STATE OF NEW YORK

2333

2023-2024 Regular Sessions

IN ASSEMBLY

January 25, 2023

Introduced by M. of A. BARCLAY, MANKTELOW, LEMONDES, JENSEN -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to establishing the Lake Ontario assessment increase exemption

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The real property tax law is amended by adding a new section 485-x to read as follows:

§ 485-x. Lake Ontario assessment increase exemption. 1. Residential real property that has undergone preventative maintenance with erosion protection structures to ensure property will be protected from flood damage or erosion in the event of rising water levels or necessary maintenance of bank stabilization due to damage sustained by flooding or erosion may be exempt from an assessment increase from such maintenance as provided in this section in a participating municipality within an eligible county.

2. (a) (i) Such real property shall be exempt for a period of eleven years to the extent of one hundred per centum of the increase in assessed value thereof attributable to such maintenance and for an additional period of nine years provided, however, that the extent of such exemption shall be decreased by ten per centum each year during such additional period of nine years and such exemption shall be computed with respect to the exemption base. The exemption base shall be the increase in assessed value as determined in the initial year of such twenty year period following the filing of an original application.

(ii) The following table shall illustrate the computation of the exemption pursuant to this section:

Year of exemption	Percentage of exemption
1	100
2	100
3	100

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

LBD05947-01-3

4	100
5	100
6	100
7	100
8	100
9	100
10	100
11	100
12	90
13	80
14	70
15	60
16	50
17	40
18	30
19	20
20	10

(b) No such exemption shall be granted unless:

(i) such construction was commenced on or after the enactment of this section;

(ii) the residential real property is situate in a participating municipality within an eligible county;

(iii) the cost of such construction exceeds the sum of ten thousand dollars or such greater amount as may be specified by local law; and

(iv) such construction is completed as may be evidenced by appropriate documentation as provided by the owner.

(c) For purposes of this section the term construction shall not include ordinary maintenance and repairs.

3. Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the commissioner. Such application shall be filed with the assessor of a participating municipality on or before the appropriate taxable status date of such municipality and within one year from the date of completion of such construction. The owner shall attach any and all reports prepared by, but not limited to the cost of installation of erosion protection structures or bank stabilization and shall be accompanied by any other supporting documentation.

4. If the assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies by a participating municipality as provided in this section commencing with the assessment roll prepared after the taxable status date referred to in subdivision three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

5. A participating municipality may, by local law, reduce the per centum of exemption otherwise allowed pursuant to this section; provided, however, that a project in course of construction and exemptions existing prior in time to passage of any such local law shall not be subject to any such reduction so effected. Such municipality upon reduction of the per centum of exemption pursuant to this subdivision may thereafter, by local law, increase the per centum of exemption up to any per centum not exceeding the maximum allowed by subdivision two of this section, provided, however, that any such local law shall apply only to construction commenced subsequent to the effective date of such

local law. A copy of all such local laws shall be filed with the commissioner and the assessor of the municipality.

6. A participating municipality may, by local law, establish a date for the commencement of effectiveness of exemption offered pursuant to this section and may provide that the provisions of this section shall apply only to construction having a greater value than that specified by subdivision two of this section.

7. For the purposes of this section, the following terms shall have the following meanings:

(a) "Eligible county" shall mean a county included in the governor's executive order one hundred sixty-five of two thousand seventeen, declaring a state of emergency, dated May third, two thousand seventeen.

(b) "Eligible municipality" shall mean a municipal corporation, as defined by subdivision ten of section one hundred two of this chapter, which is either: (i) an eligible county; or (ii) a city, town, village, special district, or school district that is wholly or partly contained within an eligible county.

(c) "Participating municipality" shall mean an eligible municipality that has passed a local law, ordinance, or resolution pursuant to subdivision five of this section.

(d) "Flooding" shall mean the lake shore and inland flooding and accelerated erosion that occurred as a result of heavy rainfall and the rising water level of Lake Ontario and any connected inland waterways or estuaries within an eligible county.

(e) "Maintenance" shall mean the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by the department of environmental conservation, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification.

(f) "Bank stabilization" shall mean activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques, provided the activity is approved by the department of environmental conservation.

(g) "Erosion protection structures" shall mean a structure specifically designed to reduce or prevent erosion, such as a groin, jetty, seawall, revetment, bulkhead, breakwater, or artificial beach nourishment project as defined in 6 NYCRR 505.2.

(h) "Erosion" shall mean the loss or displacement of land along the coastline due to the action of waves, currents, tides, wind-driven water, waterborne ice, or other impact of storms. It also means the loss or displacement of land due to the action of wind, runoff of surface waters, or groundwater seepage as defined in 6 NYCRR 505.2.

§ 2. This act shall take effect immediately.