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

7205--A

2009-2010 Regular Sessions

I N  A S S E M B L Y

March 26, 2009

Introduced by M. of A. BALL -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means 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 tax law, the general municipal law, the real property tax law and the agriculture and markets law, in relation to the establishment of a working farmland property tax credit for owners of agricultural assessment land within agricultural districts

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

Section 1. Legislative intent. The legislature hereby finds, determines and declares that the New York agriculture industry has a substantial impact on the overall economic health and well-being of the state. The state constitution provides that the policy of the state shall be to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. The activities of farmers and the protection of viable farmland provide many environmental benefits to society, such as open space, scenic vistas, wetlands that aid in water purification, plants that purify air, and food, water and habitat for people, domestic animals and wildlife. Therefore, it is in the public interest to encourage the maintenance of existing farmland and agricultural lands for farming purposes, thereby helping to ensure the continued economic viability of farm operations.

S 2. Section 210 of the tax law is amended by adding a new subdivision 22-a to read as follows:

22-A. WORKING FARMLAND PROPERTY TAX CREDIT. (A) GENERAL. IN THE CASE OF A TAXPAYER THAT OWNS AGRICULTURAL ASSESSMENT LAND WHICH IS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT ESTABLISHED PURSUANT TO ARTICLE EIGHTEEN-D OF THE GENERAL MUNICIPAL LAW AND AN AGRICULTURAL DISTRICT ESTABLISHED PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRICUL-

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

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TURE AND MARKETS LAW, AND THE TAXPAYER HAS EXECUTED A COVENANT TO RESTRICT THE USE OF SUCH LAND PURSUANT TO SECTION NINE HUNDRED SEVENTY-TWO-G OF THE GENERAL MUNICIPAL LAW, THERE SHALL BE ALLOWED A CREDIT FOR THE SCHOOL DISTRICT, TOWN AND COUNTY PROPERTY TAXES PAID DURING THE TAXABLE YEAR ON SUCH LAND; PROVIDED, HOWEVER, THAT THE AMOUNT OF THE CREDIT SHALL BE LIMITED TO THE TAXES PAID ON THE AGRICULTURAL ASSESSMENT VALUE OF SUCH LAND AS CALCULATED BY THE ASSESSOR PURSUANT TO SECTION THREE HUNDRED FIVE OR THREE HUNDRED SIX OF THE AGRICULTURE AND MARKETS LAW. IN THE EVENT THAT AGRICULTURAL ASSESSMENT LAND IS REMOVED FROM AN AGRICULTURAL DISTRICT PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW, A TAXPAYER THAT OWNS SUCH LAND SHALL CONTINUE TO BE ELIGIBLE FOR THE CREDIT PROVIDED BY THIS SUBDIVISION FOR THE REMAINDER OF THE TERM OF THE EIGHT YEAR COVENANT.

(B) SCHOOL DISTRICT PROPERTY TAXES. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "SCHOOL DISTRICT PROPERTY TAXES" MEANS ALL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENALTIES AND INTEREST, LEVIED FOR SCHOOL DISTRICT PURPOSES ON THE AGRICULTURAL ASSESSMENT LAND OWNED BY THE TAXPAYER.

(C) TOWN AND COUNTY PROPERTY TAXES. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "TOWN AND COUNTY PROPERTY TAXES" MEANS ALL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENALTIES AND INTEREST, LEVIED FOR TOWN AND COUNTY PURPOSES ON THE AGRICULTURAL ASSESSMENT LAND OWNED BY THE TAXPAYER.

(D) AGRICULTURAL ASSESSMENT LAND. THE TERM "AGRICULTURAL ASSESSMENT LAND" MEANS LAND WHICH RECEIVES OR IS ELIGIBLE TO RECEIVE AN AGRICULTURAL ASSESSMENT FOR THE TAXABLE YEAR PURSUANT TO SECTION THREE HUNDRED FIVE OR THREE HUNDRED SIX OF THE AGRICULTURE AND MARKETS LAW. AGRICULTURAL ASSESSMENT LAND ALSO INCLUDES LAND SET ASIDE OR RETIRED UNDER A FEDERAL SUPPLY MANAGEMENT OR SOIL CONSERVATION PROGRAM.

