

# STATE OF NEW YORK

7748

2023-2024 Regular Sessions

## IN ASSEMBLY

June 6, 2023

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

AN ACT in relation to providing assessment relief to property owners within certain municipalities; and to amend the local finance law, in relation to 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 "climate change property tax assessment relief act".

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

5 1. "Eligible county" shall mean a county, other than a county wholly  
6 contained within a city.

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

12 3. "Impacted tax roll" shall mean the final assessment roll.

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

18 5. "Force of nature" shall mean, for purposes of this section, an act  
19 of God, storm, flooding, or natural disaster that renders an owner occu-  
20 pied residential real property uninhabitable as determined by the local  
21 building inspector, or reduces the value of the improvements upon such  
22 real property by more than twenty-five percent of their value prior to  
23 the date upon which damage was caused to the property by a force of  
24 nature; provided however, that such reduction in value shall be

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

LBD11708-02-3

1 evidenced either by documentation provided by such homeowner's insurance  
2 company or, in the event such homeowner does not maintain a homeowner's  
3 insurance policy, by documentation provided from a public adjuster as  
4 defined in section 2108 of the insurance law.

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

7 7. "Eligible property" shall mean residential real property with three  
8 or less dwelling units that is owner occupied prior to the date upon  
9 which damage is caused by a force of nature; provided however, that  
10 irrespective of whether the property remains owner occupied, it is not  
11 transferred to a new owner prior to relief being granted pursuant to  
12 this act.

13 § 3. Local option. An eligible municipality may exercise the  
14 provisions of this act if its governing body shall pass a local law or  
15 in the case of a school district a resolution adopting the provisions of  
16 this act. An eligible municipality may provide assessment relief for  
17 real property impacted by a force of nature located within such munici-  
18 pality as provided in section four of this act only if its governing  
19 body specifically elects to do so as part of such local law or resol-  
20 ution.

21 § 4. Assessment relief for victims of a force of nature in an eligible  
22 municipality. 1. Notwithstanding any provision of law to the contrary,  
23 where an eligible property impacted by a force of nature is located  
24 within a participating municipality, assessment relief shall be granted  
25 in proportion to the total assessed value lost to the improvements upon  
26 such real property resulting from a force of nature; provided however,  
27 that a ceiling or limitation on such amounts, by dollar value or by  
28 percentage of the total assessed value lost, may be established by such  
29 local law passed pursuant to section three of this act.

30 (a) The percentage loss in total assessed value on improvements on  
31 such eligible property for this purpose shall be determined by the  
32 assessor in the manner provided by this act, subject to review by the  
33 board of assessment review, or in special assessing units, such local  
34 equivalent as is applicable.

35 (b) No relief shall be granted pursuant to this section for purposes  
36 of any county, city, town, village or school district which has not  
37 adopted the provisions of this act.

38 2. To receive such relief pursuant to this section, the property owner  
39 shall submit a written request to the assessor within six months of the  
40 date upon which the force of nature causes damage to such eligible prop-  
41 erty or within six months of passage of the governing municipality's  
42 local law or resolution; whichever is greater, on a form approved by the  
43 director of the office of real property tax services; provided however,  
44 that without limitation, owners of eligible property may submit claims  
45 for damage caused after January 1, 2020 and prior to the enactment of  
46 this act, up to one year after the date upon which a local law is  
47 adopted pursuant to the provisions of this section. Such request shall  
48 attach any supporting documentation and photographs, including any and  
49 all reports by an insurance adjuster, and shall describe in reasonable  
50 detail the damage caused to the property by the force of nature and the  
51 condition of the property following the force of nature.

52 3. Upon receiving such a request, the assessor shall make a finding as  
53 to the level of relief a homeowner is eligible for based upon a determi-  
54 nation of the assessor.

55 4. The assessor shall mail written notice of such finding to the prop-  
56 erty owner and the participating municipality. Where the assessor finds

1 that the loss to the improvements is less than the property owner  
2 believes is warranted, the property owner may file a complaint with the  
3 board of assessment review. Such board shall reconvene upon ten days  
4 written notice to the property owner and assessor to hear the appeal and  
5 determine the matter, and shall mail written notice of its determination  
6 to the assessor and property owner. The provisions of article 5 of the  
7 real property tax law shall govern the review process to the extent  
8 practicable. For the purposes of this act only, the applicant may  
9 commence within 30 days of service of a written determination, a  
10 proceeding under title 1 of article 7 of the real property tax law, or,  
11 if applicable, under title 1-A of article 7 of the real property tax  
12 law. Sections 727 and 739 of the real property tax law shall not apply.

