

S3688-B LANZA Same as **A 5620-B** Goldfeder

LANZA, GOLDEN, ADDABBO, AVELLA, FELDER, HASSELL-THOMPSON, SAVINO
Add S1805-a, RPT L

Provides for the assessment of real property in cities having a population of one million or more, which was damaged by a severe storm on October 29 - 30, 2012.

STATE OF NEW YORK

3688--B

2015-2016 Regular Sessions

IN SENATE

February 13, 2015

Introduced by Sens. LANZA, GOLDEN, ADDABBO, AVELLA, FELDER, HASSELL-THOMPSON, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged and said bill committed to the Committee on Cities -- 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 the assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, 2012 in a city having a population of one million or more

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

1 Section 1. The real property tax law is amended by adding a new
2 section 1805-a to read as follows:

3 § 1805-a. Assessment of real property damaged by the severe storm that
4 occurred on the twenty-ninth and thirtieth of October, two thousand
5 twelve in a city having a population of one million or more. 1. Gener-
6 ally. Notwithstanding any provision of any general, special or local law
7 to the contrary, any city having a population of one million or more is
8 hereby authorized and empowered to adopt and amend local laws in accord-
9 ance with this section to provide that the assessed value of affected
10 real property, as defined in subdivision three of this section, shall be
11 subject to the limitations provided in this section.

12 2. Definitions. As used in this section:

13 (a) "Actual assessed value" means the assessed value of real property
14 prior to the calculation of any transitional assessed value, and which
15 is not reduced by any exemption from real property taxes.

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

LBD09139-05-5

S. 3688--B

2

1 (b) "Aggregate physical increase" means the sum of physical increases

2 for assessment rolls completed from two thousand fourteen through two
3 thousand twenty.

4 (c) "Annual tax" means the amount of real property tax that is imposed
5 on a property for a fiscal year, determined after reduction for any
6 amount from which the property is exempt, or which is abated, pursuant
7 to applicable law.

8 (d) "Annual tax attributable to improvements" means the annual tax,
9 multiplied by a fraction, the numerator of which is equal to the
10 assessed value attributable to improvements on the property for the
11 fiscal year, and the denominator of which is the total assessed value of
12 the property for such fiscal year.

13 (e) "Assessed value" means the assessed value of real property that
14 was used to determine the annual tax, and which is not reduced by any
15 exemption from real property taxes. For real property classified as
16 class two or class four real property, as defined in subdivision one of
17 section eighteen hundred two of this article to which subdivision three
18 of section eighteen hundred five of this article applies, unless other-
19 wise provided, the assessed value is the lower of the actual assessed
20 value and transitional assessed value.

21 (f) "Assessed value attributable to improvements" means that portion
22 of the assessed value that was used to determine the annual tax attrib-
23 utable to improvements, and which is not reduced by any exemption from
24 real property taxes.

25 (g) "Commissioner of finance" means the commissioner of finance of a
26 city having a population of one million or more, or his or her designee.

27 (h) "Department of finance" means the department of finance of a city
28 having a population of one million or more.

29 (i) "Improvements" means buildings and other articles and structures,
30 substructures and superstructures erected upon, under or above the land,
31 or affixed thereto, including bridges and wharves and piers and the
32 value of the right to collect wharfage, crantage or dockage thereon.

33 (j) "Physical decrease" means the decrease in assessed value from the
34 assessed value on the preceding assessment roll as a result of
35 destruction of property caused by the severe storm that occurred on the
36 twenty-ninth and thirtieth of October, two thousand twelve, such
37 decrease to which subdivision five of section eighteen hundred five of
38 this article applies.

39 (k) "Physical increase" means the increase in assessed value from the
40 assessed value on the preceding assessment roll as a result of an addi-
41 tion to or improvement of existing real property as provided in subdivi-
42 sion five of section eighteen hundred five of this article, for the
43 purpose of reconstruction or repair in connection with the damage caused
44 by the severe storm that occurred on the twenty-ninth and thirtieth of
45 October, two thousand twelve, such increase to which subdivision five of
46 section eighteen hundred five of this article applies subject to the
47 provisions of this section.

48 (l) "Total square footage of the improvements on the property" means,
49 with respect to an assessment roll, the square footage used by the
50 department of finance in determining the assessed value attributable to
51 improvements on the real property for such assessment roll.

52 (m) "Transitional assessed value" is the transition assessment calcu-
53 lated pursuant to subdivision three of section eighteen hundred five of
54 this article, and which is not reduced by any exemption from real prop-
55 erty taxes.

