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

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2009-2010 Regular Sessions

I N S E N A T E

January 12, 2009

Introduced by Sens. LARKIN, BONACIC, MORAHAN, WINNER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, the county law, the insurance law and the tax law, in relation to providing an incentive to domestic life insurance companies to invest in the purchase of agricultural land to be kept in agricultural production

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

Section 1. Section 16 of the agriculture and markets law is amended by adding a new subdivision 44 to read as follows:

44. IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE, FOR THE PURPOSES OF THE ADMINISTRATION OF PARAGRAPH SEVENTEEN OF SUBDIVISION (B) OF SECTION FIFTEEN HUNDRED THREE OF THE TAX LAW, THE COMMISSIONER SHALL PROMULGATE REGULATIONS DEFINING "FRUIT" AND "FRUIT PRODUCTS".

S 2. The county law is amended by adding a new section 220-b to read as follows:

S 220-B. CONSERVATION EASEMENTS IN CONNECTION WITH CERTAIN LAND USED IN THE AGRICULTURAL PRODUCTION OF FRUIT AND FRUIT PRODUCTS. 1. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (B) OF SECTION TWO OF THIS CHAPTER, THE BOARD OF SUPERVISORS OR COUNTY LEGISLATURE OF EVERY COUNTY SHALL, UPON APPLICATION FOR A CONSERVATION EASEMENT FILED WITH SUCH COUNTY, FOR PROPERTY WITHIN SUCH COUNTY, NOT MORE THAN SIX MONTHS PRIOR TO THE CLOSE OF THE TAXABLE YEAR OR THE YEAR NEXT SUCCEEDING SUCH YEAR, FOR WHICH A DEDUCTION IS OR WILL BE SOUGHT TO BE CLAIMED BY A TAXPAYER PURSUANT TO PARAGRAPH SEVENTEEN OF SUBDIVISION (B) OF SECTION FIFTEEN HUNDRED THREE OF THE TAX LAW, ACCEPT SUCH APPLICATION AND OFFER TO PERMIT A NOT-FOR-PROFIT CONSERVATION ORGANIZATION OR PUBLIC BODY WITHIN SUCH COUNTY, WITHIN WHOSE TERRITORY THE SUBJECT PROPERTY IS LOCATED, OTHER THAN THE STATE, TO ACCEPT OR UNDERTAKE TO ACCEPT A CONSERVATION EASEMENT IN CONNECTION WITH THE ADMINISTRATION OF PARAGRAPH SEVENTEEN OF

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

LBD05417-01-9

SUBDIVISION (B) OF SECTION FIFTEEN HUNDRED THREE OF THE TAX LAW, PERTAINING TO FRUIT AND FRUIT PRODUCTS PRODUCED OR PROCESSED ON LAND IN AGRICULTURAL PRODUCTION AND RECEIVING OR ELIGIBLE TO RECEIVE AN AGRICULTURAL ASSESSMENT.

2. IN THE EVENT THAT AN APPLICATION FOR A CONSERVATION EASEMENT IS SUBMITTED TO A COUNTY LESS THAN SIX MONTHS PRIOR TO THE CLOSE OF SUCH TAXPAYER'S TAXABLE YEAR, THE SIX-MONTH PERIOD PROVIDED FOR IN SUBDIVISION ONE OF THIS SECTION FOR THE COUNTY TO SECURE A NOT-FOR-PROFIT CONSERVATION ORGANIZATION OR PUBLIC BODY WITHIN SUCH COUNTY, WITHIN WHOSE TERRITORY THE SUBJECT PROPERTY IS LOCATED, OTHER THAN THE STATE, TO TAKE AND ACCEPT SUCH CONSERVATION EASEMENT OR FOR THE COUNTY ITSELF TO DO SO, SHALL APPLY AND RUN FROM THE DATE OF THE FILING OF SUCH APPLICATION, AND THE CONSERVATION EASEMENT, IF TAKEN AND ACCEPTED WITHIN SUCH LATTER SIX-MONTH PERIOD, SHALL BE DEEMED TO MEET THE REQUIREMENT FOR TAX DEDUCTIBILITY PURSUANT TO SAID PROVISIONS OF SECTION FIFTEEN HUNDRED THREE OF THE TAX LAW WITH RESPECT TO THE TIMELINESS OF THE APPLICATION FOR AND TAKING AND ACCEPTING OF SUCH CONSERVATION EASEMENT.

3. FOR THE PURPOSES OF THIS SECTION, THE TERM "CONSERVATION EASEMENT" HAS THE MEANING THEREOF WITHIN THE CONTEMPLATION OF TITLE THREE OF ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVATION LAW.

