

6837

I N S E N A T E

February 12, 2010

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to the discretion of localities in granting exemptions for certain organizations and to repeal certain provisions of such law relating thereto

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

1 Section 1. Paragraph (a) of subdivision 1 of section 420-a of the real
2 property tax law, as amended by chapter 920 of the laws of 1981, is
3 amended to read as follows:
4 (a) Real property owned by a corporation or association organized or
5 conducted exclusively for religious, charitable, hospital, educational,
6 [or moral or mental improvement of men, women or children purposes,] or
7 for two or more such purposes, and used exclusively for carrying out
8 thereupon one or more of such purposes either by the owning corporation
9 or association or by another such corporation or association as herein-
10 after provided shall be exempt from taxation as provided in this
11 section.
12 S 2. Paragraph (a) of subdivision 1 of section 420-b of the real prop-
13 erty tax law, as added by chapter 919 of the laws of 1981, is amended to
14 read as follows:
15 (a) (I) Real property owned by a corporation or association which is
16 organized exclusively for PURPOSES RELATED TO THE MORAL OR MENTAL
17 IMPROVEMENT OF MEN, WOMEN, OR CHILDREN, OR FOR bible, tract, benevolent,
18 missionary, infirmary, public playground, scientific, literary, bar
19 association, medical society, library, patriotic or historical purposes,
20 for the development of good sportsmanship for persons under the age of
21 eighteen years through the conduct of supervised athletic games, for the
22 enforcement of laws relating to children or animals, or for two or more
23 such purposes, and used exclusively for carrying out thereupon one or
24 more of such purposes either by the owning corporation or association,
25 or by another such corporation or association as hereinafter provided,
26 shall be exempt from taxation; provided, however, that such property
27 shall be taxable by any municipal corporation within which it is located

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

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1 if the governing board of such municipal corporation, after public hear-
2 ing, adopts a local law, ordinance or resolution so providing. None of
3 the following subdivisions of this section providing that certain prop-
4 erties shall be exempt under circumstances or conditions set forth in
5 such subdivisions shall exempt such property from taxation by a munici-
6 pal corporation whose governing board has adopted a local law, ordinance
7 or resolution providing that such property shall be taxable pursuant to
8 this subdivision.

9 (II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVI-
10 SION, ONCE A PROPERTY IS EXEMPTED FROM TAXATION PURSUANT TO LOCAL LAW,
11 ORDINANCE, OR RESOLUTION, SUCH PROPERTY, SO LONG AS IT CONTINUES TO BE
12 USED EXCLUSIVELY FOR PURPOSES OF EXEMPT ACTIVITIES, SHALL CONTINUE TO BE
13 EXEMPT FROM TAXATION FOR NO MORE THAN THIRTY YEARS, UNLESS SUCH PROPERTY
14 IS SOLD OR LEASED; PROVIDED, HOWEVER, THAT SUCH EXEMPTION SHALL BE LOST
15 AFTER IT HAS BEEN ENJOYED FOR THIRTY YEARS IF A LOCAL LAW, ORDINANCE OR
16 RESOLUTION HAS BEEN ENACTED PROVIDING FOR THE TAXATION OF ALL PROPERTIES
17 IN THE SUB-CATEGORY THAT THE PARTICULAR PROPERTY IS IN, EXCEPT ANY OTHER
18 WHICH IS ENJOYING AN EXEMPTION FOR THIRTY YEARS PURSUANT TO THIS PARA-
19 GRAPH. SUCH LOCAL LAW MAY SPECIFY A MINIMUM NUMBER OF DAYS EACH ACRE
20 MUST ACTUALLY BE USED IN ORDER TO QUALIFY FOR THE EXEMPTION AUTHORIZED
21 IN THIS SECTION, PROVIDED, HOWEVER, THE NUMBER OF DAYS SHALL NOT BE
22 GREATER THAN NINETY.

23 S 3. Paragraph (d) of subdivision 1 of section 420-b of the real prop-
24 erty tax law, as added by a chapter of the laws of 2010, entitled "AN
25 ACT to amend the real property tax law, in relation to the exemption
26 from taxation for non-profit organizations; and making an appropriation
27 therefor", is REPEALED.

28 S 3-a. Subparagraph (vii) of paragraph (c) of subdivision 1 of section
29 420-a of the real property tax law, as added by a chapter of the laws of
30 2010, entitled "AN ACT to amend the real property tax law, in relation
31 to the exemption from taxation for non-profit organizations; and making
32 an appropriation therefor", is REPEALED.

