

8794

I N A S S E M B L Y

February 14, 2014

Introduced by M. of A. KEARNS -- read once and referred to the Committee
on Real Property Taxation

AN ACT to enact the "town of West Seneca assessment relief act"; and to
amend the local finance law, in relation to real property tax refunds
and credits in such county

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "town of West Seneca assessment relief act".

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

5 1. "Eligible municipality" shall mean a municipal corporation, as
6 defined by subdivision 10 of section 102 of the real property tax law,
7 which is either: (a) the town of West Seneca; or (b) a special district
8 or school district that is wholly or partly contained within the town of
9 West Seneca.

10 2. "Impacted tax roll" shall mean the final assessment roll which
11 satisfies both of the following conditions: (a) the roll is based upon a
12 taxable status date occurring prior to January 6, 2014; and (b) taxes
13 levied upon that roll by or on behalf of a participating municipality
14 are payable without interest on or after January 6, 2014.

15 3. "Participating municipality" shall mean an eligible municipality
16 that has passed a local law, ordinance, or resolution pursuant to
17 section three of this act to provide assessment relief to property
18 owners within such eligible municipality pursuant to the provisions of
19 this act.

20 4. "Severe weather" shall mean the storms, rains, winds, or floods
21 which occurred within the town of West Seneca during the period begin-
22 ning on January 6, 2014 and ending January 13, 2014.

23 5. "Total assessed value" shall mean the total assessed value on the
24 parcel prior to any and all exemption adjustments.

25 6. "Improved value" shall mean the market value of the real property
26 improvements excluding the land.

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

LBD13859-02-4

1 7. "Property" shall mean "real property", "property" or "land" as
2 defined under paragraphs (a) through (g) of subdivision 12 of section
3 102 of the real property tax law.

4 S 3. Local option. An eligible municipality may exercise the
5 provisions of this act if its governing body shall, by the forty-fifth
6 day following the date upon which this act is approved by the governor,
7 pass a local law or in the case of a school district a resolution adopt-
8 ing the provisions of this act. An eligible municipality may provide
9 assessment relief for real property impacted by severe weather located
10 within such municipality as provided in paragraphs (i), (ii), (iii)
11 and/or (iv) of subdivision (a) of section four of this act only if its
12 governing body specifically elects to do so as part of such local law or
13 resolution.

14 S 4. Assessment relief for severe weather victims in the town of West
15 Seneca.

16 (a) Notwithstanding any provision of law to the contrary, where real
17 property impacted by severe weather is located within a participating
18 municipality, assessment relief shall be granted as follows:

19 (i) If a participating municipality has elected to provide assessment
20 relief for real property that lost at least ten percent but less than
21 twenty percent of its improved value due to severe weather, the assessed
22 value attributable to the improvements shall be reduced by fifteen
23 percent for purposes of the participating municipality on the impacted
24 tax roll.

25 (ii) If a participating municipality has elected to provide assessment
26 relief for real property that lost at least twenty percent but less than
27 thirty percent of its improved value due to severe weather, the assessed
28 value attributable to the improvements shall be reduced by twenty-five
29 percent for purposes of the participating municipality on the impacted
30 tax roll.

31 (iii) If a participating municipality has elected to provide assess-
32 ment relief for real property that lost at least thirty percent but less
33 than forty percent of its improved value due to severe weather, the
34 assessed value attributable to the improvements shall be reduced by
35 thirty-five percent for purposes of the participating municipality on
36 the impacted tax roll.

37 (iv) If a participating municipality has elected to provide assessment
38 relief for real property that lost at least forty percent but less than
39 fifty percent of its improved value due to severe weather, the assessed
40 value attributable to the improvements shall be reduced by forty-five
41 percent for purposes of the participating municipality on the impacted
42 tax roll.

43 (v) If the property lost at least fifty but less than sixty percent of
44 its improved value due to severe weather, the assessed value attribut-
45 able to the improvements shall be reduced by fifty-five percent for
46 purposes of the participating municipality on the impacted tax roll.

