

2121--A

Cal. No. 72

2013-2014 Regular Sessions

I N S E N A T E

January 11, 2013

Introduced by Sens. BOYLE, FLANAGAN, FUSCHILLO, HANNON, LARKIN, LAVALLE, MARCELLINO, MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to enact the "Superstorm Sandy assessment relief act"; to amend the local finance law, in relation to certain real property tax refunds and credits

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 "Superstorm Sandy assessment relief act."
3 S 2. Definitions. For the purposes of this act, the following terms
4 shall have the following meanings:
5 1. "Catastrophically impacted property" shall mean a property which is
6 located in an eligible municipality and which lost at least fifty
7 percent or more of its improved value as a result of Superstorm Sandy.
8 2. "Eligible county" shall mean those counties which have been
9 included in the federal disaster declarations for Superstorm Sandy, but
10 shall not apply to a county wholly contained within a city.
11 3. "Eligible municipality" shall mean a municipal corporation, as
12 defined by subdivision 10 of section 102 of the real property tax law,
13 which is either: (a) an eligible county; or (b) a city, town, village,
14 special district, or school district that is wholly or partly contained
15 within an eligible county.
16 4. "Impacted tax roll" shall mean the final assessment roll which
17 satisfies both of the following conditions: (a) the roll is based upon a
18 taxable status date occurring prior to October 28, 2012; and (b) taxes
19 levied upon that roll by or on behalf of a participating municipality
20 are payable without interest on or after October 28, 2012.

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

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1 5. "Participating municipality" shall mean an eligible municipality
2 that has passed a local law, ordinance, or resolution pursuant to
3 section three of this act to provide assessment relief to property
4 owners within such eligible municipality pursuant to the provisions of
5 this act.

6 6. "Superstorm Sandy" shall mean the storms, rains, winds, or floods
7 which occurred within an eligible county during the period beginning on
8 October 29, 2012 and ending November 3, 2012.

9 7. "Unreimbursed expenses" shall mean all real property expenses
10 incurred as a direct result of Superstorm Sandy with respect to real
11 property located in an eligible municipality, which expenses are not
12 eligible for reimbursement from the state or federal government or an
13 insurance company. Unreimbursed expenses shall be determined with refer-
14 ence to the following: (a) all estimates of damage to real property
15 provided by licensed contractors; (b) receipts; or (c) other written
16 proof reasonably acceptable to the assessor.

17 8. "Total assessed value", as used in section five of this act, shall
18 mean the total assessed value on the parcel prior to any and all
19 exemption adjustments.

20 9. "Improved value", as used in section five of this act, shall mean
21 the market value of the real property improvements excluding the land.

22 10. "Property" shall mean "real property", "property" or "land" as
23 defined under paragraphs (a) through (g) of subdivision 12 of section
24 102 of the real property tax law.

25 S 3. Local option. An eligible municipality may opt-in to either
26 section four or section five of this act if its governing body shall, by
27 the forty-fifth day following the date upon which this act is approved
28 by the governor, pass a local law, ordinance, or resolution adopting the
29 provisions of this act.

30 S 4. Assessment relief for Superstorm Sandy victims in an eligible
31 county. (a) Notwithstanding any provision of law to the contrary, any
32 real property that was damaged by Superstorm Sandy and is located within
33 a participating municipality shall be exempt from taxation as provided
34 in this section:

35 (i) Real property damaged by Superstorm Sandy shall be exempt from
36 real property taxation to the extent of the amount of unreimbursed
37 expenses the real property owner incurs. The amount of assessed valu-
38 ation exempt from taxation shall be calculated by subtracting the real
39 property owner's unreimbursed expenses from the real property's full
40 value and then multiplying that difference by the level of assessment.

41 (ii) The exemption provided by this section shall be computed before
42 all other partial exemptions allowed by law have been subtracted from
43 the total amount assessed.

44 (iii) This exemption shall only be applied to an impacted tax roll and
45 any assessment roll that becomes final prior to the year 2015.

46 (iv) Notwithstanding any other provision of law concerning a valuation
47 date or a taxable status date, the provisions of this act shall control
48 with respect to the effect of Superstorm Sandy on real property within a
49 participating municipality.

50 (b) Application for the exemption provided by this act must be made
51 with each respective assessor before the first business day in July,
52 2013 or as provided in the local law, ordinance, or resolution adopting
53 the provisions of this act. The application may include all documenta-
54 tion delineating the applicant's unreimbursed expenses and any proceeds
55 that the applicant has received from the state or federal government or

1 insurance company for damage that the applicant's property sustained as
2 a result of Superstorm Sandy.

