

2544

2011-2012 Regular Sessions

I N S E N A T E

January 25, 2011

Introduced by Sens. BONACIC, DeFRANCISCO, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to the exemption from taxation for non-profit organizations and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subdivision 3 of section 420-a of the real property tax
2 law is REPEALED and a new subdivision 3 is added to read as follows:
3 3. (A) SUCH REAL PROPERTY WHICH IS NOT ACTUALLY AND EXCLUSIVELY USED
4 FOR EXEMPT PURPOSES SHALL, IF OWNED BY AN ORGANIZATION EXEMPTED FROM
5 TAXATION PURSUANT TO THE INTERNAL REVENUE CODE, BE EXEMPT THOUGH NOT IN
6 ACTUAL USE THEREFOR BY REASON OF THE ABSENCE OF SUITABLE BUILDINGS OR
7 IMPROVEMENTS THEREON IF THE CONSTRUCTION OF SUCH BUILDINGS OR IMPROVE-
8 MENTS IS IN PROGRESS OR IS IN GOOD FAITH CONTEMPLATED BY SUCH ORGANIZA-
9 TION. AS USED IN THIS SUBDIVISION, "IN GOOD FAITH CONTEMPLATED" MEANS
10 DEFINITE PLANS FOR UTILIZING AND ADAPTING THE PROPERTY FOR EXEMPT
11 PURPOSES WITHIN FIVE YEARS AND THE FULL EXECUTION OF SUCH PLANS WITHIN
12 SEVEN YEARS. THE PLANS MUST BE PROVEN BY CLEAR AND CONVINCING EVIDENCE
13 AND MUST BE IN WRITTEN FORM. THE OFFICE OF REAL PROPERTY SERVICES SHALL
14 DEVELOP GUIDELINES TO BE UTILIZED BY PROPERTY OWNERS AND ASSESSORS TO
15 DETERMINE WHETHER SUCH EVIDENCE EXISTS IN ADEQUATE FORM.
16 (B) IF NO PART OF THE PHYSICAL IMPROVEMENTS TO THE LAND ARE COMMENCED
17 WITHIN FIVE YEARS AND COMPLETED WITHIN SEVEN YEARS OF TAKING TITLE TO
18 THE PROPERTY, OR IF THE ORGANIZATION DOES NOT MEET THE STANDARDS OTHER-
19 WISE SET FORTH IN THIS SUBDIVISION, THE PROPERTY OWNER WHO RECEIVED THE
20 BENEFIT OF THE EXEMPTION SHALL PAY ALL PROPERTY TAXES THAT WOULD HAVE
21 BEEN OWED; PROVIDED, HOWEVER, THAT FAILURE TO PAY DOES NOT CREATE ANY
22 RIGHT BY ANY GOVERNMENTAL UNIT TO COMMENCE A PROCEEDING TO EFFECTUATE

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

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1 THE TAKING OF THE PROPERTY BUT DOES CREATE A CAUSE OF ACTION IN CONTRACT
2 BY ANY GOVERNMENTAL UNIT NEGATIVELY AFFECTED.

3 S 2. This act shall take effect on the first of January next succeed-
4 ing the date on which it shall have become a law and shall apply to
5 assessment rolls prepared on the basis of taxable status dates occurring
6 on or after such date and shall apply to property irrespective of the
7 date of the transfer of title.