STATE OF NEW YORK

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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 -- recommitted to the Committee on Real Property Taxation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to enacting the "climate change property tax relief act"

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

Section 1. Short title. This act shall be known and may be cited as the "climate change property tax relief act".

§ 2. The real property tax law is amended by adding a new section 467-n to read as follows:

§ 467-n. Assessment relief for disasters. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Eligible municipality" shall mean a county, city, town or village, school district, or special district, other than a city with a population of one million or more, who has passed a local law or resolution pursuant to subdivision two of this section to adopt the provisions of this section.

(b) "Eligible property" shall mean residential real property with three or fewer dwelling units that is owner occupied prior to the date upon which damage is caused by a major disaster, local disaster, or both; provided however, that irrespective of whether the property remains owner occupied, it is not transferred to a new owner prior to relief being granted pursuant to this section.

(c) "Damages" shall mean the reduction in assessed value of an eligible property resulting from a major disaster, local disaster, or both.

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

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(d) "Local disaster" shall mean, the occurrence or imminent, impending or urgent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made causes, including, but not limited to, fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, disease outbreak, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological, or bacteriological release, water contamination, bridge failure or bridge collapse, occurring in an area or region that is not proclaimed by the governor of New York or president of the United States to be in a state of emergency.

(e) "Major disaster" shall mean the occurrence or imminent, impending or urgent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made causes, including, but not limited to, fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, disease outbreak, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological, or bacteriological release, water contamination, bridge failure or bridge collapse, occurring in an area or region subsequently proclaimed by the governor of New York or president of the United States to be in a state of emergency.

(f) "Maximum benefit ceiling" shall mean the maximum abatement from real property taxes in dollars an eligible property may receive pursuant to this section.

(g) "Minimum damage floor" shall mean the reduction in total assessed value of an eligible property, in a dollar amount or a percentage of the total assessed value lost, resulting from a major disaster, local disaster, or both below which, an eligible property may not receive an abatement pursuant to this section; provided however, that the percentage loss in total assessed value on improvements on such eligible property for this purpose shall be determined by the assessor in the manner provided by this section, subject to review by the board of assessment review, or in special assessing units, such local equivalent as is applicable; and provided further, that an eligible municipality may provide for an exception to the minimum damage floor in the event that the disaster rendered the improvements on the residential real property uninhabitable as determined by the local building inspector.

2. Local option. (a) An eligible municipality may exercise the provisions of this section if, after a public hearing, its governing body shall pass a local law or, in the case of a school district, a resolution adopting the provisions of this section. Such local law or resolution may provide for a tax abatement for real property that has sustained damages from a major disaster, a local disaster, or both.

(b) Such local law or resolution shall include, but not be limited to:

(i) an expiration date after which applications received pursuant to this section shall be invalid. If no expiration date is specified, the abatement established in this section shall remain in effect until repealed;

(ii) a specification of the number of days after the occurrence of a major disaster, local disaster, or both after which applications received pursuant to this section are invalid;

(iii) the date by which if a local disaster, major disaster, or both occurred prior to, applications received pursuant to this section are invalid, provided however, that such date may be prior to the effective

date of such local law or resolution, and provided further, that such date shall not be prior to January first, two thousand twenty; and

(iv) a specification of a minimum damage floor and a maximum benefit ceiling.

3. Assessment relief for victims of a local or major disaster in an eligible municipality. (a) Notwithstanding any provision of law to the contrary, where an eligible property that has sustained damages is located within an eligible municipality, an abatement of real property taxes shall be granted equal to the damages to such eligible property, subject to the following:

(i) the local assessor shall determine the amount of damages;

(ii) any abatement from real property taxes may not exceed the maximum benefit ceiling, if applicable;

(iii) the damages to an eligible property shall exceed the minimum damage floor, if applicable; and

(iv) if the abatement granted pursuant to this section exceeds the amount of real property taxes owed on an eligible property, the excess abatement shall carry over to the next tax year, until the cumulative sum of abated real property taxes equals the damages to such eligible property, or five years have passed from when the abatement was granted, whichever occurs first.

(b) To receive an abatement from real property taxes pursuant to this section, the owner shall submit an application to the local assessor, on a form prescribed by the commissioner, prior to the deadline established pursuant to subparagraph (iii) of paragraph (b) of subdivision two of this section. Such application shall include any supporting documentation and photographs, including any and all documentation outlined in paragraph (c) of this subdivision, and shall describe in reasonable detail the damage caused to and the condition of the property following a major disaster, local disaster, or both.

(c) A homeowner may provide evidence of damage to the local assessor as part of the application with the following, provided that the local assessor may take the necessary steps to confirm the validity of such documentation:

(i) assessment or reassessment by the eligible county or municipality;

(ii) private appraisal;

(iii) documentation provided by such homeowner's insurance company;

(iv) documentation provided by a public adjuster as defined in section twenty-one hundred eight of the insurance law, if a homeowner does not maintain a homeowner's insurance policy;

(v) loss verification reports and other records produced by the small business administration office of disaster assistance or federal emergency management agency;

(vi) photographic and visual documentation;

(vii) affidavits and other sworn statements; and

(viii) other government records and reports.

(d) The local assessor shall take the necessary steps to determine the damages to the applicable eligible property. An owner of eligible property may contest the amount of damages determined by the local assessor to the board of assessment review, or in special assessing units, such local equivalent as is applicable as outlined in paragraph (f) of this subdivision; provided further, that a homeowner may contest the determination of the board of assessment review or such local equivalent pursuant to article seven of this chapter.

(e) Abatements shall only be granted pursuant to this section for eligible properties damaged by a major disaster, local disaster, or both

if the owner of such eligible property has not contributed to such damage through an intentional act.

(f) If satisfied that the applicant is entitled to an abatement pursuant to this section, the local assessor shall approve the application and apply such abatement as herein provided commencing with the assessment roll prepared on the basis of the taxable status date immediately following the date the application was submitted. The abatement granted pursuant to this section shall be entered by the local assessor on the applicable assessment, with the amount of the abatement shown in a separate column.

4. Selective reassessment. Thereafter, any increase in assessed value attributable to the improvements made to real property impacted by a major disaster, a local disaster, or both shall not constitute a selective reassessment.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2020; provided however, that abatements provided pursuant to this act shall be limited to damages caused by major disasters, local disasters, or both, which occurred on and after January 1, 2020.