(E) NONQUALIFIED USE OF AGRICULTURAL ASSESSMENT LAND. (1) NO CREDIT IN CONVERSION YEAR. IN THE EVENT THAT AGRICULTURAL ASSESSMENT LAND, OR ANY PORTION OF SUCH LAND, IS CONVERTED TO NONQUALIFIED USE, CREDIT UNDER THIS SUBDIVISION SHALL NOT BE ALLOWED WITH RESPECT TO SUCH PROPERTY FOR THE TAXABLE YEAR OF CONVERSION (THE CONVERSION YEAR).

(2) CREDIT RECAPTURE. IF THE CONVERSION OF AGRICULTURAL ASSESSMENT LAND, OR ANY PORTION OF SUCH LAND, TO NONQUALIFIED USE OCCURS DURING THE PERIOD OF THE EIGHT TAXABLE YEARS FOLLOWING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER THIS SUBDIVISION WAS LAST CLAIMED WITH RESPECT TO SUCH PROPERTY, THE CREDITS ALLOWED WITH RESPECT TO SUCH PROPERTY FOR THE TAXABLE YEARS PRIOR TO THE CONVERSION YEAR, MULTIPLIED BY TWO HUNDRED PERCENT, MUST BE ADDED BACK IN THE CONVERSION YEAR.

(3) EXCEPTION TO RECAPTURE. SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL NOT APPLY TO THE CONVERSION OF LAND WHERE THE CONVERSION IS BY REASON OF INVOLUNTARY CONVERSION, WITHIN THE MEANING OF SECTION ONE THOUSAND THIRTY-THREE OF THE INTERNAL REVENUE CODE.

(4) CONVERSION TO NONQUALIFIED USE. FOR PURPOSES OF THIS PARAGRAPH, CONVERSION TO NONQUALIFIED USE SHALL MEAN THAT SUCH LAND IS CONVERTED TO A USE WHICH WOULD DISQUALIFY SUCH LAND FOR AN AGRICULTURAL ASSESSMENT UNDER SECTION THREE HUNDRED FIVE OR THREE HUNDRED SIX OF THE AGRICULTURE AND MARKETS LAW.

(F) IN NO EVENT SHALL THE CREDIT PROVIDED IN THIS SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (B) AND (C) OF SUBDIVISION ONE OF THIS SECTION. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE

CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. PROVIDED, HOWEVER, IN LIEU OF CARRYING OVER THE UNUSED PORTION OF SUCH CREDIT, THE TAXPAYER MAY ELECT TO TREAT SUCH UNUSED PORTION AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TEN HUNDRED EIGHTY-SIX OF THIS CHAPTER EXCEPT THAT NO INTEREST SHALL BE PAID ON SUCH OVERPAYMENT.

(G) A TAXPAYER SHALL REDUCE CREDITS CLAIMED UNDER THIS SUBDIVISION BY ANY CREDITS CLAIMED UNDER SUBDIVISION TWENTY-TWO OF THIS SECTION FOR THE TAXABLE YEAR.

S 3. Section 606 of the tax law is amended by adding a new subsection (n-1) to read as follows:

(N-1) WORKING FARMLAND PROPERTY TAX CREDIT. (1) GENERAL. IN THE CASE OF A TAXPAYER THAT OWNS AGRICULTURAL ASSESSMENT LAND WHICH IS LOCATED IN AN AGRICULTURAL DISTRICT ESTABLISHED PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW, AND THE TAXPAYER HAS EXECUTED A COVENANT TO RESTRICT THE USE OF SUCH LAND PURSUANT TO SECTION NINE HUNDRED SEVENTY-TWO-G OF THE GENERAL MUNICIPAL LAW, THERE SHALL BE ALLOWED A CREDIT FOR THE SCHOOL DISTRICT, TOWN AND COUNTY PROPERTY TAXES PAID DURING THE TAXABLE YEAR ON SUCH LAND; PROVIDED, HOWEVER, THAT THE AMOUNT OF THE CREDIT SHALL BE LIMITED TO THE TAXES PAID ON THE AGRICULTURAL ASSESSMENT VALUE OF SUCH LAND AS CALCULATED BY THE ASSESSOR PURSUANT TO SECTION THREE HUNDRED FIVE OR THREE HUNDRED SIX OF THE AGRICULTURE AND MARKETS LAW. SUCH CREDIT SHALL BE ALLOWED AGAINST THE TAXES IMPOSED BY THIS ARTICLE FOR THE TAXABLE YEAR REDUCED BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX AS SO REDUCED, THE TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, THE AMOUNT OF SUCH EXCESS. IN THE EVENT THAT AGRICULTURAL ASSESSMENT LAND IS REMOVED FROM AN AGRICULTURAL DISTRICT, A TAXPAYER THAT OWNS SUCH LAND SHALL CONTINUE TO BE ELIGIBLE FOR THE CREDIT PROVIDED BY THIS SUBDIVISION FOR THE REMAINDER OF THE TERM OF THE EIGHT YEAR COVENANT.

