

4924--A

Cal. No. 756

2013-2014 Regular Sessions

I N S E N A T E

May 1, 2013

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the real property tax law, in relation to establishing a conservation easement agreement exemption in a town having a certain population based upon the latest decennial federal census

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

1 Section 1. The real property tax law is amended by adding a new
2 section 491-a to read as follows:
3 S 491-A. CONSERVATION EASEMENT AGREEMENT EXEMPTION; CERTAIN TOWNS. 1.
4 APPLICABILITY. (A) IN A TOWN HAVING A POPULATION OF NOT LESS THAN SEVEN
5 THOUSAND FIVE HUNDRED AND NOT MORE THAN SEVEN THOUSAND SEVEN HUNDRED,
6 THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE
7 HUNDRED THOUSAND AND NOT MORE THAN NINE HUNDRED TWENTY THOUSAND, BASED
8 UPON THE LATEST DECENNIAL FEDERAL CENSUS, IS HEREBY AUTHORIZED TO ADOPT
9 A LOCAL LAW TO PROVIDE THAT, REAL PROPERTY WHOSE INTERESTS OR RIGHTS
10 HAVE BEEN ACQUIRED FOR THE PURPOSE OF THE PRESERVATION OF AN OPEN SPACE
11 OR AN OPEN AREA, AS AUTHORIZED IN SECTION TWO HUNDRED FORTY-SEVEN OF THE
12 GENERAL MUNICIPAL LAW, MAY BE PARTIALLY EXEMPT FROM LOCAL REAL PROPERTY
13 TAXATION, PROVIDED THAT THE OWNER OR OWNERS OF SUCH REAL PROPERTY ENTER
14 INTO A CONSERVATION EASEMENT AGREEMENT WITH THE MUNICIPALITY IN ACCORD-
15 ANCE WITH THE PROCEDURES SPECIFIED IN SUBDIVISION THREE OF THIS SECTION.
16 A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED THOUSAND AND
17 NOT MORE THAN NINE HUNDRED TWENTY THOUSAND BASED UPON THE LATEST DECEN-
18 NIAL FEDERAL CENSUS MAY, BY LOCAL LAW, AND ANY SCHOOL DISTRICT, ALL OR
19 PART OF WHICH IS LOCATED IN A TOWN HAVING A POPULATION OF NOT LESS THAN
20 SEVEN THOUSAND FIVE HUNDRED AND NOT MORE THAN SEVEN THOUSAND SEVEN

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

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1 HUNDRED THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN
2 NINE HUNDRED THOUSAND, MAY BY RESOLUTION, EXEMPT SUCH PROPERTY FROM ITS
3 TAXATION IN THE SAME MANNER AND TO THE SAME EXTENT AS SUCH TOWN HAS
4 DONE.

5 (B) A TOWN HAVING A POPULATION OF NOT LESS THAN SEVEN THOUSAND FIVE
6 HUNDRED AND NOT MORE THAN SEVEN THOUSAND SEVEN HUNDRED THAT IS LOCATED
7 IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED THOUSAND
8 AND NOT MORE THAN NINE HUNDRED TWENTY THOUSAND, BASED UPON THE LATEST
9 DECENNIAL FEDERAL CENSUS MAY, BY A VOTE OF THE TOWN BOARD, OPT OUT OF
10 THIS EXEMPTION AT ANY TIME.

11 2. DEFINITIONS. FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING TERMS
12 SHALL HAVE THE FOLLOWING MEANINGS: "OPEN SPACE" OR "OPEN AREA" MEANS ANY
13 SPACE OR AREA CHARACTERIZED BY NATURAL SCENIC BEAUTY OR WHOSE EXISTING
14 OPENNESS, NATURAL CONDITION OR PRESENT STATE OF USE, IF RETAINED, WOULD
15 ENHANCE THE PRESENT OR POTENTIAL VALUE OF ABUTTING OR SURROUNDING URBAN
16 DEVELOPMENT OR WOULD MAINTAIN OR ENHANCE THE CONSERVATION OF NATURAL OR
17 SCENIC RESOURCES. FOR THE PURPOSES OF THIS DEFINITION, "NATURAL
18 RESOURCES" SHALL INCLUDE, BUT NOT BE LIMITED TO, AGRICULTURAL LANDS
19 DEFINED AS OPEN LANDS ACTUALLY USED IN BONA FIDE AGRICULTURAL
20 PRODUCTION.

