

10420

I N A S S E M B L Y

March 25, 2010

Introduced by M. of A. GALEF -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law and the town law, in relation to establishing a petition process to change the elective office of receiver of taxes

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

Section 1. The general municipal law is amended by adding a new article 17-B to read as follows:

ARTICLE 17-B

PETITION PROCESS TO ELIMINATE CERTAIN POSITIONS

SECTION 799-A. DEFINITIONS.

799-B. PROCESS UPON PETITION OR RESOLUTION.

799-C. PETITION TO START THE PROCESS TO CHANGE THE ELECTIVE OFFICE OF RECEIVER OF TAXES.

S 799-A. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. THE TERM "QUALIFIED ELECTOR" SHALL MEAN A PERSON WHO IS REGISTERED TO VOTE IN ACCORDANCE WITH THE PROVISIONS OF THE ELECTION LAW.

2. THE TERM "PARTICIPATING MUNICIPALITY" SHALL MEAN A TOWN OR VILLAGE THAT HAS STARTED THE PETITION PROCESS PURSUANT TO SECTION SEVEN HUNDRED NINETY-NINE-B OF THIS ARTICLE.

S 799-B. PROCESS UPON PETITION OR RESOLUTION. 1. THE PROCESS SHALL START IN A MUNICIPALITY ONCE A PETITION FROM THE RESIDENTS IS FILED WITH THE MUNICIPAL CLERK.

2. UPON RECEIVING A PETITION FROM THE RESIDENTS, THE PARTICIPATING MUNICIPALITY SHALL SUBMIT THE QUESTION OF THE CHANGE OF OFFICE OF RECEIVER OF TAXES TO THE VOTERS.

3. A CERTIFICATE OF THE ELECTION SHALL BE FILED WITH THE SECRETARY OF STATE, WITH THE CLERKS OF EACH PARTICIPATING MUNICIPALITY, AND WITH THE CLERKS OF EACH COUNTY IN WHICH ANY PART OF THE PARTICIPATING MUNICIPALITY IS LOCATED.

4. IF THE MAJORITY OF VOTES CAST ON THE REFERENDUM IN EACH PARTICIPATING MUNICIPALITY, ARE IN THE AFFIRMATIVE, THE MUNICIPALITY WITHIN THIRTY

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

LBD16323-02-0

1 DAYS OF THE DATE OF THE REFERENDUM SHALL NOTIFY SUCH RECEIVER OF TAXES  
2 THAT HE OR SHE SHALL SERVE OUT THEIR REMAINING TERM.

3 5. IF THE MAJORITY OF VOTES CAST ON THE REFERENDUM IN EACH PARTICIPAT-  
4 ING MUNICIPALITY ARE IN THE NEGATIVE, THE REFERENDUM SHALL FAIL AND THE  
5 PETITION PROCESS MAY NOT BE INITIATED FOR THE SAME PURPOSE WITHIN TWO  
6 YEARS OF THE DATE OF SUCH REFERENDUM.

7 S 799-C. PETITION TO START THE PROCESS TO CHANGE THE ELECTIVE OFFICE  
8 OF RECEIVER OF TAXES. 1. ELIGIBLE SIGNATURES. TO START THE PETITION  
9 PROCESS, A PETITION MUST HAVE SIGNATURES FROM RESIDENTS OF THE JURISDIC-  
10 TION, EQUAL TO AT LEAST TEN PERCENT OF THE RESIDENT ELECTORS QUALIFIED  
11 TO VOTE IN THE LAST GENERAL ELECTION. THOSE SIGNING THE PETITION MUST BE  
12 QUALIFIED TO VOTE AT THE TIME OF THE FILING OF THE PETITION WITH THE  
13 MUNICIPAL CLERK.

14 2. TIME LIMIT. A SIGNATURE SHALL BE INVALID IF IT IS SIGNED UPON THE  
15 PETITION MORE THAN ONE HUNDRED EIGHTY DAYS BEFORE THE PETITION IS FILED  
16 WITH THE MUNICIPAL CLERK, UNLESS THE GOVERNING BOARD PASSES A RESOLUTION  
17 TO GIVE ADDITIONAL TIME TO COLLECT SIGNATURES.