(2) SCHOOL DISTRICT PROPERTY TAXES. FOR PURPOSES OF THIS SUBSECTION, THE TERM "SCHOOL DISTRICT PROPERTY TAXES" MEANS ALL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENALTIES AND INTEREST, LEVIED FOR SCHOOL DISTRICT PURPOSES ON THE AGRICULTURAL ASSESSMENT LAND OWNED BY THE TAXPAYER.

(3) TOWN AND COUNTY PROPERTY TAXES. FOR PURPOSES OF THIS SUBSECTION, THE TERM "TOWN AND COUNTY PROPERTY TAXES" MEANS ALL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENALTIES AND INTEREST, LEVIED FOR TOWN AND COUNTY PURPOSES ON THE AGRICULTURAL ASSESSMENT LAND OWNED BY THE TAXPAYER.

(4) AGRICULTURAL ASSESSMENT LAND. THE TERM "AGRICULTURAL ASSESSMENT LAND" MEANS LAND WHICH RECEIVES OR IS ELIGIBLE TO RECEIVE AN AGRICULTURAL ASSESSMENT FOR THE TAXABLE YEAR PURSUANT TO SECTION THREE HUNDRED FIVE OR THREE HUNDRED SIX OF THE AGRICULTURE AND MARKETS LAW. AGRICULTURAL ASSESSMENT LAND ALSO INCLUDES LAND SET ASIDE OR RETIRED UNDER A FEDERAL SUPPLY MANAGEMENT OR SOIL CONSERVATION PROGRAM.

(5) NONQUALIFIED USE OF AGRICULTURAL ASSESSMENT LAND. (A) NO CREDIT IN CONVERSION YEAR. IN THE EVENT THAT AGRICULTURAL ASSESSMENT LAND, OR ANY PORTION OF SUCH LAND, IS CONVERTED TO NONQUALIFIED USE, CREDIT UNDER THIS SUBSECTION SHALL NOT BE ALLOWED WITH RESPECT TO SUCH LAND FOR THE TAXABLE YEAR OF CONVERSION (THE CONVERSION YEAR).

(B) CREDIT RECAPTURE. IF THE CONVERSION OF AGRICULTURAL ASSESSMENT LAND, OR ANY PORTION OF SUCH LAND, TO NONQUALIFIED USE OCCURS DURING THE PERIOD OF THE EIGHT TAXABLE YEARS FOLLOWING THE TAXABLE YEAR FOR WHICH

THE CREDIT UNDER THIS SUBSECTION WAS LAST CLAIMED WITH RESPECT TO SUCH LAND, THE CREDITS ALLOWED WITH RESPECT TO SUCH LAND FOR THE TAXABLE YEARS PRIOR TO THE CONVERSION YEAR, MULTIPLIED BY TWO HUNDRED PERCENT, MUST BE ADDED BACK IN THE CONVERSION YEAR.

(C) EXCEPTION TO RECAPTURE. SUBPARAGRAPH (B) OF THIS PARAGRAPH SHALL NOT APPLY TO THE CONVERSION OF LAND WHERE THE CONVERSION IS BY REASON OF INVOLUNTARY CONVERSION, WITHIN THE MEANING OF SECTION ONE THOUSAND THIRTY-THREE OF THE INTERNAL REVENUE CODE.

(D) CONVERSION TO NONQUALIFIED USE. FOR PURPOSES OF THIS PARAGRAPH, CONVERSION TO NONQUALIFIED USE SHALL MEAN THAT SUCH LAND IS CONVERTED TO A USE WHICH WOULD DISQUALIFY SUCH PROPERTY FOR AN AGRICULTURAL ASSESSMENT UNDER SECTION THREE HUNDRED FIVE OR THREE HUNDRED SIX OF THE AGRICULTURE AND MARKETS LAW.

