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

3455--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. MAGEE -- read once and referred to the Committee on Agriculture -- recommitted to the Committee on Agriculture in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to the powers and duties of the commissioner of agriculture and markets pertaining to the direct marketing of grapes and other fruit products, and the profitability of farming and the preservation of viable farm land; and to amend the real property tax law, in relation to a limited and partial exemption for certain structures and buildings used in the operation of wineries and distilleries

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

Section 1. Section 3 of the agriculture and markets law, as amended by chapter 651 of the laws of 1946, is amended to read as follows:

S 3. Declaration of policy and purposes. The agricultural industry is basic to the life of our state. It vitally concerns and affects the welfare, health, economic well-being and productive and industrial capabilities of all our people. It is the policy and duty of the state to promote, foster, and encourage the agricultural industry, with proper standards of living for those engaged therein; to design and establish long-range programs for its stabilization and profitable operation; to increase through education, research, regulation, and scientific means, the quantity, quality, and efficiency of its production; to improve its marketing system; to encourage adequate and skilled assistance for agricultural enterprises; to maintain at fair prices uncontrolled by speculation the instrumentalities and products of agriculture; to remove unnecessary or unfair costs and obstacles in the [transporation] *TRANSPORTATION*, storage, processing, distribution, marketing, and sale of agricultural products; to prevent frauds in the traffic therein; to

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

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promote an expanded demand for the state's agricultural products and the intelligent uses thereof by consumers as pure and wholesome food; to protect the public health and to eliminate the evils of under-nourishment; to encourage the selection and consumption of food according to sound dietary and nutritional principles; and to make our people conscious of the bond of mutual self-interest between our urban and our rural populations.

AT THE DAWN OF THE TWENTY-FIRST CENTURY, THE LEGISLATURE FINDS THAT EVER-INCREASING ECONOMIC CHANGES AND PRESSURES ON FARMING HAVE INTENSIFIED THE DIFFICULTIES FACED BY THOSE ENGAGED IN AGRICULTURAL PRODUCTION FOR THEIR LIVELIHOODS, MANY OF WHOM ARE THE DESCENDANTS OF GENERATIONS OF FARMERS. THESE POWERFUL FORCES, NATIONWIDE AND GLOBAL, HAVE INCREASED THE URGENCY OF THE PROBLEMS AND THE NEED TO IMPLEMENT THE PROVISIONS OF THE FOREGOING PARAGRAPH OF THIS SECTION. THUS, THE LEGISLATURE CONTINUES TO ENACT MEASURES DELIBERATELY INTENDED TO FULFILL THE GOALS OF SAID PARAGRAPH. THE NEED HAS NEVER BEEN GREATER.

Accordingly, all laws enacted concerning the agricultural industry and its allied subjects, whether included in this chapter or not, are to be deemed an exercise of the police power of the state and a discharge of its obligations for the promotion of the general welfare through statewide laws and regulations, local initiative and government, cooperative action between groups and localities, home-rule measures, individual enterprise, civic consciousness, and appropriate coordination with the federal government and as between educational research institutions within the state.

Such laws and all governmental measures adopted pursuant thereto should receive a liberal interpretation and application in furtherance of the aforesaid policy and purposes.

S 2. Subdivision 1 of section 16 of the agriculture and markets law, as amended by chapter 639 of the laws of 2004, is amended to read as follows:

1. Execute and carry into effect the laws of the state and the rules of the department, relative to agriculture, horticulture, farm, fruit AND FRUIT PRODUCTS, and dairy products, aquaculture, and the production, processing, transportation, storage, marketing and distributing of food; enforce and carry into effect the provisions of the laws of the state relative to weights and measures.

S 3. Subdivision 2 of section 16 of the agriculture and markets law, such section as renumbered by chapter 16 of the laws of 1935, is amended to read as follows:

2. Aid in the promotion and development of the agricultural resources of the state and the improvement of the conditions of rural life; the improvement of the fertility and productiveness of farm AND ORCHARD lands and the restoration to fertility and productiveness of unoccupied and unproductive land; the settlement of farms and the supply of farm labor; the stocking of farms with meat-producing and dairy animals and promoting the production of cereals, fruits and vegetables, AND THE PROCESSING THEREOF, and co-operate with county farm bureaus[,] and with agricultural, dairying and horticultural associations or corporations and other agencies organized for any or all of such purposes.

