

2089

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. SCHROEDER -- read once and referred to the  
Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to establishing a  
conservation agreement exemption in certain towns

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

1 Section 1. The real property tax law is amended by adding a new  
2 section 491 to read as follows:

3 S 491. CONSERVATION EASEMENT AGREEMENT EXEMPTION; CERTAIN TOWNS. 1.  
4 APPLICABILITY. (A) IN A TOWN HAVING A POPULATION OF NOT LESS THAN TWEN-  
5 TY-SEVEN THOUSAND SIX HUNDRED AND NOT MORE THAN TWENTY-SEVEN THOUSAND  
6 SEVEN HUNDRED, BASED UPON THE TWO THOUSAND FEDERAL CENSUS, REAL PROPERTY  
7 WHOSE INTERESTS OR RIGHTS HAVE BEEN ACQUIRED FOR THE PURPOSE OF THE  
8 PRESERVATION OF AN OPEN SPACE OR AN OPEN AREA, AS AUTHORIZED IN SECTION  
9 TWO HUNDRED FORTY-SEVEN OF THE GENERAL MUNICIPAL LAW, SHALL BE PARTIALLY  
10 EXEMPT FROM LOCAL REAL PROPERTY TAXATION, PROVIDED THAT THE OWNER OR  
11 OWNERS OF SUCH REAL PROPERTY ENTER INTO A CONSERVATION EASEMENT AGREE-  
12 MENT WITH THE MUNICIPALITY IN ACCORDANCE WITH THE PROCEDURES SPECIFIED  
13 IN SUBDIVISION THREE OF THIS SECTION. THE COUNTY IN WHICH A TOWN HAVING  
14 A POPULATION OF NOT LESS THAN TWENTY-SEVEN THOUSAND SIX HUNDRED AND NOT  
15 MORE THAN TWENTY-SEVEN THOUSAND SEVEN HUNDRED, BASED UPON THE TWO THOU-  
16 SAND FEDERAL CENSUS, IS LOCATED MAY, BY LOCAL LAW, AND ANY SCHOOL  
17 DISTRICT, ALL OR PART OF WHICH IS LOCATED IN SUCH TOWN, MAY, BY RESOL-  
18 UTION, EXEMPT SUCH PROPERTY FROM ITS TAXATION IN THE SAME MANNER AND TO  
19 THE SAME EXTENT AS SUCH TOWN HAS DONE.

20 (B) A TOWN HAVING A POPULATION OF NOT LESS THAN TWENTY-SEVEN THOUSAND  
21 SIX HUNDRED AND NOT MORE THAN TWENTY-SEVEN THOUSAND SEVEN HUNDRED MAY,  
22 BY A VOTE OF THE TOWN BOARD, OPT OUT OF THIS EXEMPTION AT ANY TIME.

23 2. DEFINITIONS. FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING TERMS  
24 SHALL HAVE THE FOLLOWING MEANINGS: "OPEN SPACE" OR "OPEN AREA" MEANS  
25 ANY SPACE OR AREA CHARACTERIZED BY NATURAL SCENIC BEAUTY OR WHOSE EXIST-

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

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1 ING OPENNESS, NATURAL CONDITION OR PRESENT STATE OF USE, IF RETAINED,  
 2 WOULD ENHANCE THE PRESENT OR POTENTIAL VALUE OF ABUTTING OR SURROUNDING  
 3 URBAN DEVELOPMENT OR WOULD MAINTAIN OR ENHANCE THE CONSERVATION OF  
 4 NATURAL OR SCENIC RESOURCES. FOR THE PURPOSES OF THIS DEFINITION,  
 5 "NATURAL RESOURCES" SHALL INCLUDE, BUT NOT BE LIMITED TO, AGRICULTURAL  
 6 LANDS DEFINED AS OPEN LANDS ACTUALLY USED IN BONA FIDE AGRICULTURAL  
 7 PRODUCTION.

8 3. PROCEDURES FOR OBTAINING A CONSERVATION EASEMENT AGREEMENT. (A)  
 9 ANY OWNER OR OWNERS OF LAND MAY SUBMIT A PROPOSAL TO THE TOWN BOARD OF A  
 10 TOWN HAVING A POPULATION OF NOT LESS THAN TWENTY-SEVEN THOUSAND SIX  
 11 HUNDRED AND NOT MORE THAN TWENTY-SEVEN THOUSAND SEVEN HUNDRED, BASED  
 12 UPON THE TWO THOUSAND FEDERAL CENSUS, FOR THE GRANTING OF INTEREST OR  
 13 RIGHTS IN REAL PROPERTY FOR THE PRESERVATION OF OPEN SPACE OR AREAS.  
 14 SUCH PROPOSAL SHALL BE SUBMITTED IN SUCH A MANNER AND FORM AS MAY BE  
 15 PRESCRIBED BY THE CONSERVATION BOARD OF SUCH TOWN.