(6) A TAXPAYER SHALL REDUCE CREDITS CLAIMED UNDER THIS SUBSECTION BY ANY CREDITS CLAIMED UNDER SUBSECTION (N) OF THIS SECTION FOR THE TAXABLE YEAR.

S 4. The general municipal law is amended by adding a new article 18-D to read as follows:

ARTICLE 18-D

NEW YORK STATE WORKING FARMLAND PROPERTY TAX CREDIT



S 972. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "NEW YORK STATE WORKING FARMLAND PROPERTY TAX CREDIT ACT".

S 972-A. STATEMENT OF LEGISLATIVE FINDINGS AND DECLARATION. IT IS HEREBY FOUND AND DECLARED THAT THE CONSERVATION AND PROTECTION OF AGRICULTURAL LANDS, AND THE PROMOTION OF AGRICULTURE AS A VITAL LOCAL RESOURCE IS OF STATEWIDE CONCERN. IT IS THE PUBLIC POLICY OF THE STATE TO CONSERVE, PROTECT AND ENCOURAGE THE DEVELOPMENT AND IMPROVEMENT OF ITS AGRICULTURAL LAND FOR PRODUCTION OF FOOD AND OTHER AGRICULTURAL PRODUCTS. IT IS ALSO THE DECLARED POLICY OF THE STATE TO CONSERVE AND PROTECT AGRICULTURAL LANDS AS VALUED NATURAL AND ECOLOGICAL RESOURCES WHICH PROVIDE NEEDED OPEN SPACES FOR CLEAN AIR SHEDS, AS WELL AS FOR AESTHETIC PURPOSES. IN ORDER TO ACCOMPLISH THESE GOALS IN THE CONTEXT OF LOCAL PLANNING AND LAND USE DECISION-MAKING, IT IS DECLARED TO BE IN THE INTEREST OF THE STATE TO ESTABLISH AUTHORITY AT THE TOWNSHIP LEVEL TO DESIGNATE THE TOWN AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT TO PROVIDE INCENTIVES AND OTHERWISE ASSIST LANDOWNERS AND TOWNS TO MUTUALLY ACHIEVE THESE GOALS.

S 972-B. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT:

(A) "APPLICANT" SHALL MEAN THE COUNTY SUBMITTING AN APPLICATION IN THE MANNER AUTHORIZED BY THIS ARTICLE FOR DESIGNATION OF AN AREA AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT.

(B) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF AGRICULTURE AND MARKETS.

(C) "WORKING FARMLAND PROPERTY TAX CREDIT" SHALL MEAN A COUNTY WITHIN THE STATE THAT HAS BEEN DESIGNATED AS ELIGIBLE FOR A WORKING FARMLAND PROPERTY TAX CREDIT PURSUANT TO THIS ARTICLE.

(D) "COUNTY AGRICULTURAL AND FARMLAND PROTECTION PLAN" SHALL MEAN A PLAN THAT HAS BEEN ADOPTED BY A COUNTY LEGISLATIVE BODY PURSUANT TO SECTION THREE HUNDRED TWENTY-FOUR OF THE AGRICULTURE AND MARKETS LAW.

(E) "AGRICULTURAL AND FARMLAND PROTECTION BOARD" SHALL MEAN A COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD ESTABLISHED PURSUANT TO SECTION THREE HUNDRED TWO OF THE AGRICULTURE AND MARKETS LAW.

(F) "AGRICULTURAL ASSESSMENT LAND" SHALL MEAN LAND WHICH RECEIVES OR IS ELIGIBLE TO RECEIVE AN AGRICULTURAL ASSESSMENT FOR THE TAXABLE YEAR PURSUANT TO SECTION THREE HUNDRED FIVE OR THREE HUNDRED SIX OF THE AGRICULTURE AND MARKETS LAW. AGRICULTURAL ASSESSMENT LAND ALSO INCLUDES LAND SET ASIDE OR RETIRED UNDER A FEDERAL SUPPLY MANAGEMENT OR SOIL CONSERVATION PROGRAM.

S 972-C. ELIGIBILITY CRITERIA FOR WORKING FARMLAND PROPERTY TAX CREDIT. FOR DESIGNATION AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT, A COUNTY SHALL ADOPT A COUNTY AGRICULTURAL AND FARMLAND PROTECTION PLAN PURSUANT TO SECTION THREE HUNDRED TWENTY-FOUR OF THE AGRICULTURE AND MARKETS LAW OR ITS EQUIVALENT AS DETERMINED BY THE COMMISSIONER.