S 4. Subdivision 2-b of section 16 of the agriculture and markets law, as amended by chapter 639 of the laws of 2004, is amended to read as follows:

2-b. Aid in the promotion, marketing, and sale of New York state labelled wines, grapes [and], grape products, OTHER FRUITS AND ALL OTHER FRUIT PRODUCTS in cooperation with the department of economic develop-

ment both within and outside the state and to provide promotion and marketing advisement to wineries, farm wineries, micro-wineries, grape and other fruit growers and processors, and related trade organizations located within this state.

S 5. Subdivisions 5, 11 and 13 of section 283 of the agriculture and markets law, as added by chapter 834 of the laws of 1981, are amended to read as follows:

5. Provide assistance to consumer, COMMUNITY or non-profit organizations seeking to purchase or facilitate the purchase of farm products directly from producers.

11. Establish a statewide advisory council which shall provide information to and advise the commissioner, as prescribed by him OR HER, on policy, planning, and programs.

13. Undertake any other activities which he OR SHE deems necessary to accomplish the purposes of this article.

S 6. Subdivision 9 of section 284 of the agriculture and markets law, as amended by chapter 639 of the laws of 2004, is amended to read as follows:

9. Establish the Hudson valley agricultural center to serve as a marketing, promotional, informational and cultural center for the Hudson river valley agricultural region and greenway and to promote the production of fruits [(] AND FRUIT PRODUCTS, including juices, jellies, [and] preserves [made therefrom)], wine, GRAPPA AND cider, vegetables[,] and other agricultural products.

S 7. The opening paragraph and paragraph a of subdivision 3 of section 285 of the agriculture and markets law, as added by chapter 834 of the laws of 1981, are amended to read as follows:

The duties and responsibilities of the statewide advisory council shall be prescribed by the commissioner [and he], WHO may specifically delegate to the council any or all of the following duties and responsibilities:

a. [Assisting] ASSIST the commissioner in the collection and assembly of information and data necessary for the proper administration of this article.

S 8. Subdivision 2 of section 285-b of the agriculture and markets law, as amended by chapter 571 of the laws of 2008, is amended to read as follows:

2. The advisory council, in consultation with the Hudson river valley greenway communities council, the upstate New York tourism council, and the downstate New York tourism council, may recommend programs and promotional activities designed to preserve and enhance Hudson valley region tourism, INCREASE THE PROFITABLILITY OF FARMING and PRESERVE VIABLE agricultural open [space] SPACES, address issues affecting the viability of agriculture, including real property tax policies and municipal land use issues AND POLICIES, and promote greater agricultural marketing and promotional opportunities for the region's agricultural producers to the department.

S 9. The real property tax law is amended by adding a new section 483-e to read as follows:

S 483-E. EXEMPTION FROM TAXATION OF STRUCTURES AND BUILDINGS ESSENTIAL TO THE OPERATION OF WINERIES AND DISTILLERIES. 1. STRUCTURES AND BUILDINGS ESSENTIAL TO THE PROCESSING OR STORAGE OF FRUIT, AND ACTUALLY USED AND OCCUPIED TO CARRY OUT SUCH PROCESSING OR STORAGE BY ANY PERSON OR ENTITY LICENSED UNDER SECTION SIXTY OR SEVENTY-FIVE OF THE ALCOHOLIC BEVERAGE CONTROL LAW, WHICH ARE CONSTRUCTED OR RECONSTRUCTED SUBSEQUENT TO THE EFFECTIVE DATE AND INITIAL APPLICABILITY QUALIFICATION THEREOF OF

THIS SECTION SHALL BE EXEMPT FROM TAXATION TO THE EXTENT OF FIFTY PERCENT OF ANY INCREASE IN VALUE THEREOF BY REASON OF SUCH CONSTRUCTION OR RECONSTRUCTION FOR A PERIOD OF TEN YEARS.

2. THE TERM "STRUCTURES AND BUILDINGS" INCLUDES STRUCTURES AND BUILDINGS OR PORTIONS THEREOF USED DIRECTLY AND EXCLUSIVELY IN THE PROCESSING OR STORAGE OF FRUIT BY A PERSON OR ENTITY LICENSED UNDER SECTION SIXTY OR SEVENTY-FIVE OF THE ALCOHOLIC BEVERAGE CONTROL LAW TO PRODUCE OR MANUFACTURE WINE, LIQUOR, ALCOHOL OR SPIRITS, BUT DOES NOT INCLUDE STRUCTURES OR BUILDINGS WITHIN THE MEANING OF SUBDIVISION TWO OF SECTION FOUR HUNDRED EIGHTY-THREE OF THIS TITLE.

