

5832

2011-2012 Regular Sessions

I N   S E N A T E

June 20, 2011

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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:

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

5     2. Where a proceeding is commenced pursuant to this article to review  
6     the assessment of a parcel of real property which solely contains prop-  
7     erty which is not subject to the provisions of subdivision one of this  
8     section, a note of issue shall be filed in accordance with this subdivi-  
9     sion.

10    (a) Where a real property assessment challenge commenced under this  
11    article has been pending for at least [two years] ONE YEAR from the date  
12    of the commencement of the proceeding, [either party] THE RESPONDENT may  
13    demand, by serving a written demand, that the [parties] PETITIONER file  
14    a written appraisal of the property which is the subject of the proceed-  
15    ing [and serve same] within [one hundred twenty] NINETY days of service  
16    of such demand. The demand shall be in writing and served by personal  
17    delivery or certified mail, return receipt requested. [Both parties] THE  
18    PETITIONER shall thereafter file an appraisal or show good cause as to  
19    why such demand cannot be complied with within such time period. THE  
20    COURT, UPON THE RECEIPT OF SUCH APPRAISAL, SHALL NOTIFY THE RESPONDENT  
21    OF SUCH RECEIPT. THE RESPONDENT SHALL THEN FILE A WRITTEN APPRAISAL  
22    WITHIN NINETY DAYS OR SHOW GOOD CAUSE AS TO WHY SUCH TIMEFRAME CANNOT BE  
23    COMPLIED WITH. Either party may move to dismiss the proceeding by reason  
24    of the other party's failure to prosecute the proceeding and file the  
25    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.

LBD06830-10-1

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

1 BY THIS SUBDIVISION WHERE: THE PROVISIONS OF SUBDIVISION TWO OF THIS  
2 SECTION, EXCLUDING PARAGRAPHS (A) AND (B) OF SUCH SUBDIVISION ARE APPLI-  
3 CABLE.  
4 S 3. This act shall take effect immediately.