

THE REGIONAL MUNICIPALITY OF YORK

BILL NO. 36

BY-LAW NO. 2009-35

A by-law to delegate authority to the Regional Treasurer to establish “clawback” percentages for the 2009 taxation year for the commercial, industrial and multi-residential property classes

WHEREAS section 329 of the *Municipal Act, 2001* (the "Act") provides for a mandatory five per cent (5%) limit (the "cap") on any annual property tax increase related to current value assessment for the 2009 taxation year for the commercial, industrial and multi-residential property classes;

AND WHEREAS subsection 329.1 (1) of the Act provides that a municipality, other than a lower-tier municipality, may pass a by-law to have one or more paragraphs under the subsection apply in the calculation of the amount of taxes for municipal and school purposes payable in respect of property in the commercial classes, industrial classes, or multi-residential property class for 2009;

AND WHEREAS subsection 330(1) of the Act provides that a municipality, other than a lower-tier municipality, may pass a by-law to establish a percentage by which tax decreases are limited for a taxation year in any property class in order to recover all or part of the revenues foregone as a result of the application of section 329 of the Act to other properties in the property class;

AND WHEREAS subsection 330(6) of the Act provides that an upper-tier municipality shall, in a by-law under subsection 330(1) of the Act, provide that adjustments shall be made between the upper-tier municipality and the lower-tier municipalities so that no lower-tier municipality has a surplus or shortfall as a result of the application of the by-law;

AND WHEREAS subsection 330(7) of the Act provides that if the upper-tier municipality experiences a shortfall as a result of the application of subsection 330(6) of the Act, any shortfall shall be shared by the upper-tier municipality and lower-tier municipalities in the same proportion as those municipalities share in the taxes levied on the property class for municipal purposes;

AND WHEREAS subsection 8.0.2(1) of Ontario Regulation 160/09 (the “Regulation”) provides that a property is exempt from the application of Part IX of the Act for a taxation year if a by-law has been enacted by a municipality that provides that the section applies within the municipality for the year and further provides that a by-law under the said subsection (1) may require that certain conditions must be met in order for a property to be exempt;

AND WHEREAS the information to establish percentages by which the tax decreases are limited has not been finalized;

NOW THEREFORE, the Council of the Regional Municipality of York
HEREBY ENACTS as follows:

1. In this by-law:

- (a) “lower-tier municipality” means each of The Corporation of the Town of Aurora, The Corporation of the Town of East Gwillimbury, The Corporation of the Town of Georgina, The Corporation of the Township of King, The Corporation of the Town of Markham, The Corporation of the Town of Newmarket, The Corporation of the Town of Richmond Hill, The Corporation of City of Vaughan and The Corporation of the Town of Whitchurch-Stouffville; and
- (b) “OPTA” means the On-line Property Tax and Analysis program maintained by the Ministry of Finance.

- 2. The Regional Treasurer is hereby authorized to determine, for the 2009 taxation year, the percentages by which property tax decreases are limited for the commercial, industrial and multi-residential property classes.

3. A property shall be exempt from the application of Part IX of the Act for a taxation year under subsection 8.0.2(1) of the Regulation, provided that:
 - (1) The taxes for the property in the previous year were equal to its uncapped taxes for that year; or
 - (2) As a result of Part IX of the Act, the taxes for the property in the previous year were lower than the property's uncapped taxes for that year, but in the current year, if Part IX of the Act applied, the property's taxes would be equal to its uncapped taxes, or a tax decrease for the property would be limited; or
 - (3) A tax decrease for the property in the previous year was limited under Part IX of the Act, but in the current year, if Part IX of the Act applied, the property's taxes would be equal to its uncapped taxes, or a tax increase for the property would be limited.
4. The Regional Treasurer is hereby authorized to determine, for the 2009 taxation year, whether each lower-tier municipality has a surplus or a shortfall in taxes levied as a result of the enactment of this by-law and the adjustments made under subsection 330(1) of the Act.
5. For the purpose of calculating surpluses and shortfalls, the Regional Treasurer shall refer to property assessment data from the OPTA program, cut off on such a date as may be determined by the Regional Treasurer in consultation with the Treasurer of each lower-tier municipality.
6. In the event that the Regional Treasurer determines under section 4 of this by-law that a lower-tier municipality has a surplus, the Treasurer of such lower-tier municipality shall remit such surplus to the Regional Treasurer.
7. The Regional Treasurer is hereby authorized to distribute the surplus amounts remitted under section 6 of this by-law to those lower-tier municipalities which are

- determined under section 4 of this by-law to have a shortfall, to ensure that no lower-tier municipality has a shortfall in the amount of taxes levied for the 2009 taxation year.
8. Fifty percent (50%) of the amounts to be remitted to the Regional Treasurer under section 6 of this by-law for the 2009 taxation year shall be remitted on or before September 30, 2009 and the balance shall be remitted on or before December 15, 2009.
 9. Fifty percent (50%) of the amounts to be remitted by the Regional Treasurer under section 7 of this by-law for the 2009 taxation year shall be remitted on or before September 30, 2009 and the balance shall be remitted on or before December 15, 2009.
 10. The Regional Treasurer is hereby authorized to fund from the Tax Stabilization Reserve Fund any Regional shortfall resulting from the application of section 2 of this by-law and section 330 of the Act.

ENACTED AND PASSED this 25th day of June, 2009.

Denis Kelly
Regional Clerk

Bill Fisch
Regional Chair

Authorized by Clause 5, Report 5 of the Finance and Administration Committee, adopted by Regional Council at its meeting on June 25, 2009.