S. 3688--B

1 3. Affected real property. For purposes of this section, "affected
2 real property" means any tax lot that contained, on the applicable taxa-
3 ble status date, class one, class two or class four real property as
4 such class of real property is defined in subdivision one of section
5 eighteen hundred two of this article, as to which:

6 (a) the department of finance reduced the assessed value attributable
7 to improvements on the property for the assessment roll completed in two

8 thousand thirteen from the assessed value attributable to improvements
9 on the property for the assessment roll completed in two thousand twelve
10 as a result of damage caused by the severe storm that occurred on the
11 twenty-ninth and thirtieth of October, two thousand twelve; and

12 (b) the department of finance increased the assessed value attribut-
13 able to improvements on the property by means of a physical increase for
14 an assessment roll completed from two thousand fourteen through two
15 thousand twenty.

16 4. Limitation on increases of assessed value. Notwithstanding subdivi-
17 sion five of section eighteen hundred five of this article and any other
18 provision to the contrary, increases in the assessed value of affected
19 real property shall be limited in the manner specified in this subdivi-
20 sion.

21 (a) Except as provided in paragraph (c) of this subdivision, for
22 affected real property for which the assessed values on the assessment
23 rolls completed in two thousand fourteen and two thousand fifteen do not
24 reflect a physical increase, the amount of the aggregate physical
25 increase shall not exceed the amount of the physical decrease reflected
26 in the assessed value on the assessment roll completed in two thousand
27 thirteen. Any increase in assessed value from the preceding year in
28 excess of the physical increase reflected in the current assessed value,
29 such physical increase limited as provided in the preceding sentence,
30 shall be subject to the limitations on increases provided in subdivi-
31 sions one, two and three of section eighteen hundred five of this arti-
32 cle. In no event shall the assessed value of the affected real property
33 appearing on an assessment roll completed for any given year from two
34 thousand fifteen to two thousand twenty exceed what the assessed value
35 would have been that year but for any physical decreases or physical
36 increases reflected in the assessed values on the assessment rolls
37 completed from two thousand thirteen to two thousand twenty.

38 (b) For affected real property for which the assessed value on the
39 assessment roll completed in two thousand fourteen or two thousand
40 fifteen reflects a physical increase, the assessed value as it appeared
41 on the assessment roll completed in two thousand fifteen shall be recal-
42 culated as if the limitation in paragraph (a) of this subdivision had
43 been in effect for the assessment rolls completed in two thousand four-
44 teen and two thousand fifteen. The recalculation of the assessed value
45 that appeared on the assessment roll completed in two thousand fifteen
46 shall not affect the amount of taxes that were due and payable for the
47 fiscal year beginning on the first of July, two thousand fourteen. The
48 assessed value on the assessment rolls completed for each of the years
49 from two thousand sixteen to two thousand twenty shall be subject to the
50 limitation on increases provided in paragraph (a) of this subdivision.
51 Notwithstanding section fifteen hundred twelve of the charter of the
52 city of New York and any other provision to the contrary, the commis-
53 sioner of finance is authorized to correct as provided in this paragraph
54 the assessed value of affected real property appearing on the assessment
55 roll completed in two thousand fifteen. Such correction shall be made no

S. 3688--B

4

1 later than ninety days after the effective date of a local law adopted
2 in accordance with this section.

3 (c) Notwithstanding paragraphs (a) and (b) of this subdivision, in the
4 event that the total square footage of the improvements on the affected
5 real property appearing on any assessment roll completed from two thou-
6 sand fourteen to two thousand twenty exceeds the total square footage of
7 the improvements on the property appearing on the assessment roll
8 completed in two thousand twelve, the amount of the aggregate physical
9 increase shall not exceed the amount computed by multiplying the sum of
10 the physical increases as calculated subject to this subdivision by a
11 fraction, the numerator of which is equal to the amount of the total
12 square footage of the improvements on the property for the current
13 assessment roll, and the denominator of which is equal to the amount of

14 the total square footage of the improvements on the property for the
15 assessment roll completed in two thousand twelve. For purposes of this
16 paragraph, if improvements on the property located below grade were not
17 included in the total square footage of the improvements on the property
18 for the assessment roll completed in two thousand twelve, such improve-
19 ments shall not be included in the total square footage for subsequent
20 assessment rolls if the improvements were moved above grade or other
21 building elevations were constructed on the property to prevent or miti-
22 gate flooding as part of reconstruction or repair in connection with the
23 damage caused by the severe storm that occurred on the twenty-ninth and
24 thirtieth of October, two thousand twelve.

25 5. Rulemaking. The commissioner of finance shall be authorized to
26 promulgate rules necessary to effectuate the purposes of this section.

27 § 2. This act shall take effect immediately.

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S3688B

SPONSOR: LANZA

TITLE OF BILL: An act to amend the real property tax law, in relation to the assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, 2012 in a city having a population of one million or more

PURPOSE:

This legislation provides for the assessment of real property in cities having a population of one million or more, which was damaged by Hurricane Sandy.

