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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:

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

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

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

9 S 220-B. CONSERVATION EASEMENTS IN CONNECTION WITH CERTAIN LAND USED
10 IN THE AGRICULTURAL PRODUCTION OF FRUIT AND FRUIT PRODUCTS. 1. NOTWITH-
11 STANDING THE PROVISIONS OF SUBDIVISION (B) OF SECTION TWO OF THIS CHAP-
12 TER, THE BOARD OF SUPERVISORS OR COUNTY LEGISLATURE OF EVERY COUNTY
13 SHALL, UPON APPLICATION FOR A CONSERVATION EASEMENT FILED WITH SUCH
14 COUNTY, FOR PROPERTY WITHIN SUCH COUNTY, NOT MORE THAN SIX MONTHS PRIOR
15 TO THE CLOSE OF THE TAXABLE YEAR OR THE YEAR NEXT SUCCEEDING SUCH YEAR,
16 FOR WHICH A DEDUCTION IS OR WILL BE SOUGHT TO BE CLAIMED BY A TAXPAYER
17 PURSUANT TO PARAGRAPH SEVENTEEN OF SUBDIVISION (B) OF SECTION FIFTEEN
18 HUNDRED THREE OF THE TAX LAW, ACCEPT SUCH APPLICATION AND OFFER TO
19 PERMIT A NOT-FOR-PROFIT CONSERVATION ORGANIZATION OR PUBLIC BODY WITHIN
20 SUCH COUNTY, WITHIN WHOSE TERRITORY THE SUBJECT PROPERTY IS LOCATED,
21 OTHER THAN THE STATE, TO ACCEPT OR UNDERTAKE TO ACCEPT A CONSERVATION
22 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.

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

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

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

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

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

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

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

38 (17) ENTIRE NET INCOME SHALL NOT INCLUDE:

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

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

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

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

1 (IV) WHICH LAND IS SUBJECT TO A CONSERVATION EASEMENT THAT LIMITS THE
2 USE OF SUCH LAND TO AGRICULTURAL PRODUCTION, WHICH CONSERVATION EASEMENT
3 IS IN COMPLIANCE WITH TITLE THREE OF ARTICLE FORTY-NINE OF THE ENVIRON-
4 MENTAL CONSERVATION LAW AND SECTION TWO HUNDRED TWENTY-B OF THE COUNTY
5 LAW IN THE TAXPAYER'S TAXABLE YEAR OF THE INCURRENCE OF SUCH INDEBT-
6 EDNESS OR THE YEAR NEXT SUCCEEDING SUCH YEAR.

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

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

11 (II) "FRUIT" AND "FRUIT PRODUCTS" HAVE THE MEANINGS DEFINED THEREFOR
12 BY THE COMMISSIONER OF AGRICULTURE AND MARKETS IN REGULATIONS PROMULGAT-
13 ED FOR THE PURPOSES OF THIS PARAGRAPH.

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

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