16 (B) UPON RECEIPT OF SUCH PROPOSAL, THE TOWN BOARD SHALL CONVEY THE  
 17 PROPOSAL TO THE CONSERVATION BOARD OF SUCH TOWN. SUCH CONSERVATION BOARD  
 18 SHALL INVESTIGATE THE AREA TO DETERMINE IF THE PROPOSAL WOULD BE OF  
 19 BENEFIT TO THE PEOPLE OF THE TOWN AND MAY NEGOTIATE THE TERMS AND CONDI-  
 20 TIONS OF THE OFFER. IF THE CONSERVATION BOARD DETERMINES THAT IT IS IN  
 21 THE PUBLIC INTEREST TO ACCEPT SUCH PROPOSAL, IT SHALL RECOMMEND TO THE  
 22 TOWN BOARD THAT IT HOLD A PUBLIC HEARING FOR THE PURPOSE OF DETERMINING  
 23 WHETHER OR NOT THE TOWN SHOULD ACCEPT SUCH PROPOSAL.

24 (C) THE TOWN BOARD SHALL, WITHIN THIRTY DAYS OF RECEIPT OF SUCH ADVI-  
 25 SORY OPINION, HOLD A PUBLIC HEARING CONCERNING SUCH PROPOSAL AT A PLACE  
 26 WITHIN THE TOWN. AT LEAST TEN DAYS NOTICE OF THE TIME AND PLACE OF SUCH  
 27 HEARING SHALL BE PUBLISHED IN A PAPER OF GENERAL CIRCULATION IN SUCH  
 28 TOWN, AND A WRITTEN NOTICE OF SUCH PROPOSAL SHALL BE GIVEN TO ALL ADJA-  
 29 CENT PROPERTY OWNERS AND TO ANY MUNICIPALITY WHOSE BOUNDARIES ARE WITHIN  
 30 FIVE HUNDRED FEET OF THE BOUNDARIES OF SAID PROPOSED AREA, AND TO THE  
 31 SCHOOL DISTRICT IN WHICH IT IS LOCATED.

32 (D) THE TOWN BOARD, AFTER RECEIVING THE REPORTS OF THE CONSERVATION  
 33 BOARD OF A TOWN HAVING A POPULATION OF NOT LESS THAN TWENTY-SEVEN THOU-  
 34 SAND SIX HUNDRED AND NOT MORE THAN TWENTY-SEVEN THOUSAND SEVEN HUNDRED,  
 35 BASED UPON THE TWO THOUSAND FEDERAL CENSUS, AND AFTER SUCH PUBLIC HEAR-  
 36 ING, MAY ADOPT THE PROPOSAL OR ANY MODIFICATION THEREOF IT DEEMS APPRO-  
 37 PRIATE OR MAY REJECT IT IN ITS ENTIRETY.

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

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

45 4. COMPUTATION. (A) AN EXEMPTION GRANTED PURSUANT TO THIS SECTION  
 46 SHALL COMMENCE AS OF THE EFFECTIVE DATE OF THE CONSERVATION EASEMENT  
 47 AGREEMENT, AND SHALL TERMINATE UPON THE EXPIRATION OR TERMINATION OF  
 48 SUCH CONSERVATION EASEMENT AGREEMENT.

49 (B) THE FOLLOWING TABLE SHALL ILLUSTRATE THE COMPUTATION OF THE  
 50 EXEMPTION:

51 COMMITMENT	PERCENTAGE OF EXEMPTION
52 15 TO 29 YEARS	50%
53 30 TO 49 YEARS	75%
54 50 TO 75 YEARS	85%
55 PERPETUAL	90%

1 SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OR  
2 OWNERS OF SUCH REAL PROPERTY ON A FORM PRESCRIBED BY THE STATE BOARD.  
3 SUCH APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE TOWN ON OR  
4 BEFORE THE TAXABLE STATUS DATE OF SUCH TOWN.

5 (C) IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSU-  
6 ANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH  
7 REAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD  
8 VALOREM LEVIES AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESS-  
9 MENT ROLL PREPARED ON THE BASIS OF THE TAXABLE STATUS DATE. THE  
10 ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL  
11 BE ENTERED BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE PROP-  
12 erty, WITH THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

13 (D) WHENEVER A CONSERVATION EASEMENT ENCUMBERS ONLY A PORTION OF A  
14 PARCEL, THE ASSESSOR SHALL HENCEFORTH ENTER THAT PORTION OF THE PARCEL  
15 ENCUMBERED BY SUCH EASEMENT AS A SEPARATE PARCEL ON ALL SUBSEQUENT  
16 ASSESSMENT ROLLS.

17 5. PENALTIES FOR OFFENSES. IF THERE IS A VIOLATION OF THE TERMS AND  
18 CONDITIONS OF THE CONSERVATION EASEMENT AGREEMENT OR IF SUCH CONSERVA-  
19 TION EASEMENT AGREEMENT IS CANCELED BY THE TOWN BOARD UPON PETITION,  
20 THEN THE OWNER OR OWNERS OF SUCH PROPERTY MUST PAY TO THE TOWN, THE  
21 FOLLOWING AMOUNTS:

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

31 (B) PAYMENTS SHALL BE ADDED BY OR ON BEHALF OF EACH TAXING JURISDIC-  
32 TION TO THE TAXES LEVIED ON THE ASSESSMENT ROLL PREPARED ON THE BASIS OF  
33 THE FIRST TAXABLE STATUS DATE AFTER THERE IS A VIOLATION OF THE TERMS  
34 AND CONDITIONS OF THE CONSERVATION EASEMENT OR SUCH CONSERVATION EASE-  
35 MENT AGREEMENT IS CANCELED.

36 S 2. This act shall take effect immediately.