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

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2011-2012 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. LUPARDO, CAHILL, LATIMER, MAGNARELLI, LIFTON, AMEDORE, GABRYSZAK, P. LOPEZ, FINCH, CASTELLI, PALMESANO, TEDISCO, ABINANTI -- Multi-Sponsored by -- M. of A. CALHOUN, CROUCH, TITONE -- read once and referred to the Committee on Real Property Taxation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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

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

Section 1. Short title. This act shall be known and may be cited as the "flood assessment relief act of 2011".

S 2. Definitions. For the purposes of this act, the following terms shall have the following meanings:

1. "County" shall mean the counties that have been declared state disaster emergency declaration areas by the governor on or after August 26, 2011 and prior to September 12, 2011.

2. "Taxable status date" shall mean the date established pursuant to section 302 of the real property tax law.

3. "Catastrophically impacted" shall mean a property there is cause to believe the value of which was diminished by 50 percent or more as a result of the weather.

4. "Assessor" shall mean a town, city, or village assessor or board of assessors in a county.

5. "Weather" shall mean the storms, rains, or floods which occurred in a county during the period beginning August 26, 2011 and ending September 12, 2011.

6. "Correction" shall mean the process for the correction of a "clerical error" as defined in section 550 of the real property tax law and as provided for in title 3 of article 5 of the real property tax law.

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

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S 3. Local option. A county may exercise the provisions of this act if such county's governing body shall, by December 31, 2011, pass a resolution resolving to implement the provisions of this act. Prior to the passage of such resolution, the chief executive officer of a county (or the representative thereof) shall consult with those municipal corporations as defined in subdivision 10 of section 102 of the real property tax law which such chief executive officer has reason to believe had at least 10 properties whose value was diminished as a result of the weather and shall secure the written consent of such corporation to be included in scope and coverage of such resolution.

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

In the event such review or correction is sought, the board of assessment review or other authorized body or officer, in making such determinations as it is otherwise authorized to make pursuant to the provisions of the real property tax law, shall consider the taxable status date as provided for in section 302 of the real property tax law, to be September 12, 2011 instead of the taxable status date otherwise provided for in such section or any other provision of law.

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

In the event the assessor seeks an administrative determination before a board of assessment review of any property he or she is not an owner of or otherwise entitled by law to seek an administrative determination from such board, such assessor shall also seek an administrative determination and a lower valuation of all such properties he or she believes were catastrophically impacted by weather within such jurisdiction. Such determination may be sought in a class application by the assessor to the board of assessment review filed pursuant to either section 524 or 553 of the real property tax law. The failure of such assessor to seek such a determination for all such catastrophically impacted properties shall not impair the effectiveness of any review sought by such an assessor and a cause of action against such assessor for failing to include any specific property or class of properties shall not exist under the laws of this state. The board of assessment review may accept applications for administrative review of the assessment of any catastrophically impacted property up until and including a date to be established by the commissioner of the department of taxation and finance; provided that where such an application has not been submitted by that date, the assessor or taxpayer may nonetheless seek correction of the assessment in the manner provided by section 553, 554 or 556 of the real property tax law, whichever is appropriate. The commissioner of the department of taxation and finance shall notify each county director of real property services of the date provided for in this section.

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

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

S 6. The Director of the Office of Real Property Tax Services, or other chief administrative official of that office within the Department of Taxation and Finance is authorized to develop a guidance memorandum for use of assessing units. Such guidance memorandum shall assist with the implementation of this act and shall be deemed to be binding on all assessing units in counties which implement the provisions of this act. The guidance memorandum shall have no force or effect or serve as authority for any other act of assessing units or of the interpretation or implementation of the laws of the State of New York except as they relate to the specific implementation of this act.

S 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after August 26, 2011.