
38 CASE MAY BE, WITHIN FIVE DAYS OF RECEIVING SUCH NOTICE.

39 S 548-C. COORDINATION WITH SCHOOL AND VILLAGE TAX LEVIES. THE STATE
40 BOARD SHALL PROMULGATE REGULATIONS TO COORDINATE ASSESSMENT ROLLS AND
41 TAX LEVIES OF COUNTIES, CITIES AND TOWNS WITH THOSE OF SCHOOL DISTRICTS
42 AND VILLAGES.

43 S 2. This act shall take effect on the one hundred eightieth day after
44 it shall have become a law; provided that any and all rules and regu-
45 lations and any other measures necessary to implement any provision of
46 this act on its effective date may be promulgated and taken, respective-
47 ly, on or before the effective date of such provision.