STATE OF NEW YORK

7748--A

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

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, 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 two or fewer dwelling units that is owner occupied prior to the date upon which damage is caused by a major or local disaster; 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 local or major disaster.

(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,

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

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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, resulting from a major or local disaster, below which, an eligible property may not receive an abatement pursuant to this section.

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 date by which applications received are valid, provided that such date may be prior to the effective date of such local law or resolution;

(iii) a deadline from the date upon which a local or major disaster caused damage to an eligible property, after which, applications received for such major or local disaster shall be invalid; 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 local or major disaster.

(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 local or major disaster if the owner of such eligible property has not contributed to such damage.

(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.

§ 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 judg-

ment 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.