33 S 4. Subdivision 1 of section 420-b of the real property tax law is
34 amended by adding a new paragraph (d) to read as follows:

35 (D) PROPERTY ORGANIZED EXCLUSIVELY FOR PURPOSES RELATED TO THE MORAL
36 OR MENTAL IMPROVEMENT OF MEN, WOMEN, OR CHILDREN SHALL INCLUDE EACH OF
37 THE FOLLOWING CATEGORIES OF REAL PROPERTY. SUCH PROPERTY SHALL BE OWNED
38 BY A CORPORATION CLASSIFIED AS TAX EXEMPT OR NOT-FOR-PROFIT UNDER THE
39 FEDERAL INTERNAL REVENUE CODE. ANY SUCH CATEGORY MAY BE SUBJECT TO TAXA-
40 TION PROVIDED A LOCAL LAW, ORDINANCE, OR RESOLUTION IS PASSED CONSISTENT
41 WITH THIS SECTION:

42 (I) ARTS. REAL PROPERTY PRIMARILY USED TO FACILITATE OR ENHANCE THE
43 ARTS;

44 (II) SCIENCES. REAL PROPERTY PRIMARILY USED IN THE STUDY OF SCIENCES,
45 BIOLOGY, AND HORTICULTURE;

46 (III) BENEFIT OF ANIMALS. REAL PROPERTY PRIMARILY USED FOR THE BENEFIT
47 OF NON-HUMAN ANIMALS;

48 (IV) OPEN SPACE. REAL PROPERTY WHICH IS OPEN TO THE PUBLIC, IS PRIMA-
49 RILY UNIMPROVED, AND IS KEPT OPEN FOR HIKING, WALKING, OR FORMS OF EXER-
50 CISE WHICH DO NOT COMMONLY USE MECHANIZED DEVICES EXCEPT BY THOSE
51 PERSONS WHO ARE DISABLED OR OTHERWISE UNABLE TO WALK WITHOUT MECHANIZED
52 ASSISTANCE. SUCH OPEN SPACE MAY BE OPEN TO THE PUBLIC UPON THE PAYMENT
53 OF A FEE WHICH IS DIRECTLY RELATED TO THE COSTS OF MAINTAINING AND
54 IMPROVING THE PROPERTY. OPEN SPACE SHALL NOT INCLUDE ANY PROPERTY OR
55 PORTION OF PROPERTY FROM WHICH THE PUBLIC IS EXCLUDED EXCEPT FOR EXCLU-
56 SIONS SOLELY FOR PUBLIC HEALTH PURPOSES AS DETERMINED BY A GOVERNMENTAL

1 AGENCY OR FOR PUBLIC SAFETY AS DETERMINED BY THE PROPERTY OWNER, WITH
2 SUCH DETERMINATION TO BE REVIEWABLE IN ANY COURT OF EQUITY JURISDICTION;
3 PROVIDED, HOWEVER A PRESUMPTION SHALL ATTACH THAT THE PROPERTY OWNER'S
4 DETERMINATION IS REASONABLE. ATTORNEYS FEES MAY BE AWARDED, AT THE
5 DISCRETION OF THE COURT, FOR ANY PREVAILING PARTY WHO COMMENCES OR
6 DEFINES A CIVIL ACTION BASED ON THE PUBLIC SAFETY EXCLUSIONS PERMISSIBLE
7 BY THIS SUBPARAGRAPH;