47 (vi) If the property lost at least sixty but less than seventy percent
48 of its improved value due to severe weather, the assessed value attrib-
49 utable to the improvements shall be reduced by sixty-five percent for
50 purposes of the participating municipality on the impacted tax roll.

51 (vii) If the property lost at least seventy but less than eighty
52 percent of its improved value due to severe weather, the assessed value
53 attributable to the improvements shall be reduced by seventy-five
54 percent for purposes of the participating municipality on the impacted
55 tax roll.

(viii) If the property lost at least eighty but less than ninety percent of its improved value due to severe weather, the assessed value attributable to the improvements shall be reduced by eighty-five percent for purposes of the participating municipality on the impacted tax roll.

(ix) If the property lost at least ninety but less than one hundred percent of its improved value due to severe weather, the assessed value attributable to the improvements shall be reduced by ninety-five percent for purposes of the participating municipality on the impacted tax roll.

(x) If the property lost one hundred percent of its improved value due to severe weather, the assessed value attributable to the improvements shall be reduced by one hundred percent for purposes of the participating municipality on the impacted tax roll.

(xi) The percentage loss in improved 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.

(xii) No reduction in assessed value shall be granted pursuant to this act except as specified above for such eligible municipalities. No reduction in assessed value shall be granted pursuant to this section for purposes of any eligible municipality which has not adopted the provisions of this act.

(b) To receive such relief pursuant to this section, the property owner shall submit a written request to the assessor on a form approved by the director of the state office of real property tax services within ninety days following the date upon which this act is approved by the governor. Such request shall describe in reasonable detail the damage caused to the property by severe weather and the condition of the property following the severe weather 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 fifty percent of its improved value or, if a participating municipality has elected to provide assessment relief for real property that lost a lesser percentage of improved value, such lesser percentage of its improved value as a result of severe weather, and thereafter the assessor, shall adopt or classify the percentage loss of improved value within one of the following ranges:

(i) If a participating municipality has elected to provide assessment relief for real property that lost at least ten percent but less than twenty percent of its improvement value due to severe weather, at least ten percent but less than twenty percent,

(ii) If a participating municipality has elected to provide assessment relief for real property that lost at least twenty percent but less than thirty percent of its improved value due to severe weather, at least twenty percent but less than thirty percent,

(iii) If a participating municipality has elected to provide assessment relief for real property that lost at least thirty percent but less than forty percent of its improved value due to severe weather, at least thirty percent but less than forty percent,

(iv) If a participating municipality has elected to provide assessment relief for real property that lost at least forty percent but less than fifty percent of its improved value due to severe weather, at least forty percent but less than fifty percent,

(v) At least fifty percent but less than sixty percent,

(vi) At least sixty percent but less than seventy percent,

(vii) At least seventy percent but less than eighty percent,

(viii) At least eighty percent but less than ninety percent,

(ix) At least ninety percent but less than one hundred percent, or

1 (x) one hundred percent.

2 (d) The assessor shall mail written notice of such finding to the
3 property owner and the participating municipality. Where the assessor
4 finds that the loss in improved value is less than fifty percent or, if
5 a participating municipality has elected to provide assessment relief
6 for real property located within such participating municipality for a
7 lesser percentage, is less than such lesser percentage, or classifies
8 the loss within a lower range than the property owner believes is
9 warranted, the property owner may file a complaint with the board of
10 assessment review. Such board shall reconvene upon ten days written
11 notice to the property owner and assessor to hear the appeal and deter-
12 mine the matter, and shall mail written notice of its determination to
13 the assessor and property owner. The provisions of article 5 of the real
14 property tax law shall govern the review process to the extent practica-
15 ble. For the purposes of this act only, the applicant may commence with-
16 in 30 days of service of a written determination, a proceeding under
17 title 1 of article 7 of the real property tax law, or, if applicable,
18 under title 1-A of article 7 of the real property tax law. Sections 727
19 and 739 of the real property tax law shall not apply.