S 972-D. ELIGIBILITY CRITERIA FOR APPROVAL OF COUNTY AGRICULTURAL AND FARMLAND PROTECTION PLANS. COUNTY AGRICULTURAL AND FARMLAND PROTECTION PLANS ADOPTED BY A COUNTY LEGISLATIVE BODY PURSUANT TO THIS ARTICLE SHALL COMPLY WITH SECTION THREE HUNDRED TWENTY-FOUR OF THE AGRICULTURE AND MARKETS LAW AND SHALL INCLUDE BUT NOT BE LIMITED TO:

(A) THE LOCATION OF ANY LAND OR AREAS PROPOSED TO BE PROTECTED;

(B) AN ANALYSIS OF THE FOLLOWING FACTORS CONCERNING ANY AREAS AND LANDS PROPOSED TO BE PROTECTED:

(I) VALUE TO THE AGRICULTURAL ECONOMY OF THE COUNTY;

(II) OPEN SPACE VALUE;

(III) CONSEQUENCES OF POSSIBLE CONVERSION; AND

(IV) LEVEL OF CONVERSION PRESSURE ON THE LANDS OR AREAS PROPOSED TO BE PROTECTED;

(C) AN EVALUATION OF THE EFFECT OF COUNTY PROGRAMS AND POLICIES ON THE VIABILITY OF FARM OPERATIONS AND THE AVAILABILITY OF LAND FOR AGRICULTURAL PRODUCTION;

(D) A DESCRIPTION OF THE ACTIVITIES, PROGRAMS AND STRATEGIES INTENDED TO BE USED BY THE COUNTY TO PROMOTE CONTINUED AGRICULTURAL USE.

S 972-E. POWERS AND DUTIES OF THE COMMISSIONER. THE COMMISSIONER SHALL:

(A) PROMULGATE REGULATIONS GOVERNING THE CRITERIA OF ELIGIBILITY FOR WORKING FARMLAND PROPERTY TAX CREDIT DESIGNATION AND THE APPLICATION PROCESS;

(B) RECEIVE AND REVIEW APPLICATIONS FOR DESIGNATION OF COUNTIES AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT;

(C) REVIEW THE STATUS OF ANY COUNTY PREVIOUSLY DESIGNATED AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT; AND

(D) FILE NOTICE OF THE DESIGNATION OR REVOCATION OF ELIGIBILITY OF A COUNTY FOR THE WORKING FARMLAND PROPERTY TAX CREDIT WITH THE APPLICANT, THE DEPARTMENT OF TAXATION AND FINANCE AND THE STATE BOARD OF REAL PROPERTY SERVICES.

S 972-F. APPLICATION FOR ELIGIBILITY FOR DESIGNATION AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT. (A) A COUNTY LEGISLATIVE BODY

MAY ADOPT A RESOLUTION AUTHORIZING THE TOWN TO PREPARE AND SUBMIT AN APPLICATION TO THE COMMISSIONER FOR DESIGNATION OF THE COUNTY AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT; AND THE ADOPTION OF SUCH RESOLUTION BY THE COUNTY SHALL BE A PREREQUISITE TO THE SUBMISSION OF AN APPLICATION FOR SUCH DESIGNATION. SUCH RESOLUTION SHALL INCLUDE A DESCRIPTION OF SUCH AREA INCLUDING THE TAX MAP IDENTIFICATION NUMBERS FOR ALL PARCELS THAT WOULD BE ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT.

(B) EACH APPLICATION SHALL:

(I) BE PREPARED IN A MANNER AND FORM PRESCRIBED BY REGULATIONS PROMULGATED BY THE COMMISSIONER, AND SHALL INCLUDE WRITTEN CONFIRMATION BY THE COUNTY LEGISLATIVE BODY VERIFYING THAT THE INFORMATION CONTAINED IN THE APPLICATION IS ACCURATE AND COMPLETE TO THE BEST OF HIS OR HER KNOWLEDGE;

(II) INCLUDE EVIDENCE OF THE ADOPTION OF A COUNTY AGRICULTURAL AND FARMLAND PROTECTION PLAN OR ITS EQUIVALENT, WHICH HAS BEEN PREPARED IN A MANNER AND FORM PRESCRIBED BY REGULATIONS PROMULGATED BY THE COMMISSIONER, BY THE GOVERNING BODY OF THE COUNTY WHICH IS APPLYING FOR DESIGNATION AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT;

(III) INCLUDE A TAX MAP OR OTHER MAP OF THE COUNTY WHICH SETS FORTH THE TAX MAP NUMBERS OF ALL PARCELS OF LAND THAT WOULD BE ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT; AND

(IV) INCLUDE A COPY OF THE REPORT OF THE COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD.

