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

1566--B

2009-2010 Regular Sessions

I N S E N A T E

February 3, 2009

Introduced by Sen. VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

S 491. CONSERVATION EASEMENT AGREEMENT EXEMPTION; CERTAIN TOWNS. 1. APPLICABILITY. (A) IN A TOWN HAVING A POPULATION OF NOT LESS THAN ELEVEN THOUSAND THREE HUNDRED AND NOT MORE THAN ELEVEN THOUSAND FOUR HUNDRED, THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THEN NINE HUNDRED FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE THOUSAND, BASED UPON THE LATEST DECENNIAL FEDERAL CENSUS, IS HEREBY AUTHORIZED TO ADOPT A LOCAL LAW TO PROVIDE THAT, REAL PROPERTY WHOSE INTERESTS OR RIGHTS HAVE BEEN ACQUIRED FOR THE PURPOSE OF THE PRESERVATION OF AN OPEN SPACE OR AN OPEN AREA, AS AUTHORIZED IN SECTION TWO HUNDRED FORTY-SEVEN OF THE GENERAL MUNICIPAL LAW, MAY BE PARTIALLY EXEMPT FROM LOCAL REAL PROPERTY TAXATION, PROVIDED THAT THE OWNER OR OWNERS OF SUCH REAL PROPERTY ENTER INTO A CONSERVATION EASEMENT AGREEMENT WITH THE MUNICIPALITY IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SUBDIVISION THREE OF THIS SECTION. A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE THOUSAND BASED UPON THE LATEST DECENNIAL FEDERAL CENSUS MAY, BY LOCAL LAW, AND ANY SCHOOL DISTRICT, ALL OR PART OF WHICH IS LOCATED IN A TOWN HAVING A POPULATION OF NOT LESS THAN ELEVEN THOUSAND THREE HUNDRED AND NOT MORE THAN ELEVEN THOUSAND FOUR HUNDRED THAT IS LOCATED IN A COUNTY HAVING A

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

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POPULATION OF NOT LESS THAN NINE HUNDRED FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE THOUSAND, MAY, BY RESOLUTION, EXEMPT SUCH PROPERTY FROM ITS TAXATION IN THE SAME MANNER AND TO THE SAME EXTENT AS SUCH TOWN HAS DONE.

(B) A TOWN HAVING A POPULATION OF NOT LESS THAN ELEVEN THOUSAND THREE HUNDRED AND NOT MORE THAN ELEVEN THOUSAND FOUR HUNDRED THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE THOUSAND, BASED UPON THE LATEST DECENNIAL FEDERAL CENSUS MAY, BY A VOTE OF THE TOWN BOARD, OPT OUT OF THIS EXEMPTION AT ANY TIME.

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

3. PROCEDURES FOR OBTAINING A CONSERVATION EASEMENT AGREEMENT. (A) ANY OWNER OR OWNERS OF LAND MAY SUBMIT A PROPOSAL TO THE TOWN BOARD OF A TOWN HAVING A POPULATION OF NOT LESS THAN ELEVEN THOUSAND THREE HUNDRED AND NOT MORE THAN ELEVEN THOUSAND FOUR HUNDRED THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE THOUSAND, BASED UPON THE LATEST DECENNIAL FEDERAL CENSUS, FOR THE GRANTING OF INTEREST OR RIGHTS IN REAL PROPERTY FOR THE PRESERVATION OF OPEN SPACE OR AREAS. SUCH PROPOSAL SHALL BE SUBMITTED IN SUCH A MANNER AND FORM AS MAY BE PRESCRIBED BY THE CONSERVATION BOARD OF SUCH TOWN.

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

(C) THE TOWN BOARD SHALL, WITHIN THIRTY DAYS OF RECEIPT OF SUCH ADVISORY OPINION, HOLD A PUBLIC HEARING CONCERNING SUCH PROPOSAL AT A PLACE WITHIN THE TOWN. AT LEAST TEN DAYS NOTICE OF THE TIME AND PLACE OF SUCH HEARING SHALL BE PUBLISHED IN A PAPER OF GENERAL CIRCULATION IN SUCH TOWN, AND A WRITTEN NOTICE OF SUCH PROPOSAL SHALL BE GIVEN TO ALL ADJACENT PROPERTY OWNERS AND TO ANY MUNICIPALITY WHOSE BOUNDARIES ARE WITHIN FIVE HUNDRED FEET OF THE BOUNDARIES OF SAID PROPOSED AREA, AND TO THE SCHOOL DISTRICT IN WHICH IT IS LOCATED.

(D) THE TOWN BOARD, AFTER RECEIVING THE REPORTS OF THE CONSERVATION BOARD OF A TOWN HAVING A POPULATION OF NOT LESS THAN ELEVEN THOUSAND THREE HUNDRED AND NOT MORE THAN ELEVEN THOUSAND FOUR HUNDRED THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE THOUSAND, BASED UPON THE LATEST DECENNIAL FEDERAL CENSUS, AND AFTER SUCH PUBLIC HEARING, MAY ADOPT THE PROPOSAL OR ANY MODIFICATION THEREOF IT DEEMS APPROPRIATE OR MAY REJECT IT IN ITS ENTIRETY.

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

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

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

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

COMMITMENT	PERCENTAGE OF EXEMPTION
15 TO 29 YEARS	50%
30 TO 49 YEARS	75%
50 TO 75 YEARS	85%
PERPETUAL	90%

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

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

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

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

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

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

S 2. This act shall take effect immediately.