18 3. FORM. THE PETITION SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:  
19 PETITION

20 WE, THE UNDERSIGNED, ELECTORS OF THE (INSERT TYPE OF MUNICIPALITY - TOWN  
21 OR VILLAGE) OF (INSERT NAME OF MUNICIPALITY)  
22 , NEW YORK, QUALIFIED TO VOTE AT THE NEXT GENERAL OR SPECIAL ELECTION,  
23 DO HEREBY PETITION THAT THERE BE SUBMITTED TO THE VOTERS OF (INSERT NAME  
24 OF MUNICIPALITY) , PURSUANT TO LAW, A PROPOSITION AS FOLLOWS:  
25 (INSERT PROPOSITION SOUGHT TO BE SUBMITTED) THE UNDERSIGNED QUALIFIED  
26 ELECTORS HEREBY REQUEST THAT A REFERENDUM VOTE UPON THE ABOVE PROPOSI-  
27 TION BE TAKEN AS PROVIDED BY LAW. IN WITNESS WHEREOF, WE HAVE SIGNED  
28 OUR NAMES ON THE DATES INDICATED NEXT TO OUR SIGNATURES.

29 DATE NAME - PRINT NAME UNDER SIGNATURE HOME ADDRESS  
30 1. \_\_\_\_\_  
31 2. \_\_\_\_\_  
32 3. \_\_\_\_\_

33 (ON THE BOTTOM OF EACH PAGE, AFTER ALL THE NUMBERED SIGNATURES, INSERT A  
34 WITNESS STATEMENT OR A STATEMENT BY A NOTARY PUBLIC OR COMMISSIONER OF  
35 DEEDS, IN SUBSTANTIALLY THE FOLLOWING FORM:)

36 I, (NAME OF WITNESS), STATE THAT I AM A REGISTERED VOTER OF THE STATE OF  
37 NEW YORK. I AM A RESIDENT OF THE (TOWN OR VILLAGE) OF (NAME OF TOWN OR  
38 VILLAGE). THE PERSONS THAT HAVE SIGNED THIS PETITION SHEET CONTAINING  
39 (FILL IN NUMBER) SIGNATURES, HAVE SIGNED THEIR NAMES IN MY PRESENCE ON  
40 THE DATES INDICATED ABOVE AND IDENTIFIED THEMSELVES TO BE THE SAME  
41 PERSONS WHO SIGNED THE SHEET. I UNDERSTAND THAT THIS STATEMENT WILL BE  
42 ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT, AND IF IT  
43 CONTAINS A MATERIALLY FALSE STATEMENT, SHALL SUBJECT ME TO THE PENALTIES  
44 OF PERJURY.

45 \_\_\_\_\_  
46 DATE SIGNATURE OF WITNESS  
47 (IN LIEU OF THE SIGNED STATEMENT OF A WITNESS WHO IS A DULY QUALIFIED  
48 VOTER OF THE STATE, QUALIFIED TO SIGN THE PETITION AS A RESIDENT OF THE  
49 TOWN OR VILLAGE, THE FOLLOWING STATEMENT SIGNED BY A NOTARY PUBLIC OR A  
50 COMMISSIONER OF DEEDS SHALL BE ACCEPTED.) ON THE DATE ABOVE INDICATED  
51 BEFORE ME PERSONALLY CAME EACH OF THE VOTERS WHOSE SIGNATURES APPEAR ON  
52 THIS PETITION SHEET CONTAINING (FILL IN NUMBER) SIGNATURES, WHO SIGNED  
53 SAME IN MY PRESENCE AND WHO, BEING BY ME DULY SWORN, EACH FOR HIMSELF OR  
54 HERSELF, SAID THAT THE FOREGOING STATEMENT MADE AND SUBSCRIBED BY HIM OR  
55 HER, WAS TRUE.  
56 \_\_\_\_\_

1           DATE                   NOTARY PUBLIC OR COMMISSIONER OF DEEDS

2       4. LIBERAL CONSTRUCTION. IN MATTERS OF FORM, THIS SECTION SHALL BE  
3 GIVEN A LIBERAL CONSTRUCTION, AND PRECISE COMPLIANCE IS NOT REQUIRED.