3 (c) Upon receiving such application, the assessor shall determine the
4 amount, if any, of assessed value that is exempt from real property
5 taxation in accordance with the provisions of this section.

6 (d) The assessor shall mail his determination to the applicant. For
7 the purposes of this act only, if the applicant disagrees with the
8 assessor's determination, the applicant may seek judicial review pursu-
9 ant to article 78 of the civil practice law and rules.

10 (e) Any eligible municipality that applies for a community disaster
11 loan through the federal emergency management agency or federal or state
12 grant related to Superstorm Sandy shall provide a copy of such applica-
13 tion to the assessor.

14 S 5. Assessment relief for Superstorm Sandy victims in an eligible
15 county. (a) Notwithstanding any provision of law to the contrary, where
16 real property was catastrophically impacted by Superstorm Sandy and is
17 located within a participating municipality, assessment relief shall be
18 granted as follows:

19 (i) If the property lost at least fifty but less than sixty percent of
20 its improved value due to Superstorm Sandy, the total assessed value of
21 the property shall be reduced by fifty-five percent for purposes of the
22 participating municipality on the impacted tax roll.

23 (ii) If the property lost at least sixty but less than seventy percent
24 of its improved value due to Superstorm Sandy, the total assessed value
25 of the property shall be reduced by sixty-five percent for purposes of
26 the participating municipality on the impacted tax roll.

27 (iii) If the property lost at least seventy but less than eighty
28 percent of its improved value due to Superstorm Sandy, the total
29 assessed value of the property shall be reduced by seventy-five percent
30 for purposes of the participating municipality on the impacted tax roll.

31 (iv) If the property lost at least eighty but less than ninety percent
32 of its improved value due to Superstorm Sandy, the total assessed value
33 of the property shall be reduced by eighty-five percent for purposes of
34 the participating municipality on the impacted tax roll.

35 (v) If the property lost at least ninety but less than one hundred
36 percent of its improved value due to Superstorm Sandy, the total
37 assessed value of the property shall be reduced by ninety-five percent
38 for purposes of the participating municipality on the impacted tax roll.

39 (vi) The percentage loss in improved value for this purpose shall be
40 adopted by the assessor from a written finding of the Federal Emergency
41 Management Agency, or where no such finding exists shall be determined
42 by the assessor in the manner provided by this act, subject to review by
43 the board of assessment review.

44 (vii) No reduction in assessed value shall be granted pursuant to this
45 act except as specified above for such counties. No reduction in
46 assessed value shall be granted pursuant to this section for purposes of
47 any county, city, town, village or school district which has not adopted
48 the provisions of this act.

49 (b) To receive such relief pursuant to this section, the property
50 owner shall submit a written request to the assessor on a form approved
51 by the director of the office of real property tax services within nine-
52 ty days following the date upon which this act is approved by the gover-
53 nor. Such request shall attach any and all determinations by the Federal
54 Emergency Management Agency, and any and all reports by an insurance
55 adjuster, and describe in reasonable detail the damage caused to the
56 property by Superstorm Sandy and the condition of the property following

1 the superstorm and shall be accompanied by supporting documentation, if
2 available.

3 (c) Upon receiving such a request, the assessor shall adopt the find-
4 ing by the Federal Emergency Management Agency as to whether the proper-
5 ty lost at least half of its improved value as a result of Hurricane
6 Sandy, and if such finding does not exist, the assessor shall make a
7 finding as to whether the property lost at least half of its improved
8 value as a result of Superstorm Sandy, and thereafter the assessor,
9 shall adopt or classify the percentage loss of improved value within one
10 of the following ranges:

- 11 (i) At least fifty percent but less than sixty percent,
- 12 (ii) At least sixty percent but less than seventy percent,
- 13 (iii) At least seventy percent but less than eighty percent,
- 14 (iv) At least eighty percent but less than ninety percent, or
- 15 (v) At least ninety percent but less than one hundred percent.

16 (d) The assessor shall mail written notice of such finding to the
17 property owner and the participating municipality. Where the assessor
18 finds that the loss in improved value is less than fifty percent, or
19 classifies the loss within a lower range than the property owner
20 believes is warranted, the property owner may file a complaint with the
21 board of assessment review. Such board shall reconvene upon ten days
22 written notice to the property owner and assessor to hear the appeal and
23 determine the matter, and shall mail written notice of its determination
24 to the assessor and property owner. The provisions of article 5 of the
25 real property tax law shall govern the review process to the extent
26 practicable. The applicant may commence within 30 days of service of a
27 written determination, a real property tax law proceeding under title 1
28 of article 7 of the real property tax law, or, if applicable, under
29 title 1-A of article 7 of the real property tax law. Sections 727 and
30 739 of the real property tax law shall not apply.

