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2011-2012 Regular Sessions

I N A S S E M B L Y

September 21, 2011

Introduced by M. of A. CAHILL, LUPARDO, GUNTHER, P. LOPEZ, MCENENY,
ZEBROWSKI, REILLY -- read once and referred to the Committee on Real
Property Taxation

AN ACT to establish the "flood assessment relief act of 2011"

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

- 1 Section 1. Short title. This act shall be known and may be cited as
2 the "flood assessment relief act of 2011".
3 S 2. Definitions. For the purposes of this act, the following terms
4 shall have the following meanings:
5 1. "County" shall mean the counties of Albany, Broome, Chenango,
6 Chemung, Clinton, Columbia, Delaware, Dutchess, Essex, Greene, Herkimer,
7 Montgomery, Nassau, Oneida, Orange, Otsego, Putnam, Rensselaer, Rock-
8 land, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga,
9 Ulster, Warren, Washington, and Westchester.
10 2. "Taxable status date" shall mean the date established pursuant to
11 section 302 of the real property tax law.
12 3. "Catastrophically impacted" shall mean a property there is cause to
13 believe the value of which was diminished by 50 percent or more as a
14 result of the weather.
15 4. "Taxpayer" shall mean the owner of real property which was
16 catastrophically impacted in a county.
17 5. "Assessor" shall mean a town, city, or village assessor or board of
18 assessors in a county.
19 6. "Property owner" shall mean the owner of real property who is
20 responsible for payment of real property taxes on such property.
21 7. "Weather" shall mean the storms, rains, or floods which occurred in
22 a county during the period beginning August 28, 2011 and ending Septem-
23 ber 11, 2011.

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

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1 8. "Correction" shall mean the process for the correction of a "cler-
2 ical error" as defined in section 550 of the real property tax law and
3 as provided for in title 3 of article 5 of the real property tax law.

4 S 3. Local option. A county may exercise the provisions of this act if
5 such county's governing body shall, within 45 days from the date this
6 act shall have become a law, pass a resolution resolving to implement
7 the provisions of this act. Prior to the passage of such resolution, the
8 chief executive officer of a county (or the representative thereof)
9 shall consult with those municipal corporations as defined in subdivi-
10 sion 10 of section 102 of the real property tax law which such chief
11 executive officer has reason to believe had at least 10 properties whose
12 value was diminished as a result of the weather and shall secure the
13 written consent of such corporation to be included in scope and coverage
14 of such resolution.

15 S 4. Assessment relief for flood victims. Notwithstanding any other
16 provision of law to the contrary, a taxpayer whose real property is in a
17 county and whose property has been catastrophically impacted as a result
18 of weather occurring in the state of New York may seek administrative
19 review or correction of the valuation assigned to such real property or
20 the improvements thereon pursuant to the provisions of article 5 of the
21 real property tax law. An assessor shall also seek administrative review
22 or correction of valuations on any property he or she believes was
23 catastrophically impacted as a result of such weather.

24 In the event such review or correction is sought, the board of assess-
25 ment review or other authorized body or officer, in making such determi-
26 nations as it is otherwise authorized to make pursuant to the provisions
27 of the real property tax law, shall consider the taxable status date as
28 provided for in section 302 of the real property tax law, to be October
29 1, 2011 instead of the taxable status date otherwise provided for in
30 such section or any other provision of law.

31 Any complaint by a taxpayer who is also the property owner and who is
32 seeking a lower valuation, shall not be required to suggest such valu-
33 ation to the board of assessment review, but such suggestion may be made
34 by an assessor or board of assessors, even if such assessor or board of
35 assessors is not the party who has made the application for assessment
36 review.

37 In the event the assessor seeks an administrative determination before
38 a board of assessment review of any property he or she is not an owner
39 of or otherwise entitled by law to seek an administrative determination
40 from such board, such assessor shall also seek an administrative deter-
41 mination and a lower valuation of all such properties he or she believes
42 were catastrophically impacted by weather within such jurisdiction.
43 Such determination may be sought in a class application by the assessor
44 to the board of assessment review filed pursuant to either section 524
45 or 553 of the real property tax law. The failure of such assessor to
46 seek such a determination for all such catastrophically impacted proper-
47 ties shall not impair the effectiveness of any review sought by such an
48 assessor and a cause of action against such assessor for failing to
49 include any specific property or class of properties shall not exist
50 under the laws of this state. The board of assessment review may accept
51 applications for administrative review of the assessment of any
52 catastrophically impacted property up until and including December 31,
53 2011; provided that where such an application has not been submitted by
54 that date, the assessor or taxpayer may nonetheless seek correction of
55 the assessment in the manner provided by section 553, 554 or 556 of the
56 real property tax law, whichever is appropriate.

1 The rights contained in this act shall not otherwise diminish any
2 other legally available right of any property owner or party who may
3 otherwise lawfully challenge the valuation or assessment of any real
4 property or improvements thereon. All remaining rights, including, but
5 not limited to, the right to seek correction of the assessment as
6 provided for in sections 554 and 556 of the real property tax law and to
7 judicially challenge such assessment or valuation hereby remain and
8 shall be available to the party to whom such rights would otherwise be
9 available notwithstanding this act.

10 S 5. School districts held harmless. Each school district located in a
11 county, as defined in subdivision one of section two of this act, shall
12 be held harmless by the state for any reduction in state aid that would
13 have been paid as tax savings pursuant to section 1306-a of the real
14 property tax law incurred due to the provisions of this act.

15 S 6. This act shall take effect immediately and shall be deemed to
16 have been in full force and effect on and after August 1, 2011.