21 3. PROCEDURES FOR OBTAINING A CONSERVATION EASEMENT AGREEMENT. (A) ANY
22 OWNER OR OWNERS OF LAND MAY SUBMIT A PROPOSAL TO THE TOWN BOARD OF A
23 TOWN HAVING A POPULATION OF NOT LESS THAN SEVEN THOUSAND FIVE HUNDRED
24 AND NOT MORE THAN SEVEN THOUSAND SEVEN HUNDRED THAT IS LOCATED IN A
25 COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED THOUSAND AND
26 NOT MORE THAN NINE HUNDRED TWENTY THOUSAND, BASED UPON THE LATEST DECEN-
27 NIAL FEDERAL CENSUS, FOR THE GRANTING OF INTEREST OR RIGHTS IN REAL
28 PROPERTY FOR THE PRESERVATION OF OPEN SPACE OR AREAS. SUCH PROPOSAL
29 SHALL BE SUBMITTED IN SUCH A MANNER AND FORM AS MAY BE PRESCRIBED BY THE
30 CONSERVATION BOARD OF SUCH TOWN.

31 (B) UPON RECEIPT OF SUCH PROPOSAL, THE TOWN BOARD SHALL CONVEY THE
32 PROPOSAL TO THE CONSERVATION BOARD OF SUCH TOWN. SUCH CONSERVATION BOARD
33 SHALL INVESTIGATE THE AREA TO DETERMINE IF THE PROPOSAL WOULD BE OF
34 BENEFIT TO THE PEOPLE OF THE TOWN AND MAY NEGOTIATE THE TERMS AND CONDI-
35 TIONS OF THE OFFER. IF THE CONSERVATION BOARD DETERMINES THAT IT IS IN
36 THE PUBLIC INTEREST TO ACCEPT SUCH PROPOSAL, IT SHALL RECOMMEND TO THE
37 TOWN BOARD THAT IT HOLD A PUBLIC HEARING FOR THE PURPOSE OF DETERMINING
38 WHETHER OR NOT THE TOWN SHOULD ACCEPT SUCH PROPOSAL.

39 (C) THE TOWN BOARD SHALL, WITHIN THIRTY DAYS OF RECEIPT OF SUCH ADVI-
40 SORY OPINION, HOLD A PUBLIC HEARING CONCERNING SUCH PROPOSAL AT A PLACE
41 WITHIN THE TOWN. AT LEAST TEN DAYS NOTICE OF THE TIME AND PLACE OF SUCH
42 HEARING SHALL BE PUBLISHED IN A PAPER OF GENERAL CIRCULATION IN SUCH
43 TOWN, AND A WRITTEN NOTICE OF SUCH PROPOSAL SHALL BE GIVEN TO ALL ADJA-
44 CENT PROPERTY OWNERS AND TO ANY MUNICIPALITY WHOSE BOUNDARIES ARE WITHIN
45 FIVE HUNDRED FEET OF THE BOUNDARIES OF SAID PROPOSED AREA, AND TO THE
46 SCHOOL DISTRICT IN WHICH IT IS LOCATED.

47 (D) THE TOWN BOARD, AFTER RECEIVING THE REPORTS OF THE CONSERVATION
48 BOARD OF A TOWN HAVING A POPULATION OF NOT LESS THAN SEVEN THOUSAND FIVE
49 HUNDRED AND NOT MORE THAN SEVEN THOUSAND SEVEN HUNDRED THAT IS LOCATED
50 IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED THOUSAND
51 AND NOT MORE THAN NINE HUNDRED TWENTY THOUSAND, BASED UPON THE LATEST
52 DECENNIAL FEDERAL CENSUS, AND AFTER SUCH PUBLIC HEARING, MAY ADOPT THE
53 PROPOSAL OR ANY MODIFICATION THEREOF IT DEEMS APPROPRIATE OR MAY REJECT
54 IT IN ITS ENTIRETY.

1 (E) IF SUCH PROPOSAL IS ADOPTED BY THE TOWN BOARD, IT SHALL BE
2 EXECUTED BY THE OWNER OR OWNERS IN WRITTEN FORM AND IN A FORM SUITABLE
3 FOR RECORDING IN THE COUNTY CLERK'S OFFICE.

