

4088--A

2011-2012 Regular Sessions

I N S E N A T E

March 17, 2011

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to making technical corrections to the conservation easement tax credit

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

1 Section 1. Paragraph 1 of subsection (kk) of section 606 of the tax
2 law, as added by section 1 of part F of chapter 62 of the laws of 2006,
3 is amended to read as follows:
4 (1) Credit allowed. In the case of a taxpayer who owns land that is
5 subject to a conservation easement held by a public or private conserva-
6 tion agency, there shall be allowed a credit for twenty-five percent of
7 the [allowable school district, county and town] real property taxes
8 PAID on [such] THE land, OR PORTION OF THE LAND, SUBJECT TO THE
9 EASEMENT. In no event shall the credit allowed under this subsection in
10 combination with any other credit for [such school district, county and
11 town] real property taxes under this section exceed such taxes.
12 S 2. Subdivision 38 of section 210 of the tax law, as added by section
13 3 of part F of chapter 62 of the laws of 2006, is renumbered subdivision
14 45 and is amended to read as follows:
15 45. Conservation easement tax credit. (1) Credit allowed. In the case
16 of a taxpayer who owns land that is subject to a conservation easement
17 held by a public or private conservation agency, there shall be allowed
18 a credit for twenty-five percent of the [allowable school district,
19 county and town] real property taxes PAID on [such] THE land, OR PORTION
20 OF THE LAND, SUBJECT TO THE EASEMENT. In no such case shall the credit
21 allowed under this subdivision in combination with any other credit for

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

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1 [such school district, county and town] real property taxes under this
2 section exceed such taxes.

3 (2) Conservation easement. For purposes of this subdivision, the term
4 "conservation easement" means a perpetual and permanent conservation
5 easement as defined in article forty-nine of the environmental conserva-
6 tion law that serves to protect open space, scenic, natural resources,
7 biodiversity, agricultural, watershed and/or historic preservation
8 resources. Any conservation easement for which a tax credit is claimed
9 under this subdivision shall be filed with the department of environ-
10 mental conservation, as provided for in article forty-nine of the envi-
11 ronmental conservation law and such conservation easement shall comply
12 with the provisions of title three of such article, and the provisions
13 of subdivision (h) of section 170 of the internal revenue code. Dedi-
14 cations of land for open space through the execution of conservation
15 easements for the purpose of fulfilling density requirements to obtain
16 subdivision or building permits shall not be considered a conservation
17 easement under this subdivision.

18 (3) Land. For purposes of this subdivision, the term "land" means a
19 fee simple title to real property located in this state, with or without
20 improvements thereon; rights of way; water and riparian rights; ease-
21 ments; privileges and all other rights or interests of any land or
22 description in, relating to or connected with real property, excluding
23 buildings, structures, or improvements.

24 (4) Public or private conservation agency. For purposes of this subdi-
25 vision, the term "public or private conservation agency" means any
26 state, local, or federal governmental body; or any private not-for-pro-
27 fit charitable corporation or trust which is authorized to do business
28 in the state of New York, is organized and operated to protect land for
29 natural resources, conservation or historic preservation purposes, is
30 exempt from federal income taxation under section 501(c)(3) of the
31 internal revenue code, and has the power to acquire, hold and maintain
32 land and/or interests in land for such purposes.

33 (5) Credit limitation. The amount of the credit that may be claimed by
34 a taxpayer pursuant to this subsection shall not exceed five thousand
35 dollars in any given year.

36 (6) Application of the credit. The credit allowed under this subdivi-
37 sion for any taxable year shall not reduce the tax due for such year to
38 less than the higher of the amounts prescribed in paragraphs (c) and (d)
39 of subdivision one of this section. However, if the amount of the credit
40 allowed under this subdivision for any taxable year reduces the tax to
41 such amount, any amount of the credit thus not deductible in such taxa-
42 ble year shall be treated as an overpayment of tax to be credited or
43 refunded in accordance with the provisions of subsection (c) of section
44 [ten hundred] ONE THOUSAND eighty-eight of this chapter, except that, no
45 interest shall be paid thereon.

46 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
47 of the tax law is amended by adding a new clause (xxxiv-a) to read as
48 follows:

49 (XXXIV-A) CONSERVATION EASEMENT	AMOUNT OF CREDIT UNDER
50 TAX CREDIT UNDER SUBSECTION (KK)	SUBDIVISION FORTY-FIVE OF
51	SECTION TWO HUNDRED TEN

52 S 4. This act shall take effect immediately and shall be made applica-
53 ble to taxable years commencing on and after January 1, 2012 and there-
54 after.