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:

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

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

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

2. "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, special district, or school district that is wholly or partly contained within an eligible county.

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

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

5. "Force of nature" shall mean, for purposes of this section, an act of God, storm, flooding, or natural disaster that renders an owner occupied residential real property uninhabitable as determined by the local building inspector, or reduces the value of the improvements upon such real property by more than twenty-five percent of their value prior to the date upon which damage was caused to the property by a force of 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.

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

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

7. "Eligible property" shall mean residential real property with three or less dwelling units that is owner occupied prior to the date upon which damage is caused by a force of nature; 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 act.

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

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

(a) 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 act, subject to review by the board of assessment review, or in special assessing units, such local equivalent as is applicable.

(b) No relief 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.

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

3. Upon receiving such a request, the assessor shall make a finding as to the level of relief a homeowner is eligible for based upon a determination of the assessor.

4. The assessor shall mail written notice of such finding to the property owner and the participating municipality. Where the assessor finds

that the loss to the improvements is less than the property owner believes is warranted, the property owner may file a complaint with the board of assessment review. 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. For the purposes of this act only, the applicant may commence within 30 days of service of a written determination, a proceeding under title 1 of article 7 of the real property tax law, or, if applicable, under title 1-A of article 7 of the real property tax law. Sections 727 and 739 of the real property tax law shall not apply.

5. Where an assessor has determined that the improvements on an eligible property have lost value as a result of a force of nature, the assessment applicable to such eligible property shall be reduced by the appropriate amount 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 total assessed value. To the extent the total 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 subdivision 3 of 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 section 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. The errors in essential fact found pursuant to the climate change property tax assessment relief act on either the tax roll or final assessment roll, upon application to the county director of real property tax services, shall be forwarded by the county director of real property tax services immediately to the levying body for an immediate order setting forth the appropriate correction.

6. 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.

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

§ 5. The commissioner 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 advisory 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.

§ 6. School districts held harmless. Each school district that is wholly or partially contained within an eligible county 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.

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

§ 8. Suffolk county financing of refunds and credits. Payments by Suffolk county for refunds or credits pursuant to the chapter of the laws of 2023 which enacted this section 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.

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

33-e. Real property tax refunds and credits. Payments of exemptions, 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 participating in the climate change property tax assessment relief act, ten years.

§ 10. 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.

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