SUMMARY OF PROVISIONS:

Section one of this bill adds a new section 1805-a to the Real Property Tax Law to authorize New York City to limit increases in the assessed value of certain class one, class two and class four properties. The properties that will be subject to the limitations in this section must satisfy the following conditions:

1. The Department of Finance reduced the assessed value of the building on the property on the assessment roll completed in 2013 from the assessed value on the assessment roll completed in 2012 as a result of damage caused by Hurricane Sandy.
2. The Department of Finance increased or will increase the assessed value of the building on the property as a result of the repair or reconstruction of damage caused by Hurricane Sandy on any assessment roll completed from 2014 through 2020.

For properties that satisfy these conditions and have not performed repairs or reconstruction as of the assessment roll completed in 2015, the physical increase to their assessed value as a result of repairs or reconstruction that will be performed will be limited to the amount of the physical decrease reflected on the assessment roll completed in 2013. Any increase in excess of the amount of the physical decrease reflected on the assessment roll completed in 2013 will be treated as an equalization (non-physical) increase and subject to the limitations for equalization increases prescribed in sections 1805(1) and 1805(2) of the Real Property Tax Law. The assessed values of the properties that satisfy the requisite conditions will not be higher than they would have been but for Hurricane Sandy. For class four and larger class two properties subject to transitional assessments, the limitation on physical increases will apply to the lower of the actual assessed value or the transitional assessed value.

For properties that satisfy these conditions and have already performed repairs or reconstruction that constitute a physical increase reflected

on an assessment roll completed as of 2015, the assessed value as it appeared on the assessment roll completed in 2015 will be recalculated as if section 1805-a had been in effect. The Department of Finance is authorized to correct the 2015/2016 assessed value in accordance with section 1805-a within ninety days of the effective date of a local law adopting these provisions. Subsequent physical increases reflected on an assessment roll completed from 2016 through 2020 will also be subject to the limitations described in the preceding paragraph. To the extent that the square footage used to determine the assessed value of the building on the property on a given assessment roll exceeds that reflected on the assessment roll completed in 2012, the bill provides that the Department of Finance will recalculate the limitation on physical increases by multiplying it by the percentage of the excess square footage of the building.

Section two provides that the bill shall take effect immediately.

JUSTIFICATION:

In its report, "One City, Rebuilding Together: A Report on the City of New York's Response to Hurricane Sandy and the Path Forward," the City set forth a number of policies to streamline the recovery process and prioritize rebuilding. The policies outlined in the report included, but were not limited to, improving the experience of homeowners navigating the preconstruction process, enhancing coordination amongst city, state and federal partners, and engaging local communities in the rebuilding process. Notably, the report also recommended providing additional financial relief to homeowners. This legislation continues the City's commitment to do that. This bill would provide real property tax relief to New York City residents who have already repaired or rebuilt properties that were damaged by Hurricane Sandy or who will repair or rebuild properties through fiscal year 2020. Even if the repair or rebuilding merely restores a building to its condition prior to the storm, the assessed value, and therefore the real property taxes, of some of these properties will be higher after the rebuilding than it was prior to the storm. Last year the City provided an abatement to owners who had rebuilt their properties and whose property taxes were higher in fiscal year 2015 than in fiscal year 2013. The abatement, however, provided only temporary relief and did not address the long-term negative impact on assessed values of properties that are rebuilt. In order to further assist these property owners, this bill authorizes New York City to enact a local law limiting the amount that assessed values can increase as a result of the repair or rebuilding of properties severely damaged by Hurricane Sandy.

The amount of increase in assessed value will be limited to the amount that it would have increased if Hurricane Sandy had not occurred for affected property which, for purposes of this legislation, includes certain class one, class two and class four properties. In the event that the repair or rebuilding resulted in an increase in the square footage of the affected property, the bill provides that the Department of Finance will adjust the limitation on increases in assessed value by the percentage that is attributable to the excess square footage of the property.

As the worst natural disaster ever to hit the City of New York, Hurricane Sandy cost forty-four New Yorkers their lives. Many more residents lost homes or businesses, and entire communities were sent reeling by the storm's devastating impact. There is a great deal more work to do to help the hardest-hit communities get back on their feet and we must continue to be vigilant in marshaling City resources to provide relief to those who need it most.

Unfortunately, the statutory real property tax assessment structure does not contemplate the unique circumstance that many property owners find themselves in as a result of Hurricane Sandy: that these property owners

would, in effect, suffer a tax penalty for rebuilding their storm-torn properties.

This legislation provides an absolutely necessary measure of relief to owners of class one, class two and class four properties who begin the rebuilding process to return to normalcy.

EFFECTIVE DATE:

Immediately.