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**HISTORY OF  
THE COUNTY GUARANTY**

Nassau County, as opposed to all but one other New York State county and New York City, prepares the assessment rolls for, inter alia, all town, special district and school taxes (except in the Glen Cove School District).

Prior to 1938, the Nassau County Tax Act (Laws of 1916, Ch. 541) governed real property tax refunds. That act provided for elected boards of assessors for each of the three Nassau County towns, i.e., North Hempstead, Hempstead and Oyster Bay. Each town board of assessors made and prepared the assessment rolls for the purpose of taxation within their respective towns for all school, fire, water, light, garbage and sewer districts therein and for State, County, town, school or other taxes. The towns and the County's two cities, Long Beach and Glen Cove, were deemed tax districts for the purpose of reviewing assessments. The difference between the assessment and the amounts received were charged against the town and cities, (Letter from G. Burchard Smith, Deputy County Attorney, March 8, 1948 at 1-2, Bill Jacket, L. 1948, Ch. 851).

On June 5, 1936, the County Government Law of Nassau County (öCounty Charterö or öCharterö) was approved by the governor (Laws 1936, Ch. 879). Section 609 of the newly enacted Nassau County Charter abolished the offices of town assessors and transferred their powers and duties to the Nassau County Board of Assessors. Section 602 of the County Charter

provided that the County Board of Assessors now was to assess all property situated in the County which was liable to taxation for State, County, town, school or special district purposes.

On April 12, 1939, the Governor signed an act to provide an Administrative Code for Nassau County, in harmony with and supplementing the County Charter (öThe Nassau County Administrative Codeö or öNCACö) (Laws 1939, Ch. 272). Chapter 272 had passed the Legislature on a home rule message from the Nassau County Board of Supervisors requesting its enactment.

The NCAC was enacted as a mere codification and restatement of the existing law (with limited exceptions not relevant here) regarding the administration of Nassau County affairs. Initially, the NCAC did not embody any new amendments or revisions to existing procedures. Assembly Memo No. 1537 Print No. 1660 by Mr. J.D. Bennett, Bill Jacket L. 1939, Ch. 272. Thus, the NCAC, when initially enacted, did not alter the then existing practice where the County Board of Supervisors would charge deficits for tax refunds back to the towns and cities. Letter from G. Burchard Smith, Deputy County attorney, March 8, 1948, at 2, Bill Jacket, L. 1948, Ch. 851.

In 1948, the State Legislature, once again acting on a Nassau County Board of Supervisorsöhome rule message urging it to do so, enacted NCAC §6-26.0(b)(3)(c). The intent, as requested by the County, was to align the Countyö power to make assessments with the responsibility to make refunds:

öInasmuch as the assessment rolls for state, county, town, special district and school taxes were now, and have been, since January 1, 1938, made by the county board of assessors it is believed all deficits arising from illegal or erroneous assessments, reductions in valuations, waivers of interest or penalties should by statute be made a county charge.ö

Memorandum in support of Frank J. Becker, Member of Assembly, March 9, 1948, at 203 Bill Jacket, L. 1948, Ch. 851.

Thus, Section 6-26.0(b)(3)(c) of the NCAC was enacted by way of a 1948 State law so as to render any deficiency existing or thereafter arising from a decrease in an assessment or tax under subdivisions one, four and seven of Section 6-24.0 or 6-12.0 or 5-72.0 of the NCAC, or by reason of exemptions or reductions of assessments, a County charge:

(c) Notwithstanding any provisions of this chapter, or any other general or special law to the contrary, any deficiency existing or thereafter arising from a decrease in an assessment or tax under subdivisions one, four and seven of Section 6-24.0, or Sections 6-12.0 or 5-12.0 of the code or by reason of exemptions or reductions of assessments shall be a county charge (emphasis added) (L. 1948, Ch. 851).

The Nassau County Attorney's Office urged enactment of the 1948 amendments to the NCAC because the County believed "that all deficits arising from illegal or erroneous assessments, reductions in valuations, waivers of interest or penalties should by statute be made a county charge". Letter of G. Burchard Smith, Deputy County Attorney, March 8, 1948, at 2, Bill Jacket, L. 1948, Ch. 851.

The same legislative package in which the County Guaranty was enacted also amended NCAC §6-17.3, which provides a time for commencing assessment review proceedings made by the County Board of Assessors and for the service of papers in connection therewith. Prior to this 1948 amendment Section 6.17 provided, inter alia, for the service of writs of certiorari on the clerk of any school district within which was located the property on subject of the grieved assessment. Because school districts no longer had liability as a result of the NCAC §6-26.0(b)(3)(c) Guaranty, the Legislature eliminated the requirement for mailing copies of writs to

the clerks of the school districts. Letter of G. Burchard Smith, Deputy County, March 8, 1948, at 3, Bill Jacket, L. 1948, Ch. 851.

June 7, 1976, the then County Attorney, James Catterson, in a letter to counsel then Governor Hugh Carey, landed the County Guaranty and its benefit to school districts:

Under [the County Guaranty] any deficiency existing or created from a decrease in an assessment or by reason of exemptions [is] a County charge. A departure from this procedure would prove to be an administrative and financial nightmare to many of the smaller school districts and special districts in the County of Nassau.

This "Guaranty" of the tax rolls in Nassau County has been repeatedly sustained by the New York Appellate Courts, including the Court of Appeals. See, e.g., N.Y. Telephone v. Supervisor of the Town of N. Hempstead, 2010 WL 3023875, 2010 Slip Op 06300 (2d Dept, Aug 4, 2010); In the Matter of Steel Los III/Goya Foods, Inc. v. Board of Assessors of County of Nassau, et al., 10 N.Y.3d 445, 859 N.Y.S.2d 576 (2008); NY Telephone v. Nassau County, 1 N.Y.3d 485, 776 N.Y.S.2d 205 (2004), reversing and remitting, 297 A.D.2d 663, 747 N.Y.S.2d 512 (2d Dept. 2002); Matter of Bowery Savings Bank v. Board of Assessors of County of Nassau, 80 N.Y.2d 961, 590 N.Y.S.2d 876 (1992); Bd. of Educ. of Glen Cove Dist. v. Nassau County, 33 A.D.3d 576, 822 N.Y.S.2d 143 (2d Dept. 2006).