S 3. Paragraph 3 of subsection (a) of section 1405 of the insurance law is amended to read as follows:

(3) Obligations secured by real property or interests therein. (A) Obligations, or participations therein, secured by liens on real property or interests therein located within the United States and not eligible under paragraph one or two of this subsection, provided that no insurer making investments under the authority of this section shall invest in or loan upon the security of any one property, under the authority of this paragraph, more than thirty thousand dollars or two percent of admitted assets, whichever is the greater.

(B) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (A) OF THIS PARAGRAPH TO THE CONTRARY, A DOMESTIC LIFE INSURER MAY INVEST UP TO ONE PERCENT OF ITS ADMITTED ASSETS IN OBLIGATIONS SUBJECT TO THE PROVISIONS OF PARAGRAPH SEVENTEEN OF SUBDIVISION (B) OF SECTION FIFTEEN HUNDRED THREE OF THE TAX LAW.

S 4. Subdivision (b) of section 1503 of the tax law is amended by adding a new paragraph 17 to read as follows:

(17) ENTIRE NET INCOME SHALL NOT INCLUDE:

(A) THIRTY PERCENT OF INTEREST RECEIVED BY A TAXPAYER AS PAYMENT TO THE TAXPAYER ON ACCOUNT OF INDEBTEDNESS INCURRED TO THE TAXPAYER FOR THE PURCHASE OF, AND BY A PERSON WHO HAS PURCHASED:

(I) FOR NOT MORE THAN FIFTY ACRES OF ONE OR MORE CONTIGUOUS PARCELS OF LAND, WHICH LAND IS USED IN AGRICULTURAL PRODUCTION OR HAS BEEN IN AGRICULTURAL PRODUCTION WITHIN THE PAST FIVE YEARS IN THE TAXPAYER'S TAXABLE YEAR OF THE INCURRENCE OF SUCH INDEBTEDNESS OR THE YEAR NEXT SUCCEEDING SUCH YEAR. IN THE EVENT SUCH INTEREST PAID IS FOR MORE THAN FIFTY ACRES OF LAND, THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY ONLY TO THAT RATIO OF THE INTEREST PAID WHICH IS EQUAL TO THE RATIO BETWEEN FIFTY ACRES AND THE TOTAL AREA OF LAND UPON WHICH THE INTEREST IS PAID;

(II) WHICH LAND HAS OR IS ELIGIBLE TO HAVE AN AGRICULTURAL ASSESSMENT IN THE TAXPAYER'S TAXABLE YEAR OF THE INCURRENCE OF SUCH INDEBTEDNESS OR THE YEAR NEXT SUCCEEDING SUCH YEAR;

(III) WHICH LAND IS USED OR HAS BEEN USED IN THE PAST FIVE YEARS FOR THE CULTIVATION OF FRUIT OR FRUIT PRODUCTS IN THE TAXPAYER'S TAXABLE YEAR OF THE INCURRENCE OF SUCH INDEBTEDNESS OR THE YEAR NEXT SUCCEEDING SUCH YEAR; AND

(IV) WHICH LAND IS SUBJECT TO A CONSERVATION EASEMENT THAT LIMITS THE USE OF SUCH LAND TO AGRICULTURAL PRODUCTION, WHICH CONSERVATION EASEMENT IS IN COMPLIANCE WITH TITLE THREE OF ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVATION LAW AND SECTION TWO HUNDRED TWENTY-B OF THE COUNTY LAW IN THE TAXPAYER'S TAXABLE YEAR OF THE INCURRENCE OF SUCH INDEBTEDNESS OR THE YEAR NEXT SUCCEEDING SUCH YEAR.

(B) FOR THE PURPOSES OF THIS PARAGRAPH, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

(I) "AGRICULTURAL ASSESSMENT" HAS THE MEANING THAT IT HAS FOR THE PURPOSES OF ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW.

(II) "FRUIT" AND "FRUIT PRODUCTS" HAVE THE MEANINGS DEFINED THEREFOR BY THE COMMISSIONER OF AGRICULTURE AND MARKETS IN REGULATIONS PROMULGATED FOR THE PURPOSES OF THIS PARAGRAPH.

(III) "LAND USED IN AGRICULTURAL PRODUCTION" HAS THE MEANING DEFINED THEREFOR IN ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW.

S 5. This act shall take effect immediately and shall apply to taxable years beginning on or after January first of the year in which it shall have become a law; provided that any and all rules and regulations and any other measures necessary to implement any provision of this act shall be promulgated and taken, respectively, immediately and, if deemed necessary, on an emergency basis.