

6273

2009-2010 Regular Sessions

I N A S S E M B L Y

February 27, 2009

Introduced by M. of A. CORWIN -- read once and referred to the Committee
on Real Property Taxation

AN ACT to amend the real property tax law, in relation to establishing a
conservation easement agreement exemption in the town of Elma

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

1 Section 1. The real property tax law is amended by adding a new
2 section 491 to read as follows:
3 S 491. CONSERVATION EASEMENT AGREEMENT EXEMPTION; TOWN OF ELMA. 1.
4 APPLICABILITY. (A) IN THE TOWN OF ELMA LOCATED IN ERIE COUNTY, REAL
5 PROPERTY WHOSE INTERESTS OR RIGHTS HAVE BEEN ACQUIRED FOR THE PURPOSE OF
6 THE PRESERVATION OF AN OPEN SPACE OR AN OPEN AREA, AS AUTHORIZED IN
7 SECTION TWO HUNDRED FORTY-SEVEN OF THE GENERAL MUNICIPAL LAW, SHALL BE
8 PARTIALLY EXEMPT FROM LOCAL REAL PROPERTY TAXATION, PROVIDED THAT THE
9 OWNER OR OWNERS OF SUCH REAL PROPERTY ENTER INTO A CONSERVATION EASEMENT
10 AGREEMENT WITH THE MUNICIPALITY IN ACCORDANCE WITH THE PROCEDURES SPECI-
11 FIED IN SUBDIVISION THREE OF THIS SECTION. THE COUNTY IN WHICH THE TOWN
12 OF ELMA IS LOCATED MAY, BY LOCAL LAW, AND ANY SCHOOL DISTRICT, ALL OR
13 PART OF WHICH IS LOCATED IN SUCH TOWN, MAY, BY RESOLUTION, EXEMPT SUCH
14 PROPERTY FROM ITS TAXATION IN THE SAME MANNER AND TO THE SAME EXTENT AS
15 SUCH TOWN HAS DONE.
16 (B) THE TOWN OF ELMA MAY, BY A VOTE OF THE TOWN BOARD, OPT OUT OF THIS
17 EXEMPTION AT ANY TIME.
18 2. DEFINITIONS. FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING TERMS
19 SHALL HAVE THE FOLLOWING MEANINGS: "OPEN SPACE" OR "OPEN AREA" MEANS
20 ANY SPACE OR AREA CHARACTERIZED BY NATURAL SCENIC BEAUTY OR WHOSE EXIST-
21 ING OPENNESS, NATURAL CONDITION OR PRESENT STATE OF USE, IF RETAINED,
22 WOULD ENHANCE THE PRESENT OR POTENTIAL VALUE OF ABUTTING OR SURROUNDING
23 URBAN DEVELOPMENT OR WOULD MAINTAIN OR ENHANCE THE CONSERVATION OF
24 NATURAL OR SCENIC RESOURCES. FOR THE PURPOSES OF THIS DEFINITION,
25 "NATURAL RESOURCES" SHALL INCLUDE, BUT NOT BE LIMITED TO, AGRICULTURAL

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

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1 LANDS DEFINED AS OPEN LANDS ACTUALLY USED IN BONA FIDE AGRICULTURAL
2 PRODUCTION.

3 3. PROCEDURES FOR OBTAINING A CONSERVATION EASEMENT AGREEMENT. (A)
4 ANY OWNER OR OWNERS OF LAND MAY SUBMIT A PROPOSAL TO THE TOWN BOARD OF
5 THE TOWN OF ELMA FOR THE GRANTING OF INTEREST OR RIGHTS IN REAL PROPERTY
6 FOR THE PRESERVATION OF OPEN SPACE OR AREAS. SUCH PROPOSAL SHALL BE
7 SUBMITTED IN SUCH A MANNER AND FORM AS MAY BE PRESCRIBED BY THE CONSER-
8 VATION BOARD OF SUCH TOWN.

9 (B) UPON RECEIPT OF SUCH PROPOSAL, THE TOWN BOARD SHALL CONVEY THE
10 PROPOSAL TO THE CONSERVATION BOARD OF SUCH TOWN. SUCH CONSERVATION BOARD
11 SHALL INVESTIGATE THE AREA TO DETERMINE IF THE PROPOSAL WOULD BE OF
12 BENEFIT TO THE PEOPLE OF THE TOWN OF ELMA AND MAY NEGOTIATE THE TERMS
13 AND CONDITIONS OF THE OFFER. IF THE CONSERVATION BOARD DETERMINES THAT
14 IT IS IN THE PUBLIC INTEREST TO ACCEPT SUCH PROPOSAL, IT SHALL RECOMMEND
15 TO THE TOWN BOARD THAT IT HOLD A PUBLIC HEARING FOR THE PURPOSE OF
16 DETERMINING WHETHER OR NOT THE TOWN OF ELMA SHOULD ACCEPT SUCH PROPOSAL.

17 (C) THE TOWN BOARD SHALL, WITHIN THIRTY DAYS OF RECEIPT OF SUCH ADVI-
18 SORY OPINION, HOLD A PUBLIC HEARING CONCERNING SUCH PROPOSAL AT A PLACE
19 WITHIN THE TOWN OF ELMA. AT LEAST TEN DAYS NOTICE OF THE TIME AND PLACE
20 OF SUCH HEARING SHALL BE PUBLISHED IN A PAPER OF GENERAL CIRCULATION IN
21 SUCH TOWN, AND A WRITTEN NOTICE OF SUCH PROPOSAL SHALL BE GIVEN TO ALL
22 ADJACENT PROPERTY OWNERS AND TO ANY MUNICIPALITY WHOSE BOUNDARIES ARE
23 WITHIN FIVE HUNDRED FEET OF THE BOUNDARIES OF SAID PROPOSED AREA, AND TO
24 THE SCHOOL DISTRICT IN WHICH IT IS LOCATED.

