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

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2009-2010 Regular Sessions

I N A S S E M B L Y

March 2, 2009

Introduced by M. of A. HAWLEY, GIGLIO, BURLING, ALFANO, WALKER, KOLB, MOLINARO, TOWNSEND, CROUCH, McDONOUGH -- Multi-Sponsored by -- M. of A. BACALLES, BARCLAY, HYER-SPENCER -- read once and referred to the Committee on Real Property Taxation

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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

TITLE 2-A

ABATEMENT OF TAXES IN THE CASE OF CATASTROPHIC LOSS

SECTION 548. APPLICABILITY OF OTHER PROVISIONS.

548-A. DEFINITIONS.

548-B. CATASTROPHIC LOSS TAX ABATEMENT PROCEDURE.

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

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

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

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

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

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

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S 548-B. CATASTROPHIC LOSS TAX ABATEMENT PROCEDURE. 1. A PROPERTY OWNER IS ELIGIBLE TO FILE A CLAIM FOR A CATASTROPHIC LOSS TAX ABATEMENT IF THE CATASTROPHIC LOSS OCCURRED WITHIN SIX MONTHS AFTER THE COMPLETION OF THE FINAL ASSESSMENT ROLL.

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

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

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

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

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that any and all rules and regulations and any other measures necessary to implement any provision of this act on its effective date may be promulgated and taken, respectively, on or before the effective date of such provision.