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

5832

2011-2012 Regular Sessions

I N S E N A T E

June 20, 2011

Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the real property tax law, in relation to proceedings for challenges to real property assessments

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

Section 1. Subdivision 2 of section 718 of the real property tax law, as added by chapter 693 of the laws of 1995, paragraphs (a) and (b) as amended by chapter 503 of the laws of 1996, is amended to read as follows:

2. Where a proceeding is commenced pursuant to this article to review the assessment of a parcel of real property which solely contains property which is not subject to the provisions of subdivision one of this section, a note of issue shall be filed in accordance with this subdivision.

(a) Where a real property assessment challenge commenced under this article has been pending for at least [two years] ONE YEAR from the date of the commencement of the proceeding, [either party] THE RESPONDENT may demand, by serving a written demand, that the [parties] PETITIONER file a written appraisal of the property which is the subject of the proceeding [and serve same] within [one hundred twenty] NINETY days of service of such demand. The demand shall be in writing and served by personal delivery or certified mail, return receipt requested. [Both parties] THE PETITIONER shall thereafter file an appraisal or show good cause as to why such demand cannot be complied with within such time period. THE COURT, UPON THE RECEIPT OF SUCH APPRAISAL, SHALL NOTIFY THE RESPONDENT OF SUCH RECEIPT. THE RESPONDENT SHALL THEN FILE A WRITTEN APPRAISAL WITHIN NINETY DAYS OR SHOW GOOD CAUSE AS TO WHY SUCH TIMEFRAME CANNOT BE COMPLIED WITH. Either party may move to dismiss the proceeding by reason of the other party's failure to prosecute the proceeding and file the appraisal pursuant to [the demand] THIS PARAGRAPH. Unless the party

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

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shows good cause for failing to file the appraisal, the court may in its discretion either dismiss or grant the petition and such order shall constitute a final adjudication of all issues raised in the proceeding.

(b) Upon the serving and filing the appraisals pursuant to [a demand made under] paragraph (a) of this subdivision, the court shall schedule a conference with the parties to be held within ninety days to discuss settlement, resolve disclosure and decide other pretrial issues.

(c) After completion of the pretrial conference required by this subdivision, the respondent may serve and file a written demand that petitioner file a note of issue within thirty days of service of the demand therefor. The demand shall be in writing and served by personal delivery or certified mail, return receipt requested. Should the petitioner fail to file a note of issue within thirty days of the service of demand, the proceeding shall be deemed to have been abandoned, an order dismissing the petition shall be entered without notice and such order shall constitute a final adjudication of all issues raised in the proceeding, unless the court or judge otherwise orders on good cause shown.

(d) Should the respondent fail to demand that the petitioner file a note of issue pursuant to paragraph (c) of this subdivision within [four years] THIRTY-SIX MONTHS from the date of the commencement of the proceeding, and a note of issue has not otherwise been filed, the proceeding shall be deemed to have been abandoned and an order dismissing the petition shall be entered without notice and such order shall constitute a final adjudication of all issues raised in the proceeding, except where the parties otherwise stipulate or a court or judge otherwise orders on good cause shown within such [four-year] THIRTY-SIX MONTH period.

S 2. Section 727 of the real property tax law is amended by adding a new subdivision 4 to read as follows:

4. (A) FOR THE PURPOSE OF THIS SUBDIVISION: (I) A "FULL VALUE ASSESSMENT ROLL" IS AN ASSESSMENT ROLL FOR WHICH THERE HAS BEEN A REVALUATION OR UPDATE OF ASSESSMENTS AND THE COMMISSIONER HAS DETERMINED A STATE EQUALIZATION RATE OF ONE HUNDRED PERCENT OR IN A SPECIAL ASSESSING UNIT THE REVALUATION OR UPDATE OF ASSESSMENTS MUST BE AT A UNIFORM PERCENTAGE OF VALUE FOR EACH CLASS;

(II) AN ASSESSMENT SHALL BE DEEMED TO HAVE BEEN "CARRIED FORWARD ESSENTIALLY UNALTERED" IF IT IS EITHER THE SAME ASSESSMENT ON THE PRIOR ROLL OR DIFFERS FROM THE ASSESSMENT ON THE PRIOR ROLL BY A FACTOR WHICH IS LESS THAN OR EQUAL TO THE APPLICABLE CHANGE IN LEVEL OF ASSESSMENT ESTABLISHED BY THE COMMISSIONER.

(B) FOR THE PURPOSE OF SUBDIVISION ONE OF THIS SECTION, AN ASSESSMENT SHALL BE DEEMED UNCHANGED, AND NO PETITION FOR REVIEW THEREOF MAY BE FILED, WHERE THE FOLLOWING CONDITIONS APPLY:

(I) THE ASSESSED VALUATION DETERMINED BY FINAL COURT ORDER OR JUDGMENT FOR THE ASSESSMENT ROLL AT ISSUE WAS CARRIED FORWARD ESSENTIALLY UNALTERED TO THE NEXT SUCCEEDING ROLL;

(II) BOTH ASSESSMENT ROLLS ARE FULL VALUE ASSESSMENT ROLLS.

(C) IF THE ASSESSED VALUATION PLACED ON THE NEXT SUCCEEDING ROLL IS CARRIED FORWARD ESSENTIALLY UNALTERED ONTO THE SECOND CONSECUTIVE FULL VALUE ASSESSMENT ROLL, NO PETITION MAY BE FILED FOR THE REVIEW THEREOF. IF THE ASSESSED VALUATION PLACED ON THE SECOND SUCH ROLL IS CARRIED FORWARD ESSENTIALLY UNALTERED ONTO THE THIRD CONSECUTIVE FULL VALUE ASSESSMENT ROLL, NO PETITION MAY BE FILED FOR THE REVIEW THEREOF.

(D) NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, A PETITION FOR REVIEW MAY BE FILED WITHOUT REGARD TO THE RESTRICTIONS OTHERWISE IMPOSED

BY THIS SUBDIVISION WHERE: THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, EXCLUDING PARAGRAPHS (A) AND (B) OF SUCH SUBDIVISION ARE APPLICABLE.

S 3. This act shall take effect immediately.