13 5. Where an assessor has determined that the improvements on an eligi-  
14 ble property have lost value as a result of a force of nature, the  
15 assessment applicable to such eligible property shall be reduced by the  
16 appropriate amount specified in subdivision (a) of this section,  
17 provided that any exemptions which the property may be receiving shall  
18 be adjusted as necessary to account for such reduction in the total  
19 assessed value. To the extent the total assessed value of the property  
20 originally appearing on such roll exceeds the amount to which it should  
21 be reduced pursuant to this act, the excess shall be considered an error  
22 in essential fact as defined by subdivision 3 of section 550 of the real  
23 property tax law. If the error appears on a tax roll, the tax roll shall  
24 be corrected in the manner provided by section 554 of the real property  
25 tax law or a refund or credit of taxes shall be granted in the manner  
26 provided by section 556 or section 556-b of the real property tax law.  
27 If the error appears on a final assessment roll but not on a tax roll,  
28 such final assessment roll shall be corrected in the manner provided by  
29 section 553 of the real property tax law. The errors in essential fact  
30 found pursuant to the climate change property tax assessment relief act  
31 on either the tax roll or final assessment roll, upon application to the  
32 county director of real property tax services, shall be forwarded by the  
33 county director of real property tax services immediately to the levying  
34 body for an immediate order setting forth the appropriate correction.

35 6. The rights contained in this act shall not otherwise diminish any  
36 other legally available right of any property owner or party who may  
37 otherwise lawfully challenge the valuation or assessment of any real  
38 property or improvements thereon. All remaining rights hereby remain and  
39 shall be available to the party to whom such rights would otherwise be  
40 available notwithstanding this act.

41 7. Thereafter, any increase in assessed value attributable to the  
42 improvements made to real property impacted by a force of nature shall  
43 not constitute a selective reassessment.

44 § 5. The commissioner of taxation and finance is authorized to develop  
45 a guidance memorandum for use by assessing units. Such guidance memoran-  
46 dum shall assist with the implementation of this act and shall be deemed  
47 to be advisory on all assessing units in counties which implement the  
48 provisions of this act. The guidance memorandum shall have no force or  
49 effect or serve as authority for any other act of assessing units or of  
50 the interpretation or implementation of the laws of the state of New  
51 York except as they relate to the specific implementation of this act.

52 § 6. School districts held harmless. Each school district that is  
53 wholly or partially contained within an eligible county shall be held  
54 harmless by the state for any reduction in state aid that would have  
55 been paid as tax savings pursuant to section 1306-a of the real property  
56 tax law incurred due to the provisions of this act.

1 § 7. Bonds authorized. Serial bonds, and in advance of such, bond  
2 anticipation notes, are hereby authorized pursuant to subdivision 33-b  
3 of paragraph a of section 11.00 of the local finance law, provided,  
4 however, that any federal community development block grant funding  
5 received by such participating municipality, in relation to loss of  
6 property tax funding, shall first be used to defease, upon maturity, the  
7 interest and principal of any such bond or note so outstanding.

8 § 8. Suffolk county financing of refunds and credits. Payments by  
9 Suffolk county for refunds or credits pursuant to the chapter of the  
10 laws of 2023 which enacted this section may be financed pursuant to the  
11 local finance law in the same manner, and subject to the same condi-  
12 tions, as amounts authorized under section 3 of the Suffolk county tax  
13 act to be charged by Suffolk county to towns or special districts or by  
14 towns to school districts may be financed pursuant to the local finance  
15 law. The period of probable usefulness for such payments is hereby  
16 determined to be ten years.

17 § 9. Paragraph a of section 11.00 of the local finance law is amended  
18 by adding a new subdivision 33-e to read as follows:

19 33-e. Real property tax refunds and credits. Payments of exemptions,  
20 refunds, or credits for real property tax, sewer and water rents, rates  
21 and charges and all other real property taxes to be made by a munici-  
22 pality, school district or district corporation as a result of partic-  
23 ipating in the climate change property tax assessment relief act, ten  
24 years.

25 § 10. Severability clause. If any clause, sentence, paragraph, subdivi-  
26 sion, section or part of this act shall be adjudged by any court of  
27 competent jurisdiction to be invalid, such judgment shall not affect,  
28 impair, or invalidate the remainder thereof, but shall be confined in  
29 its operation to the clause, sentence, paragraph, subdivision, section  
30 or part thereof directly involved in the controversy in which such judg-  
31 ment shall have been rendered. It is hereby declared to be the intent of  
32 the legislature that this act would have been enacted even if such  
33 invalid provisions had not been included herein.

34 § 11. This act shall take effect immediately and shall be deemed to  
35 have been in full force and effect on and after January 1, 2020.