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

S. 5912 A. 8649

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

October 14, 2011

IN SENATE -- Introduced by Sens. BRESLIN, DILAN, KRUGER, LARKIN, LAVALLE, MONTGOMERY, OPPENHEIMER, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. McENENY, GUNTHER, AMEDORE, P. LOPEZ, LATIMER, P. RIVERA, N. RIVERA -- Multi-Sponsored by -- M. of A. ABINANTI, BRONSON, BURLING, CALHOUN, CASTELLI, CROUCH, CURRAN, DUPREY, FINCH, FITZPATRICK, KATZ, LIFTON, MAGEE, MARKEY, McDONOUGH, M. MILLER, MOLINARO, MURRAY, ORTIZ, SCHIMEL, SPANO, STEVENSON, SWEENEY, TEDISCO, TITONE -- read once and referred to the Committee on Ways and Means

AN ACT to enact 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 of Albany, Bronx, Broome, Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Greene, Herkimer, Kings, Montgomery, Nassau, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Ulster, Warren, Washington and Westchester.

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

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

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

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

7. "Weather" shall mean the storms, rains, or floods which occurred in a county during the period beginning August 26, 2011 and ending September 7, 2011.

8. "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.

S 3. Local option. A county may exercise the provisions of this act if such county's governing body shall, by February 15, 2012, 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 7, 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 March 30, 2012; 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 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 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. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after August 26, 2011.