

S. 3926

A. 6228

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

March 10, 2011

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IN SENATE -- Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. FRIEND -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to authorizing the county of Chemung to impose an additional mortgage recording tax and authorizing such county to expend the existing mortgage recording tax on necessary county services; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The tax law is amended by adding a new section 253-y to  
2     read as follows:  
3     S 253-Y. RECORDING TAX IMPOSED BY THE COUNTY OF CHEMUNG. 1. CHEMUNG  
4     COUNTY, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED  
5     AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN SUCH COUNTY A  
6     TAX OF TWENTY-FIVE CENTS FOR EACH ONE HUNDRED DOLLARS AND EACH REMAINING  
7     MAJOR FRACTION THEREOF OF PRINCIPAL DEBT OR OBLIGATION WHICH IS OR UNDER  
8     ANY CONTINGENCY MAY BE SECURED AT THE DATE OF EXECUTION THEREOF, OR AT  
9     ANY TIME THEREAFTER, BY A MORTGAGE ON REAL PROPERTY SITUATED WITHIN SUCH  
10    COUNTY AND RECORDED ON OR AFTER THE DATE UPON WHICH SUCH TAX TAKES  
11    EFFECT AND A TAX OF TWENTY-FIVE CENTS ON SUCH MORTGAGE IF THE PRINCIPAL  
12    DEBT OR OBLIGATION WHICH IS OR BY ANY CONTINGENCY MAY BE SECURED BY SUCH  
13    MORTGAGE IS LESS THAN ONE HUNDRED DOLLARS.  
14    2. THE TAXES IMPOSED UNDER THE AUTHORITY OF THIS SECTION SHALL BE  
15    ADMINISTERED AND COLLECTED IN THE SAME MANNER AS THE TAXES IMPOSED UNDER  
16    SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-THREE AND PARAGRAPH (B) OF  
17    SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-FIVE OF THIS ARTICLE.  
18    EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL THE PROVISIONS OF THIS

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

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1 ARTICLE RELATING TO OR APPLICABLE TO THE ADMINISTRATION AND COLLECTION  
2 OF THE TAXES IMPOSED BY SUCH SUBDIVISIONS SHALL APPLY TO THE TAXES  
3 IMPOSED UNDER THE AUTHORITY OF THIS SECTION WITH SUCH MODIFICATIONS AS  
4 MAY BE NECESSARY TO ADAPT SUCH LANGUAGE TO THE TAX SO AUTHORIZED. SUCH  
5 PROVISIONS SHALL APPLY WITH THE SAME FORCE AND EFFECT AS IF THOSE  
6 PROVISIONS HAD BEEN SET FORTH IN FULL IN THIS SECTION EXCEPT TO THE  
7 EXTENT THAT ANY PROVISION IS EITHER INCONSISTENT WITH A PROVISION OF  
8 THIS SECTION OR NOT RELEVANT TO THE TAX AUTHORIZED BY THIS SECTION. FOR  
9 PURPOSES OF THIS SECTION, ANY REFERENCE IN THIS ARTICLE TO THE TAX OR  
10 TAXES IMPOSED BY THIS ARTICLE SHALL BE DEEMED TO REFER TO A TAX IMPOSED  
11 PURSUANT TO THIS SECTION, AND ANY REFERENCE TO THE PHRASE "WITHIN THIS  
12 STATE" SHALL BE READ AS "WITHIN CHEMUNG COUNTY", UNLESS A DIFFERENT  
13 MEANING IS CLEARLY REQUIRED.

14 3. WHERE THE REAL PROPERTY COVERED BY THE MORTGAGE SUBJECT TO THE TAX  
15 IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION IS SITUATED IN THIS  
16 STATE BUT WITHIN AND WITHOUT THE COUNTY IMPOSING SUCH TAX, THE AMOUNT OF  
17 SUCH TAX DUE AND PAYABLE TO SUCH COUNTY SHALL BE DETERMINED IN A MANNER  
18 SIMILAR TO THAT PRESCRIBED IN THE FIRST UNDESIGNATED PARAGRAPH OF  
19 SECTION TWO HUNDRED SIXTY OF THIS ARTICLE WHICH CONCERNS REAL PROPERTY  
20 SITUATED IN TWO OR MORE COUNTIES. WHERE SUCH PROPERTY IS SITUATED BOTH  
21 WITHIN SUCH COUNTY AND WITHOUT THE STATE, THE AMOUNT DUE AND PAYABLE TO  
22 SUCH COUNTY SHALL BE DETERMINED IN THE MANNER PRESCRIBED IN THE SECOND  
23 UNDESIGNATED PARAGRAPH OF SUCH SECTION TWO HUNDRED SIXTY WHICH CONCERNS  
24 PROPERTY SITUATED WITHIN AND WITHOUT THE STATE. WHERE REAL PROPERTY IS  
25 SITUATED WITHIN AND WITHOUT THE COUNTY IMPOSING SUCH TAX, THE RECORDING  
26 OFFICER OF THE JURISDICTION IN WHICH THE MORTGAGE IS FIRST RECORDED  
27 SHALL BE REQUIRED TO COLLECT THE TAXES IMPOSED PURSUANT TO THIS SECTION.

28 4. A TAX IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE IN  
29 ADDITION TO THE TAXES IMPOSED BY SECTION TWO HUNDRED FIFTY-THREE OF THIS  
30 ARTICLE.