4 (F) SUCH AGREEMENT MAY NOT BE CANCELED BY EITHER PARTY. HOWEVER, THE
5 OWNER OR OWNERS THEREOF MAY PETITION THE TOWN BOARD FOR CANCELLATION
6 UPON GOOD CAUSE SHOWN, AND SUCH CANCELLATION MAY BE GRANTED ONLY UPON
7 PAYMENT OF THE PENALTIES PROVIDED IN THIS SECTION.

8 4. COMPUTATION. (A) AN EXEMPTION GRANTED PURSUANT TO THIS SECTION
9 SHALL COMMENCE AS OF THE EFFECTIVE DATE OF THE CONSERVATION EASEMENT
10 AGREEMENT, AND SHALL TERMINATE UPON THE EXPIRATION OR TERMINATION OF
11 SUCH CONSERVATION EASEMENT AGREEMENT.

12 (B) THE FOLLOWING TABLE SHALL ILLUSTRATE THE COMPUTATION OF THE
13 EXEMPTION:

| 14 | COMMITMENT | PERCENTAGE OF EXEMPTION |
|----|----------------|-------------------------|
| 15 | 15 TO 29 YEARS | 50% |
| 16 | 30 TO 49 YEARS | 75% |
| 17 | 50 TO 75 YEARS | 85% |
| 18 | PERPETUAL | 90% |

19 SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OR
20 OWNERS OF SUCH REAL PROPERTY ON A FORM PRESCRIBED BY THE COMMISSIONER.
21 SUCH APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE TOWN ON OR
22 BEFORE THE TAXABLE STATUS DATE OF SUCH TOWN.

23 (C) IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSU-
24 ANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH
25 REAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD
26 VALOREM LEVIES AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESS-
27 MENT ROLL PREPARED ON THE BASIS OF THE TAXABLE STATUS DATE. THE ASSESSED
28 VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL BE ENTERED
29 BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE PROPERTY, WITH
30 THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

31 (D) WHENEVER A CONSERVATION EASEMENT ENCUMBERS ONLY A PORTION OF A
32 PARCEL, THE ASSESSOR SHALL HENCEFORTH ENTER THAT PORTION OF THE PARCEL
33 ENCUMBERED BY SUCH EASEMENT AS A SEPARATE PARCEL ON ALL SUBSEQUENT
34 ASSESSMENT ROLLS.

35 5. PENALTIES FOR OFFENSES. IF THERE IS A VIOLATION OF THE TERMS AND
36 CONDITIONS OF THE CONSERVATION EASEMENT AGREEMENT OR IF SUCH CONSERVA-
37 TION EASEMENT AGREEMENT IS CANCELED BY THE TOWN BOARD UPON PETITION,
38 THEN THE OWNER OR OWNERS OF SUCH PROPERTY MUST PAY TO THE TOWN THE
39 FOLLOWING AMOUNTS.

40 (A) ALL TAXES ABATED PURSUANT TO THE CONSERVATION EASEMENT AGREEMENT,
41 AS LIMITED BY THE REMAINDER OF THIS SECTION, INCLUDING, IF APPLICABLE,
42 THOSE TAXES IMPOSED BY THE COUNTY, TOWN, SCHOOL DISTRICTS AND ALL
43 SPECIAL IMPROVEMENT DISTRICTS AND OTHER TAXING UNITS TO WHICH THE PROP-
44 erty IS SUBJECT. REPAYMENT OF THE AFOREMENTIONED ABATED TAXES SHALL BE
45 EQUAL TO FIVE TIMES THE TAXES SAVED IN THE LAST YEAR IN WHICH THE LAND
46 BENEFITED FROM A CONSERVATION EASEMENT AGREEMENT EXEMPTION, PLUS INTER-
47 EST OF SIX PERCENT PER YEAR COMPOUNDED ANNUALLY FOR EACH YEAR IN WHICH
48 AN EXEMPTION WAS GRANTED, NOT EXCEEDING FIVE YEARS.

49 (B) PAYMENT SHALL BE ADDED BY OR ON BEHALF OF EACH TAXING JURISDICTION
50 TO THE TAXES LEVIED ON THE ASSESSMENT ROLL PREPARED ON THE BASIS OF THE
51 FIRST TAXABLE STATUS DATE AFTER THERE IS A VIOLATION OF THE TERMS AND
52 CONDITIONS OF THE CONSERVATION EASEMENT OR SUCH CONSERVATION EASEMENT
53 AGREEMENT IS CANCELED.

54 S 2. This act shall take effect immediately.