4       S 2. Paragraph (c) of subdivision 6 of section 20 of the town law, as  
5 added by chapter 343 of the laws of 1940, and as relettered by chapter  
6 302 of the laws of 1974, is amended to read as follows:

7       (c) (I) At least one hundred fifty days prior to any biennial town  
8 election, the town board of any town of the first class in which the  
9 appointive office of receiver of taxes and assessments shall exist, may  
10 adopt a resolution, subject to a permissive referendum, that the office  
11 of receiver of taxes and assessments shall be an elective office in such  
12 town. Every elector of the town shall be entitled to vote at any refer-  
13 endum held thereon pursuant to the provisions of article seven of this  
14 chapter. If the town board shall have adopted such a resolution and no  
15 petition shall have been filed within the time specified in article  
16 seven OF THIS CHAPTER for a referendum thereon, or, if a majority of the  
17 votes cast on any such proposition submitted pursuant to the provisions  
18 of article seven OF THIS CHAPTER be in the affirmative the office of  
19 receiver of taxes and assessments shall thereafter be an elective office  
20 in such town, and a receiver of taxes and assessments shall be elected  
21 at the succeeding biennial town election for the term provided by this  
22 chapter, beginning on the first day of January next succeeding such  
23 biennial town election and the term of office of the appointive receiver  
24 of taxes and assessments for whom such successor shall be elected shall  
25 expire on said first day of January.

26       (II) NO PETITION SHALL HAVE BEEN FILED WITHIN THE TIME SPECIFIED IN  
27 ARTICLE SEVEN OF THIS CHAPTER FOR A REFERENDUM THEREON, OR, IF A MAJORI-  
28 TY OF THE VOTES CAST ON ANY SUCH PROPOSITION SUBMITTED PURSUANT TO THE  
29 PROVISIONS OF ARTICLE SEVEN OF THIS CHAPTER BE IN THE AFFIRMATIVE THE  
30 OFFICE OF RECEIVER OF TAXES AND ASSESSMENTS SHALL THEREAFTER BE AN  
31 APPOINTIVE OFFICE IN SUCH TOWN, AND THE TOWN BOARD SHALL APPOINT A  
32 RECEIVER OF TAXES AND ASSESSMENTS FOR THE TERM PROVIDED BY THIS CHAPTER,  
33 BEGINNING ON THE FIRST DAY OF JANUARY NEXT SUCCEEDING SUCH BIENNIAL TOWN  
34 ELECTION AND THE TERM OF OFFICE OF THE ELECTIVE RECEIVER OF TAXES AND  
35 ASSESSMENTS FOR WHOM SUCH SUCCESSOR SHALL BE APPOINTED SHALL EXPIRE ON  
36 SAID FIRST DAY OF JANUARY.

37       S 3. Subdivision 1 of section 36 of the town law, as amended by chap-  
38 ter 437 of the laws of 1963, is amended to read as follows:

39       1. In any town [of the second class] in which the office of tax  
40 collector or receiver of taxes AND ASSESSMENTS exists, the town board  
41 thereof may by resolution duly adopted at least one hundred fifty days  
42 prior to any biennial town election, determine that said office be abol-  
43 ished, same to take effect at the expiration of the term of office to  
44 which the incumbent was elected or appointed; and no such tax collector  
45 or town receiver of taxes AND ASSESSMENTS shall be elected at any bien-  
46 nial town election held not less than one hundred fifty days thereafter.  
47 Upon the expiration of the term of office of such tax collector or town  
48 receiver of taxes AND ASSESSMENTS as provided [herein] IN THIS CHAPTER,  
49 he OR SHE shall surrender and deliver to the town clerk of said town all  
50 assessment rolls, books, papers, writings and all other documents and  
51 property in his OR HER possession as such officer. In all towns where  
52 the office of tax collector or receiver of taxes AND ASSESSMENTS has  
53 been abolished, it shall be the duty of such town clerk to collect and  
54 receive all state, county and town taxes and assessments that may be  
55 levied in such town and the town clerk shall have all the powers and be  
56 subject to all the duties of a collector IN A TOWN OF THE SECOND CLASS,

1 OR OF A RECEIVER OF TAXES AND ASSESSMENTS IN A TOWN OF THE FIRST CLASS  
2 with respect to the collection of such taxes, the deposit of receipts  
3 and the return of unpaid taxes, as provided by subdivision one of  
4 section thirty-five OR SECTION THIRTY-SEVEN of this [chapter] ARTICLE,  
5 AS THE CASE MAY BE.  
6 S 4. This act shall take effect immediately.