20 (e) Where property has lost at least fifty percent of its improved
21 value or, if a participating municipality has elected to provide assess-
22 ment relief for real property that lost a lesser percentage of improved
23 value, such lesser percentage due to severe weather, the assessed value
24 attributable to the improvements on the property on the impacted assess-
25 ment roll shall be reduced by the appropriate percentage specified in
26 subdivision (a) of this section, provided that any exemptions which the
27 property may be receiving shall be adjusted as necessary to account for
28 such reduction in the total assessed value. To the extent the total
29 assessed value of the property originally appearing on such roll exceeds
30 the amount to which it should be reduced pursuant to this act, the
31 excess shall be considered an error in essential fact as defined by
32 subdivision 3 of section 550 of the real property tax law. If the error
33 appears on a tax roll, the tax roll shall be corrected in the manner
34 provided by section 554 of the real property tax law or a refund or
35 credit of taxes shall be granted in the manner provided by section 556
36 or section 556-b of the real property tax law. If the error appears on a
37 final assessment roll but not on a tax roll, such final assessment roll
38 shall be corrected in the manner provided by section 553 of the real
39 property tax law. The errors in essential fact found pursuant to this
40 act on either the tax roll or final assessment roll, upon application to
41 the county director of real property tax services, shall be forwarded by
42 the county director of real property tax services immediately to the
43 levying body for an immediate order setting forth the appropriate
44 correction.

45 (f) The rights contained in this act shall not otherwise diminish any
46 other legally available right of any property owner or party who may
47 otherwise lawfully challenge the valuation or assessment of any real
48 property or improvements thereon. All remaining rights hereby remain and
49 shall be available to the party to whom such rights would otherwise be
50 available notwithstanding this act.

51 S 5. The commissioner of taxation and finance is authorized to develop
52 a guidance memorandum for use by assessing units. Such guidance memoran-
53 dum shall assist with the implementation of this act and shall be deemed
54 to be advisory on all assessing units in counties which implement the
55 provisions of this act. The guidance memorandum shall have no force or
56 effect or serve as authority for any other act of assessing units or of

1 the interpretation or implementation of the laws of the state of New
2 York except as they relate to the specific implementation of this act.

3 S 6. School districts held harmless. Each school district that is
4 wholly or partially contained within the town of West Seneca shall be
5 held harmless by the state for any reduction in state aid that would
6 have been paid as tax savings pursuant to section 1306-a of the real
7 property tax law incurred due to the provisions of this act.

8 S 7. Bonds authorized. Serial bonds, and in advance of such, bond
9 anticipation notes, are hereby authorized pursuant to subdivision 33-c
10 of paragraph a of section 11.00 of the local finance law.

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

13 33-C. REAL PROPERTY TAX REFUNDS AND CREDITS. PAYMENTS OF EXEMPTIONS,
14 REFUNDS, OR CREDITS FOR REAL PROPERTY TAX, SEWER AND WATER RENTS, RATES
15 AND CHARGES AND ALL OTHER REAL PROPERTY TAXES TO BE MADE BY A MUNICI-
16 PALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION AS A RESULT OF PARTIC-
17 IPATING IN THE TOWN OF WEST SENECA ASSESSMENT RELIEF ACT, TEN YEARS.

18 S 9. Severability clause. If any clause, sentence, paragraph, subdivi-
19 sion, section or part of this act shall be adjudged by any court of
20 competent jurisdiction to be invalid, such judgment shall not affect,
21 impair, or invalidate the remainder thereof, but shall be confined in
22 its operation to the clause, sentence, paragraph, subdivision, section
23 or part thereof directly involved in the controversy in which such judg-
24 ment shall have been rendered. It is hereby declared to be the intent of
25 the legislature that this act would have been enacted even if such
26 invalid provisions had not been included herein.

27 S 10. This act shall take effect immediately and shall be deemed to
28 have been in full force and effect on and after January 6, 2014.