31 5. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, THE  
32 BALANCE OF ALL MONEYS PAID TO THE RECORDING OFFICER OF THE COUNTY OF  
33 CHEMUNG DURING EACH MONTH UPON ACCOUNT OF THE TAX IMPOSED PURSUANT TO  
34 THE AUTHORITY OF THIS SECTION, AFTER DEDUCTING THE NECESSARY EXPENSES OF  
35 HIS OR HER OFFICE AS PROVIDED IN SECTION TWO HUNDRED SIXTY-TWO OF THIS  
36 ARTICLE, EXCEPT TAXES PAID UPON MORTGAGES WHICH UNDER THE PROVISIONS OF  
37 THIS SECTION OR SECTION TWO HUNDRED SIXTY OF THIS ARTICLE ARE FIRST TO  
38 BE APPORTIONED BY THE COMMISSIONER, SHALL BE PAID OVER BY SUCH OFFICER  
39 ON OR BEFORE THE TENTH DAY OF EACH SUCCEEDING MONTH TO THE TREASURER OF  
40 CHEMUNG COUNTY AND, AFTER THE DEDUCTION BY SUCH TREASURER OF THE NECES-  
41 SARY EXPENSES OF HIS OR HER OFFICE PROVIDED IN SECTION TWO HUNDRED  
42 SIXTY-TWO OF THIS ARTICLE SHALL BE DEPOSITED IN THE GENERAL FUND OF THE  
43 COUNTY OF CHEMUNG FOR EXPENDITURE BY SUCH COUNTY FOR ANY COUNTY PURPOSE.  
44 NOTWITHSTANDING THE PROVISIONS OF THE PRECEDING SENTENCE, THE TAX SO  
45 IMPOSED AND PAID UPON MORTGAGES COVERING REAL PROPERTY SITUATED IN TWO  
46 OR MORE COUNTIES, WHICH UNDER THE PROVISIONS OF THIS SECTION OR SECTION  
47 TWO HUNDRED SIXTY OF THIS ARTICLE ARE FIRST TO BE APPORTIONED BY THE  
48 COMMISSIONER, SHALL BE PAID OVER BY THE RECORDING OFFICER RECEIVING THE  
49 SAME AS PROVIDED BY THE DETERMINATION OF THE COMMISSIONER.

50 6. ANY LOCAL LAW IMPOSING A TAX PURSUANT TO THE AUTHORITY OF THIS  
51 SECTION OR REPEALING OR SUSPENDING SUCH A TAX SHALL TAKE EFFECT ONLY ON  
52 THE FIRST DAY OF A CALENDAR MONTH. SUCH A LOCAL LAW SHALL NOT BE EFFEC-  
53 TIVE UNLESS A CERTIFIED COPY THEREOF IS MAILED BY REGISTERED OR CERTI-  
54 FIED MAIL TO THE COMMISSIONER AT THE COMMISSIONER'S OFFICE IN ALBANY AT  
55 LEAST THIRTY DAYS PRIOR TO THE DATE THE LOCAL LAW SHALL TAKE EFFECT.

1 7. CERTIFIED COPIES OF ANY LOCAL LAW DESCRIBED IN THIS SECTION SHALL  
2 ALSO BE FILED WITH THE COUNTY CLERK OF THE COUNTY OF CHEMUNG, THE SECRE-  
3 TARY OF STATE AND THE STATE COMPTROLLER WITHIN FIVE DAYS AFTER THE DATE  
4 IT IS DULY ENACTED.

5 S 2. Paragraphs (p) and (q) of subdivision 1 of section 261 of the tax  
6 law, as amended by chapter 365 of the laws of 2005, are amended and a  
7 new paragraph (r) is added to read as follows:

8 (p) with respect to the remaining counties of the state except Catta-  
9 raugus county which have not suspended the imposition of such additional  
10 tax pursuant to subdivision two of section two hundred fifty-three of  
11 this article, to the comptroller to be paid by him or her into the  
12 general fund in the state treasury to the credit of the state purposes  
13 account; provided that money paid to the comptroller with respect to any  
14 such remaining county in which on the date of such payment any mass  
15 transportation, airport or aviation, municipal historic site, municipal  
16 park, community mental health and retardation facility, or sewage treat-  
17 ment capital project is being carried out by a municipality with state  
18 aid, or for which state aid will be paid, pursuant to the provisions of  
19 title one of chapter seven hundred seventeen of the laws of nineteen  
20 hundred sixty-seven, section 17.05 of the parks, recreation and historic  
21 preservation law, section 41.18 of the mental hygiene law, or section  
22 17-1903 of the environmental conservation law, shall be applied by him  
23 or her to increase the amount of aid for which the state is obligated in  
24 respect to such project on such date, provided that any such increase in  
25 state aid may not, together with any federal funds paid or to be paid on  
26 account of the cost of such project, exceed the total cost thereof, and  
27 where more than one such capital project is being carried out on such  
28 date within such county, the application of such monies by the comp-  
29 troller shall be pro-rated among such municipalities on the basis of the  
30 respective amounts of state aid which are so obligated on such date;  
31 [and] (q) with respect to the county of Cattaraugus, to the comptroller  
32 to be paid by him or her into the general fund in the state treasury to  
33 the credit of the state purposes account for the construction of a coun-  
34 ty office building and a county department of public works office build-  
35 ing, or debt service thereon being carried out by the county of Catta-  
36 raugus up to but not exceeding the total cost for such county office  
37 building and county department of public works building, or debt service  
38 thereon less the amount of any state aid or federal funds paid or to be  
39 paid on account of such project or debt service thereon[.]; AND (R) WITH  
40 RESPECT TO THE COUNTY OF CHEMUNG, TO THE COUNTY TREASURER OF SUCH COUNTY  
41 FOR DEPOSIT INTO THE GENERAL FUND OF THE COUNTY OF CHEMUNG TO PAY COSTS  
42 AND EXPENSES INCURRED BY SUCH COUNTY TO PROVIDE NECESSARY SERVICES.

43 S 3. This act shall take effect on the sixtieth day after it shall  
44 have become a law and shall expire and be deemed repealed December 1,  
45 2014.