3. SUCH EXEMPTION FROM TAXATION SHALL BE GRANTED ONLY UPON AN APPLICATION BY THE OWNER OF THE BUILDING OR STRUCTURE ON A FORM PRESCRIBED BY THE STATE BOARD. THE APPLICANT SHALL FURNISH SUCH INFORMATION AS SUCH BOARD SHALL REQUIRE. SUCH APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE CITY, TOWN, VILLAGE OR COUNTY HAVING THE POWER TO ASSESS PROPERTY FOR TAXATION ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE OF SUCH CITY, TOWN, VILLAGE OR COUNTY AND WITHIN ONE YEAR FROM THE DATE OF COMPLETION OF SUCH CONSTRUCTION OR RECONSTRUCTION.

4. IF THE ASSESSOR IS SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO THIS SECTION, HE OR SHE SHALL APPROVE THE APPLICATION. SUCH STRUCTURES OR BUILDINGS SHALL BE EXEMPT FROM TAXATION AS PROVIDED IN THIS SECTION.

5. THE ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL BE ENTERED BY THE ASSESSOR ON THE PORTION OF THE ASSESSMENT ROLL PROVIDED FOR PROPERTY EXEMPT FROM TAXATION. AN EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL CONTINUE ONLY WHILE THE BUILDINGS AND STRUCTURES ARE ACTUALLY USED AND OCCUPIED AS PROVIDED FOR IN THIS SECTION, BUT IN NO EVENT FOR MORE THAN TEN YEARS.

6. IN THE EVENT THAT BUILDINGS OR STRUCTURES OR PORTIONS THEREOF USED DIRECTLY AND EXCLUSIVELY IN THE PROCESSING OR STORAGE OF FRUIT BY A PERSON OR ENTITY LICENSED UNDER SECTION SIXTY OR SEVENTY-FIVE OF THE ALCOHOLIC BEVERAGE CONTROL LAW TO PRODUCE OR MANUFACTURE WINE, LIQUOR, ALCOHOL OR SPIRITS ARE CONVERTED TO ANY OTHER USE OR CEASE TO BE SO USED DURING THE PERIOD OF AN EXEMPTION GRANTED PURSUANT TO THIS SECTION, THE STRUCTURES OR BUILDINGS OR PORTIONS THEREOF UPON WHICH THE EXEMPTION WAS GRANTED SHALL BE SUBJECT TO ROLL-BACK TAXES FOR THE PERIOD DURING WHICH THE EXEMPTION WAS OPERATIVE. STRUCTURES AND BUILDINGS SUBJECT TO ROLL-BACK TAXES SHALL BE TAXED AS PROVIDED FOR IN THIS SECTION.

(A) NOTWITHSTANDING ANY LIMITATIONS CONTAINED IN SECTION FIVE HUNDRED FIFTY OF THIS CHAPTER, THE ASSESSOR OF THE APPROPRIATE ASSESSING UNIT SHALL ENTER ON THE TAXABLE PORTION OF THE ASSESSMENT ROLL OF THE CURRENT YEAR THE ASSESSED VALUATION OR VALUATIONS OF THE STRUCTURES OR BUILDINGS ON WHICH EXEMPTION WAS GRANTED IN ANY PRIOR YEAR OR YEARS AT THE ASSESSED VALUATION OR VALUATIONS AS SET FORTH ON THE EXEMPT PORTION OF THE ASSESSMENT ROLL OR ROLLS.

(B) THE AMOUNT OF ROLL-BACK TAXES SHALL BE COMPUTED BY THE APPROPRIATE TAX LEVYING BODY BY APPLYING THE APPLICABLE TAX RATE FOR EACH SUCH PRIOR YEAR TO THE ASSESSED VALUATION, AS SET FORTH ON THE EXEMPT PORTION OF THE ASSESSMENT ROLL, FOR SUCH STRUCTURES OR BUILDINGS FOR EACH SUCH PRIOR YEAR DURING SUCH PERIOD OF EXEMPTION.

(C) SUCH ROLL-BACK TAXES SHALL BE LEVIED AND COLLECTED IN THE SAME MANNER AND AT THE SAME TIME AS OTHER TAXES ARE IMPOSED AND LEVIED ON SUCH ROLL.

7. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTION FIVE HUNDRED EIGHTY-TWO OF THIS CHAPTER, STRUCTURES AND BUILDINGS RECEIVING AN

EXEMPTION PURSUANT TO THIS SECTION SHALL BE ASSESSED PURSUANT TO SAID SECTION FIVE HUNDRED EIGHTY-TWO.

S 10. This act shall take effect immediately; provided, however, that section nine of this act shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after the first of January next succeeding the date on which it shall have become a law.