

5891

2011-2012 Regular Sessions

I N S E N A T E

September 21, 2011

Introduced by Sens. BONACIC, FARLEY, LARKIN, LAVALLE, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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 that have been declared state
6 disaster emergency declaration areas by the governor on or after August
7 26, 2011 and prior to September 12, 2011.

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

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

13 4. "Taxpayer" shall mean the owner of real property which was
14 catastrophically impacted in a county.

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

17 6. "Property owner" shall mean the owner of real property who is
18 responsible for payment of real property taxes on such property.

19 7. "Weather" shall mean the storms, rains, or floods which occurred in
20 a county during the period beginning August 26, 2011 and ending Septem-
21 ber 12, 2011.

22 8. "Correction" shall mean the process for the correction of a "cler-
23 ical error" as defined in section 550 of the real property tax law and
24 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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1 S 3. Local option. A county may exercise the provisions of this act if
2 such county's governing body shall, by December 1, 2011, pass a resol-
3 ution resolving to implement the provisions of this act. Prior to the
4 passage of such resolution, the chief executive officer of a county (or
5 the representative thereof) shall consult with those municipal corpo-
6 rations as defined in subdivision 10 of section 102 of the real property
7 tax law which such chief executive officer has reason to believe had at
8 least 10 properties whose value was diminished as a result of the weath-
9 er and shall secure the written consent of such corporation to be
10 included in scope and coverage of such resolution.

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

20 In the event such review or correction is sought, the board of assess-
21 ment review or other authorized body or officer, in making such determi-
22 nations as it is otherwise authorized to make pursuant to the provisions
23 of the real property tax law, shall consider the taxable status date as
24 provided for in section 302 of the real property tax law, to be Septem-
25 ber 12, 2011 instead of the taxable status date otherwise provided for
26 in such section or any other provision of law.

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

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

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

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