25 (D) THE TOWN BOARD, AFTER RECEIVING THE REPORTS OF THE CONSERVATION
26 BOARD OF THE TOWN OF ELMA, AND AFTER SUCH PUBLIC HEARING, MAY ADOPT THE
27 PROPOSAL OR ANY MODIFICATION THEREOF IT DEEMS APPROPRIATE OR MAY REJECT
28 IT IN ITS ENTIRETY.

29 (E) IF SUCH PROPOSAL IS ADOPTED BY THE TOWN BOARD, IT SHALL BE
30 EXECUTED BY THE OWNER OR OWNERS IN WRITTEN FORM AND IN A FORM SUITABLE
31 FOR RECORDING IN THE COUNTY CLERK'S OFFICE.

32 (F) SUCH AGREEMENT MAY NOT BE CANCELED BY EITHER PARTY. HOWEVER, THE
33 OWNER OR OWNERS THEREOF MAY PETITION THE TOWN BOARD FOR CANCELLATION
34 UPON GOOD CAUSE SHOWN, AND SUCH CANCELLATION MAY BE GRANTED ONLY UPON
35 PAYMENT OF THE PENALTIES PROVIDED IN THIS SECTION.

36 4. COMPUTATION. (A) AN EXEMPTION GRANTED PURSUANT TO THIS SECTION
37 SHALL COMMENCE AS OF THE EFFECTIVE DATE OF THE CONSERVATION EASEMENT
38 AGREEMENT, AND SHALL TERMINATE UPON THE EXPIRATION OR TERMINATION OF
39 SUCH CONSERVATION EASEMENT AGREEMENT.

40 (B) THE FOLLOWING TABLE SHALL ILLUSTRATE THE COMPUTATION OF THE
41 EXEMPTION:

42 COMMITMENT	PERCENTAGE OF EXEMPTION
43 15 TO 29 YEARS	50%
44 30 TO 49 YEARS	75%
45 50 TO 75 YEARS	85%
46 PERPETUAL	90%

47 SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OR
48 OWNERS OF SUCH REAL PROPERTY ON A FORM PRESCRIBED BY THE STATE BOARD.
49 SUCH APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE TOWN OF ELMA ON
50 OR BEFORE THE TAXABLE STATUS DATE OF SUCH TOWN.

51 (C) IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSU-
52 ANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH
53 REAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD
54 VALOREM LEVIES AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESS-
55 MENT ROLL PREPARED ON THE BASIS OF THE TAXABLE STATUS DATE. THE
56 ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL

1 BE ENTERED BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE PROP-
2 ERTY, WITH THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

3 (D) WHENEVER A CONSERVATION EASEMENT ENCUMBERS ONLY A PORTION OF A
4 PARCEL, THE ASSESSOR SHALL HENCEFORTH ENTER THAT PORTION OF THE PARCEL
5 ENCUMBERED BY SUCH EASEMENT AS A SEPARATE PARCEL ON ALL SUBSEQUENT
6 ASSESSMENT ROLLS.

7 5. PENALTIES FOR OFFENSES. IF THERE IS A VIOLATION OF THE TERMS AND
8 CONDITIONS OF THE CONSERVATION EASEMENT AGREEMENT OR IF SUCH CONSERVA-
9 TION EASEMENT AGREEMENT IS CANCELED BY THE TOWN BOARD UPON PETITION,
10 THEN THE OWNER OR OWNERS OF SUCH PROPERTY MUST PAY TO THE TOWN OF ELMA,
11 THE FOLLOWING AMOUNTS:

12 (A) ALL TAXES ABATED PURSUANT TO THE CONSERVATION EASEMENT AGREEMENT,
13 AS LIMITED BY THE REMAINDER OF THIS SECTION, INCLUDING, IF APPLICABLE,
14 THOSE TAXES IMPOSED BY THE COUNTY, TOWN, SCHOOL DISTRICTS AND ALL
15 SPECIAL IMPROVEMENT DISTRICTS AND OTHER TAXING UNITS TO WHICH THE PROP-
16 ERTY IS SUBJECT. REPAYMENT OF THE AFOREMENTIONED ABATED TAXES SHALL BE
17 EQUAL TO FIVE TIMES THE TAXES SAVED IN THE LAST YEAR IN WHICH THE LAND
18 BENEFITED FROM A CONSERVATION EASEMENT AGREEMENT EXEMPTION, PLUS INTER-
19 EST OF SIX PERCENT PER YEAR COMPOUNDED ANNUALLY FOR EACH YEAR IN WHICH
20 AN EXEMPTION WAS GRANTED, NOT EXCEEDING FIVE YEARS.

21 (B) PAYMENTS SHALL BE ADDED BY OR ON BEHALF OF EACH TAXING JURISDIC-
22 TION TO THE TAXES LEVIED ON THE ASSESSMENT ROLL PREPARED ON THE BASIS OF
23 THE FIRST TAXABLE STATUS DATE AFTER THERE IS A VIOLATION OF THE TERMS
24 AND CONDITIONS OF THE CONSERVATION EASEMENT OR SUCH CONSERVATION EASE-
25 MENT AGREEMENT IS CANCELED.

26 S 2. This act shall take effect immediately.