8 (V) LAND TRUST. REAL PROPERTY WHICH IS PRIMARILY UNIMPROVED. NO OWNER
9 SHALL BE ENTITLED TO A PROPERTY TAX EXEMPTION AS A LAND TRUST UNLESS
10 THAT PROPERTY OWNER AND THE SUBJECT PROPERTY MEETS ALL OF THE FOLLOWING
11 CRITERIA: (1) ENTERS INTO A CONTRACT WITH THE ASSESSING UNIT PROVIDING
12 THAT THE LAND IN THE LAND TRUST MAY NOT BE SOLD OR ENCUMBERED EXCEPT BY
13 MORTGAGE OR CONSERVATION EASEMENT, UNLESS THE PROPERTY OWNER, WITHIN
14 THIRTY DAYS OF SUCH SALE OR ENCUMBRANCE, ENTERS INTO A VALID CONTRACT TO
15 PURCHASE LAND IN NEW YORK STATE OF AT LEAST AN EQUAL VALUE TO BE PLACED
16 IN A LAND TRUST, AND THE OWNER DOES SO PURCHASE SUCH LAND WITHIN ONE
17 YEAR OF ENTERING INTO SUCH PURCHASE AND SALE CONTRACT; (2) IS INCLUDED
18 AS PART OF A LAWFULLY ENACTED COMPREHENSIVE PLAN BY THE COUNTY, CITY,
19 TOWN, OR VILLAGE IN WHICH SUCH PROPERTY IS IN; OR IS IDENTIFIED IN AN
20 OFFICIAL OPEN SPACE OR NATURAL RESOURCES PROTECTION PLAN DULY ADOPTED BY
21 A FEDERAL, STATE, OR LOCAL GOVERNMENT OR AGENCY THEREOF; (3) EXISTS AS A
22 LAND TRUST TO PROTECT ECOLOGICAL RESOURCES CONSIDERED VALUABLE IN A
23 LAWFULLY ENACTED COMPREHENSIVE PLAN. PUBLIC ACCESS SHALL NOT BE A CRITE-
24 RIA IN DETERMINING AN EXEMPTION FROM TAXATION FOR LAND TRUST PURPOSES;
25 (4) UNLESS THE GOVERNING BOARD OF THE COUNTY, CITY, TOWN OR VILLAGE IN
26 WHICH THE PROPERTY IS SITUATED PASSES A RESOLUTION TO THE CONTRARY, IF
27 THE PURCHASE, REFERRED TO IN CLAUSE ONE OF THIS SUBPARAGRAPH DOES NOT
28 OCCUR WITHIN THE TIME LIMITATIONS THEREUNDER, THE LAND TRUST SHALL BE
29 LIABLE FOR ALL TAX PAYMENTS WHICH IT WOULD HAVE PAID ON THE PROPERTY IT
30 SOLD FOR THE PERIOD OF TIME WHICH IT WOULD HAVE OWED SUCH TAX PAYMENTS
31 TO ALL LAWFUL TAXING JURISDICTIONS, UNLESS THE TITLE TO THE EQUALLY
32 VALUED LAND UNDER CONTRACT FOR PURCHASE AND SALE WAS DEEMED UNMARKETA-
33 BLE, OR THE SELLER OF SUCH PROPERTY WITHDREW THE OFFER TO SELL, IN WHICH
34 CASE THE LAND TRUST SHALL HAVE AN ADDITIONAL THREE HUNDRED SIXTY-FIVE
35 DAYS TO PURCHASE AND CLOSE TITLE ON ANOTHER PROPERTY IN NEW YORK STATE
36 PURSUANT TO THE PROVISIONS OF CLAUSE ONE OF THIS SUBPARAGRAPH;

37 (VI) NON-SCHOLASTIC EDUCATIONAL. REAL PROPERTY OWNED BY AN ORGANIZA-
38 TION WHICH IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND
39 WHICH IS PRIMARILY USED TO IMPROVE THE INTELLECTUAL CAPABILITIES OF
40 PERSONS, AND WHICH DOES NOT QUALIFY FOR TAX EXEMPTION PURSUANT TO
41 SECTION FOUR HUNDRED TWENTY-A OF THIS TITLE;

42 (VII) RECREATIONAL. REAL PROPERTY OWNED BY AN ORGANIZATION WHICH IS
43 TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND WHICH PROVIDES
44 RECREATIONAL OPPORTUNITY FOR PERSONS REGARDLESS OF ABILITY TO PAY.
45 RECREATIONAL OPPORTUNITIES MAY BE EITHER INDOORS OR OUTDOORS AND MAY
46 INCLUDE OVERNIGHT OPPORTUNITIES FOR PERSONS UNDER THE AGE OF TWENTY-ONE;

47 (VIII) MEDICAL PURPOSES. REAL PROPERTY OWNED BY AN ORGANIZATION WHICH
48 IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND WHICH IS NOT A
49 HOSPITAL AS DEFINED BY SECTION FOUR HUNDRED TWENTY-A OF THIS TITLE, BUT
50 WHICH QUALIFIES AS A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE
51 PUBLIC HEALTH LAW;

52 (IX) HOME CARE SERVICES. REAL PROPERTY OWNED BY AN ORGANIZATION WHICH
53 IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND IS A HOME CARE
54 SERVICES AGENCY AS DEFINED IN ARTICLE THIRTY-SIX OF THE PUBLIC HEALTH
55 LAW;

1 (X) RESIDENTIAL HEALTH CARE FACILITY. REAL PROPERTY OWNED BY AN ORGAN-
2 IZATION WHICH IS TAX EXEMPT AS A RESIDENTIAL HEALTH CARE FACILITY AS
3 DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW;

4 (XI) OTHER MEDICAL PURPOSES. REAL PROPERTY WHICH IS OWNED BY AN ORGAN-
5 IZATION WHICH IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND
6 IS USED TO PROVIDE MEDICAL SERVICES TO PERSONS WITH LIMITED ECONOMIC
7 MEANS;