31 (e) Where property has lost at least fifty percent of its improved
32 value due to Superstorm Sandy, the total assessed value of the property
33 on the impacted assessment roll shall be reduced by the appropriate
34 percentage specified in subdivision (a) of this section, provided that
35 any exemptions which the property may be receiving shall be adjusted as
36 necessary to account for such reduction in the total assessed value. To
37 the extent the total assessed value of the property originally appearing
38 on such roll exceeds the amount to which it should be reduced pursuant
39 to this act, the excess shall be considered an error in essential fact
40 as defined by subdivision 3 of section 550 of the real property tax law.
41 If the error appears on a tax roll, the tax roll shall be corrected in
42 the manner provided by section 554 of the real property tax law or a
43 refund or credit of taxes shall be granted in the manner provided by
44 section 556 or section 556-b of the real property tax law. If the error
45 appears on a final assessment roll but not on a tax roll, such final
46 assessment roll shall be corrected in the manner provided by section 553
47 of the real property tax law. The errors in essential fact found pursu-
48 ant to the Hurricane Sandy assessment relief act on either the tax roll
49 or final assessment roll, upon application to the county director of
50 real property tax services, shall be forwarded by the county director of
51 real property tax services immediately to the levying body for an imme-
52 diate order setting forth the appropriate correction.

53 (f) The rights contained in this act shall not otherwise diminish any
54 other legally available right of any property owner or party who may
55 otherwise lawfully challenge the valuation or assessment of any real
56 property or improvements thereon. All remaining rights hereby remain and

1 shall be available to the party to whom such rights would otherwise be
2 available notwithstanding this act.

3 S 6. The commissioner of taxation and finance is authorized to develop
4 a guidance memorandum for use by assessing units. Such guidance memoran-
5 dum shall assist with the implementation of this act and shall be deemed
6 to be advisory on all assessing units in counties which implement the
7 provisions of this act. The guidance memorandum shall have no force or
8 effect or serve as authority for any other act of assessing units or of
9 the interpretation or implementation of the laws of the state of New
10 York except as they relate to the specific implementation of this act.

11 S 7. School districts held harmless. Each school district that is
12 wholly or partially contained within an eligible county shall be held
13 harmless by the state for any reduction in state aid that would have
14 been paid as tax savings pursuant to section 1306-a of the real property
15 tax law incurred due to the provisions of this act.

16 S 8. Levy of taxes; determination of taxes due. The amount of taxes to
17 be levied for any participating municipality located in and including an
18 eligible county that has opted to adopt section four of this act shall
19 be determined without regard to the exemption created under this act. In
20 addition, the tax rate for any participating municipality that has opted
21 to adopt section four of this act shall be determined as if no parcels
22 were exempt from taxation pursuant to this act. However, the tax rate so
23 determined shall be applied to the taxable assessed value of each parcel
24 after accounting for all applicable exemptions, including the exemption
25 created by this act.

26 S 9. Tax savings. (a) The tax savings for each parcel located within
27 an eligible county receiving the exemption authorized by this act shall
28 be computed by subtracting the amount actually levied against the parcel
29 from the amount that would have been levied if not for the exemption
30 created by this act.

31 (b) A statement shall then be placed on the tax bill for the parcel in
32 substantially the following form: "Your tax savings this year resulting
33 from the Superstorm Sandy exemption is \$..."

34 S 10. Charge. Any tax savings generated through an exemption created
35 under this act shall be a charge to the participating municipality.

36 S 11. Suffolk County financing of refunds and credits. Payments by
37 Suffolk County for refunds or credits pursuant to this act may be
38 financed pursuant to the local finance law in the same manner, and
39 subject to the same conditions, as amounts authorized under section 3 of
40 the Suffolk County Tax Act to be charged by Suffolk County to towns or
41 special districts or by towns to school districts may be financed pursu-
42 ant to the local finance law. The period of probable usefulness for such
43 payments is hereby determined to be ten years.

44 S 12. Paragraph a of section 11.00 of the local finance law is amended
45 by adding a new subdivision 33-b to read as follows:

46 33-B. REAL PROPERTY TAX REFUNDS AND CREDITS. PAYMENTS OF EXEMPTIONS,
47 REFUNDS, OR CREDITS FOR REAL PROPERTY TAX, SEWER AND WATER RENTS, RATES
48 AND CHARGES AND ALL OTHER REAL PROPERTY TAXES TO BE MADE BY A MUNICI-
49 PALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION AS A RESULT OF SUPER-
50 STORM SANDY OF TWO THOUSAND TWELVE, TEN YEARS.

51 S 13. This act shall take effect immediately and shall be deemed to
52 have been in full force and effect on and after October 28, 2012.