S T A T E O F N E W Y O R K

2907

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. KOON, GALEF, HOYT, SCHIMMINGER -- Multi-Sponsored by -- M. of A. McENENY, WEISENBERG -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to making state operated community residences and voluntary operated community residences subject to payments in lieu of taxes and providing state reimbursement therefor

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

Section 1. Legislative findings and declarations. The legislature hereby finds and declares that deinstitutionalization of the mentally disabled as a state policy has enabled thousands of New Yorkers to enjoy the benefits of community living. Community residences have enabled these citizens of New York to enjoy all of the attendant therapeutic benefits as well as the simple travails of family living that the larger family of New York experience daily.

The legislature also finds that in order to be successful in their host communities, residences need to be accepted and blend seamlessly into the neighborhood fabric.

The legislature also finds that there exists a disparity in the acceptance of community residences based on the local taxable status of these facilities.

The legislature therefore declares it necessary to require that lands and facilities of the state of New York operated as community residences by the office of mental health and the office of mental retardation and developmental disabilities and that properties owned by not-for-profit corporations licensed by the office of mental health and the office of mental retardation and developmental disabilities and operated as community residences be subject to payments in lieu of taxes, to be paid by the state upon application by a municipal corporation. Such payments

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

LBD02281-01-9

shall not diminish state resources normally reserved for the development, operation and maintenance of such facilities.

S 2. The real property tax law is amended by adding a new section 561 to read as follows:

S 561. PAYMENTS IN LIEU OF TAXES FOR EXEMPT COMMUNITY RESIDENCES. 1. A MUNICIPAL CORPORATION SHALL BE ENTITLED TO ANNUALLY SEEK PAYMENT IN LIEU OF TAXES FROM THE STATE FOR REAL PROPERTY THAT (A) IS LOCATED WITHIN THE BOUNDARIES OF SUCH MUNICIPAL CORPORATION, (B) IS EXEMPT FROM TAXATION PURSUANT TO STATE LAW, AND (C) IS OPERATED BY THE STATE OFFICE OF MENTAL HEALTH OR OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES OR IS OPERATED BY A VOLUNTARY AGENCY, CORPORATION OR ASSOCIATION TO PROVIDE SERVICES AS A COMMUNITY RESIDENCE AS DEFINED IN SECTION 1.03, 41.34 OR 41.36 OF THE MENTAL HYGIENE LAW UNDER CONTRACT WITH OR PURSUANT TO, THE CERTIFICATION OF THE DEPARTMENT OF MENTAL HYGIENE, OR AN OFFICE OR DIVISION THEREOF.

2. A MUNICIPAL CORPORATION SEEKING PAYMENT IN LIEU OF TAXES SHALL MAKE ANNUAL APPLICATION TO THE STATE BOARD ON A FORM PRESCRIBED BY THE STATE BOARD. APPLICATION SHALL BE MADE NO LATER THAN SIXTY DAYS PRIOR TO THE COMMENCEMENT OF THE MUNICIPAL CORPORATION'S FISCAL YEAR. THE APPLICATION FORM SHALL ALLOW FOR ONE OR MORE PARCELS TO BE INCLUDED ON A SINGLE APPLICATION.

3. THE VALUE OF THE PROPERTY SHALL BE DETERMINED BY ASSESSING THE COMMUNITY RESIDENCE IN THE SAME MANNER AS ALL OTHER REAL PROPERTY WITHIN THE MUNICIPAL CORPORATION'S TAXING JURISDICTION.

4. THE AMOUNT OF PAYMENT IN LIEU OF TAXES SHALL BE EQUAL TO THE AMOUNT OF TAXATION THAT WOULD HAVE OTHERWISE BEEN REALIZED IF THE PROPERTY WERE TAXABLE.

5. THE STATE BOARD SHALL CERTIFY TO THE COMPTROLLER THE AMOUNTS PAYABLE, AND SUCH AMOUNTS SHALL BE PAYABLE TO THE APPLICANT MUNICIPAL CORPORATION ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED AS PRESCRIBED BY LAW OUT OF MONEYS APPROPRIATED BY THE LEGISLATURE FOR PAYMENT OF GENERAL STATE CHARGES TO THE OFFICE OF THE STATE COMPTROLLER. IN NO CASE SHALL PAYMENT IN LIEU OF TAXES BE A CHARGE UPON ANY PROVIDER CERTIFIED OR OPERATED BY THE DEPARTMENT OF MENTAL HYGIENE OR AN OFFICE OR DIVISION THEREOF OR UPON SUCH DEPARTMENT, OFFICE OR DIVISION THEREOF.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the additions, amendment and/or repeal of any rules or regulations necessary for the implementation of the foregoing sections of this act on their effective date are authorized and directed to be made and completed on or before such effective date.