8 (XII) INTERDENOMINATIONAL CENTERS. (1) REAL PROPERTY OWNED BY A CORPO-
9 RATION ORGANIZED FOR THE PURPOSES OF ESTABLISHING AN INTERDENOMINATIONAL
10 CENTER TO ASSIST IN THE WORK OF, AND TO PROMOTE COOPERATION AMONG, VARI-
11 OUS RELIGIOUS DENOMINATIONS, AND TO ACQUIRE OR ERECT A BUILDING OR
12 BUILDINGS FOR SUCH CENTER, AND TO LEASE A PORTION OR PORTIONS FOR USE BY
13 RELIGIOUS, EDUCATIONAL, MISSIONARY AND CHARITABLE CORPORATIONS OR ASSO-
14 CIATIONS; OR REAL PROPERTY LEASED TO CORPORATIONS ORGANIZED FOR SUCH
15 PURPOSES BY A CORPORATION ORGANIZED FOR PURPOSES WHICH ARE EXEMPT UNDER
16 THIS SECTION, OR SECTION FOUR HUNDRED TWENTY-A, FOUR HUNDRED TWENTY-TWO,
17 FOUR HUNDRED TWENTY-FOUR, FOUR HUNDRED TWENTY-SIX OR FOUR HUNDRED TWEN-
18 TY-EIGHT OF THIS TITLE, SHALL BE EXEMPT FROM TAXATION AND EXEMPT FROM
19 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS TO THE EXTENT PROVIDED
20 IN SECTION FOUR HUNDRED NINETY OF THIS ARTICLE, TO THE SAME EXTENT AND
21 SUBJECT TO THE SAME CONDITIONS AND EXCEPTIONS AS PROPERTY OF A CORPO-
22 RATION ORGANIZED EXCLUSIVELY FOR RELIGIOUS, EDUCATIONAL, MISSIONARY OR
23 CHARITABLE PURPOSES.

24 (2) IN ADDITION TO ANY OTHER RENTAL FEES CHARGED FOR SUCH USE, WITH
25 THE CONSENT OF EACH CORPORATION OR ASSOCIATION LEASING A PORTION OF SUCH
26 REAL PROPERTY, THE INTERDENOMINATIONAL CENTER MAY REQUIRE EACH LESSEE TO
27 MAKE ANNUAL PAYMENTS INTO A CAPITAL IMPROVEMENT FUND TO BE USED EXCLU-
28 SIVELY FOR CAPITAL IMPROVEMENTS, IN ACCORDANCE WITH A CAPITAL IMPROVE-
29 MENT PLAN ADOPTED OR UPDATED ANNUALLY BY THE INTERDENOMINATIONAL CENTER.
30 FOR PURPOSES OF THIS SUBPARAGRAPH, "CAPITAL IMPROVEMENT" SHALL MEAN ANY
31 ADDITION TO, REPLACEMENT OF, OR REMODELING OF PHYSICAL PLANT, STRUC-
32 TURES, OR EQUIPMENT NOW OR HEREAFTER OWNED BY AN INTERDENOMINATIONAL
33 CENTER, WHICH IS USED OR IS TO BE USED IN CONNECTION WITH THE OPERATION
34 OF THE INTERDENOMINATIONAL CENTER, AND WHICH SHALL INCLUDE IMPROVEMENTS
35 TO LAND, BUT NOT LAND ITSELF;

36 (XIII) PRIMARILY CHARITABLE PURPOSES. AN ACTIVITY CONDUCTED ON REAL
37 PROPERTY OWNED BY AN ORGANIZATION WHICH IS TAX EXEMPT UNDER THE FEDERAL
38 INTERNAL REVENUE CODE, AND WHICH ACTIVITY ACTUALLY AND PRIMARILY ALLEVI-
39 ATES THE CONDITION OF POOR, OR PHYSICALLY OR MENTALLY DISABLED PERSONS;
40 AND

41 (XIV) OTHER MORAL OR MENTAL IMPROVEMENT. REAL PROPERTY OWNED BY AN
42 ORGANIZATION WHICH IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE
43 AND WHICH IS DEDICATED, IN A MANNER OTHER THAN AS PROVIDED IN THIS PARA-
44 GRAPH, TO THE MORAL OR MENTAL IMPROVEMENT OF MEN, WOMEN, OR CHILDREN.

45 S 5. Section 430 of the real property tax law is REPEALED.

46 S 6. This act shall take effect on the first of January next succeed-
47 ing the date on which it shall have become a law and shall apply to
48 assessment rolls on and after such date; provided, however, that
49 sections three and three-a of this act shall take effect on the same
50 date as a chapter of the laws of 2010, entitled "AN ACT to amend the
51 real property tax law, in relation to the exemption from taxation for
52 non-profit organizations; and making an appropriation therefor", takes
53 effect.