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

S. 2121 A. 2294

2013-2014 Regular Sessions

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

January 11, 2013

IN SENATE -- Introduced by Sens. BOYLE, FLANAGAN, FUSCHILLO, HANNON, LAVALLE, MARCELLINO, MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

IN ASSEMBLY -- Introduced by M. of A. SWEENEY, WEISENBERG, JAFFEE, GALEF, HENNESSY, ENGLEBRIGHT, LAVINE, THIELE, PAULIN, ZEBROWSKI, ABINANTI, SKOUFIS, BUCHWALD, TITONE, SCARBOROUGH, KELLNER, JACOBS, MAISEL, SKARTADOS, STEVENSON -- Multi-Sponsored by -- M. of A. CLARK, LIFTON, MILLMAN -- read once and referred to the Committee on Real Property Taxation

AN ACT to enact the "Hurricane 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:

Section 1. This act shall be known and may be cited as the "Hurricane Sandy assessment relief act".

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

1. "Eligible county" shall mean those counties which have been included in the federal disaster declarations for Hurricane Sandy but shall not apply to a city with a population of one million or more.

2. "Catastrophically impacted property" shall mean a property which is located in an eligible municipality and which lost fifty percent or more of its value as a result of Hurricane Sandy.

3. "Eligible municipality" shall mean a municipal corporation, as defined by subdivision 10 of section 102 of the real property tax law, which is either: (a) an eligible county; or (b) a city, town, village or school district that is wholly or partly contained within an eligible county.

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

LBD06483-03-3

4. "Impacted assessment roll" shall mean a final assessment roll which satisfies both of the following conditions: (a) the roll is based upon a taxable status date occurring prior to October 28, 2012; and (b) taxes levied upon that roll by or on behalf of a participating municipality are payable without interest on or after October 28, 2012.

5. "Participating municipality" shall mean an eligible municipal corporation that has chosen to provide assessment relief to owners of catastrophically impacted properties pursuant to section three of this act.

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

S 3. Local option. An eligible municipality may exercise the provisions of this act if its governing body shall, by the forty-fifth day following the date upon which this act is approved by the governor, pass a local law or in the case of a school district a resolution adopting the provisions of this act.

S 4. Assessment relief for Hurricane Sandy victims. (a) Notwithstanding any provision of law to the contrary, where property was catastrophically impacted by Hurricane Sandy and is located within a participating municipality, assessment relief shall be granted as follows:

i. If the property lost at least fifty but less than sixty percent of its value due to Hurricane Sandy, the taxable assessed value of the property shall be reduced by fifty-five percent for purposes of the participating municipality on the impacted assessment roll.

ii. If the property lost at least sixty but less than seventy percent of its value due to Hurricane Sandy, the taxable assessed value of the property shall be reduced by sixty-five percent for purposes of the participating municipality on the impacted assessment roll.

iii. If the property lost at least seventy but less than eighty percent of its value due to Hurricane Sandy, the taxable assessed value of the property shall be reduced by seventy-five percent for purposes of the participating municipality on the impacted assessment roll.

iv. If the property lost at least eighty but less than ninety percent of its value due to Hurricane Sandy, the taxable assessed value of the property shall be reduced by eighty-five percent for purposes of the participating municipality on the impacted assessment roll.

v. If the property lost at least ninety but less than one hundred percent of its value due to Hurricane Sandy, the taxable assessed value of the property shall be reduced by ninety-five percent for purposes of the participating municipality on the impacted assessment roll.

vi. If the property lost all of its value due to Hurricane Sandy, the taxable assessed value of the property shall be reduced to zero for purposes of the participating municipality on the impacted assessment roll.

vii. The percentage loss in value for this purpose shall be determined by the assessor in the manner provided by this act, subject to review by the board of assessment review or the assessment review commission, whichever is applicable.

viii. No reduction in taxable assessed value shall be granted pursuant to this act except as specified above. No reduction in taxable assessed value shall be granted pursuant to this section for purposes of any county, city, town, village or school district which has not adopted the provisions of this act.

(b) To receive such relief pursuant to this act, the property owner shall submit a written request to the assessor within ninety days

following the date upon which this act is approved by the governor. Such request need not be in a particular form but shall describe in reasonable detail the damage caused to the property by Hurricane Sandy and the condition of the property following the hurricane and shall be accompanied by supporting documentation if available.

(c) Upon receiving such a request, the assessor shall make a finding as to whether the property lost at least half of its value as a result of Hurricane Sandy, and if so, shall classify the percentage loss of value within one of the following ranges:

i. At least fifty percent but less than sixty percent,

ii. At least sixty percent but less than seventy percent,

iii. At least seventy percent but less than eighty percent,

iv. At least eighty percent but less than ninety percent,

v. At least ninety percent but less than one hundred percent, or

vi. one hundred percent.

(d) The assessor shall mail written notice of such finding to the property owner and the participating municipality. Where the assessor finds that the loss in value is less than fifty percent, or classifies the loss within a lower range than the property owner believes is warranted, the property owner may file a complaint with the board of assessment review or the assessment review commission, whichever is applicable. Such board shall reconvene upon ten days written notice to the property owner and assessor to hear the appeal and determine the matter, and shall mail written notice of its determination to the assessor and property owner. The provisions of article 5 of the real property tax law shall govern the review process to the extent practicable.

(e) Where property has lost at least fifty percent of its value due to Hurricane Sandy, the taxable assessed value of the property on the impacted assessment roll shall be reduced by the appropriate percentage specified in subdivision (a) of this section, provided that any exemptions which the property may be receiving shall be adjusted as necessary to account for such reduction in the taxable assessed value. To the extent the taxable assessed value of the property originally appearing on such roll exceeds the amount to which it should be reduced pursuant to this act, the excess shall be considered an error in essential fact as defined by section 550 of the real property tax law. If the error appears on a tax roll, the tax roll shall be corrected in the manner provided by section 554 of the real property tax law or a refund or credit of taxes shall be granted in the manner provided by section 556 or 556-b of the real property tax law. If the error appears on a final assessment roll but not on a tax roll, such final assessment roll shall be corrected in the manner provided by section 553 of the real property tax law.

(f) 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 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 that is wholly or partially contained within an eligible 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 by 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. Suffolk county financing of refunds and credits. Payments by Suffolk county for refunds or credits pursuant to this act may be financed pursuant to the local finance law in the same manner, and subject to the same conditions, as amounts authorized under section 3 of the Suffolk County Tax Act to be charged by Suffolk county to towns or special districts or by towns to school districts may be financed pursuant to the local finance law. The period of probable usefulness for such payments is hereby determined to be ten years.

S 8. Paragraph a of section 11.00 of the local finance law is amended by adding a new subdivision 33-b to read as follows:

33-B. REAL PROPERTY TAX REFUNDS AND CREDITS. PAYMENTS OF REFUNDS OR CREDITS FOR REAL PROPERTY TAX, SEWER AND WATER RENTS, RATES AND CHARGES AND ALL OTHER REAL PROPERTY TAXES TO BE MADE BY A MUNICIPALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION AS A RESULT OF HURRICANE SANDY OF 2012, TEN YEARS.

S 9. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after October 28, 2012.