(C) WITHIN NINETY DAYS AFTER RECEIPT OF WRITTEN NOTICE FROM THE COMMISSIONER THAT AN APPLICATION FOR DESIGNATION AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT HAS BEEN APPROVED, THE COUNTY LEGISLATIVE BODY SHALL COMMENCE THE PROCESS TO ADOPT A COMPREHENSIVE PLAN, OR AMEND AN EXISTING COMPREHENSIVE PLAN, PURSUANT TO SECTION TWO HUNDRED THIRTY-NINE-D OF THIS CHAPTER, TO INCLUDE THE COUNTY AGRICULTURAL AND FARMLAND PROTECTION PLAN WHICH HAS BEEN ADOPTED BY THE COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD AND APPROVED BY THE COMMISSIONER PURSUANT TO THIS SECTION. THE WORKING FARMLAND PROPERTY TAX CREDIT SHALL NOT BE EFFECTIVE UNLESS THE COUNTY'S COMPREHENSIVE PLAN, OR AMENDMENT OF SUCH PLAN, INCLUDES SUCH AGRICULTURAL AND FARMLAND PROTECTION PLAN. THE WORKING FARMLAND PROPERTY TAX CREDIT SHALL BE EFFECTIVE FOR THE TAX YEAR IMMEDIATELY UPON THE ADOPTION OF THE COUNTY'S COMPREHENSIVE PLAN, OR AMENDMENT OF SUCH PLAN, WHICH INCLUDES THE AGRICULTURAL AND FARMLAND PROTECTION PLAN.

(D) WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE WORKING FARMLAND PROPERTY TAX CREDIT, THE COUNTY CLERK SHALL RECORD A COPY OF THE TAX MAP OR OTHER MAP OF THE PARCELS THAT WOULD BE ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT AS APPROVED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE.

S 972-G. REVIEW OF WORKING FARMLAND DESIGNATION. (A) THE COUNTY LEGISLATIVE BODY MAY, BY RESOLUTION, SUBMIT TO THE COMMISSIONER ONCE EVERY EIGHT YEARS A REQUEST TO REVIEW AN EXISTING WORKING FARMLAND DESIGNATION. THE RESOLUTION SHALL INCLUDE THE REASONS AND JUSTIFICATION FOR THE PROPOSED REVIEW ALONG WITH THE TAX MAP OR OTHER MAP OF THE ELIGIBLE PARCELS. THE COMMISSIONER SHALL REVIEW THE DESIGNATION SUBJECT TO THE FOLLOWING PROVISIONS:

(I) THE COMMISSIONER SHALL DETERMINE WHETHER A CHANGE IN CIRCUMSTANCES HAS OCCURRED SINCE THE DESIGNATION OF ELIGIBILITY WHICH MAKES THE COUNTY NO LONGER ELIGIBLE.

(II) ANY DESIGNATION OF A COUNTY AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT SHALL REMAIN IN EFFECT FOR A MINIMUM OF THREE YEARS FROM THE EFFECTIVE DATE OF THE DESIGNATION.

(B) ANY REQUEST BY A COUNTY LEGISLATIVE BODY TO REMOVE THE COUNTY AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT MUST INCLUDE PROOF THAT THE COUNTY PROVIDED PUBLIC NOTICE OF SUCH PROPOSED REMOVAL, PROVIDED INDIVIDUAL NOTICE IN WRITING TO PERSONS, AS LISTED ON THE MOST RECENT ASSESSMENT ROLLS, WHOSE LAND IS THE SUBJECT OF THE PROPOSED REMOVAL AND HELD A PUBLIC HEARING AT LEAST THIRTY DAYS PRIOR TO THE REQUEST TO THE COMMISSIONER.

(C) PRIOR TO SUBMISSION TO THE COMMISSIONER OF THE RESOLUTION TO REMOVE THE COUNTY AS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT, THE COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD SHALL, WITHIN FORTY-FIVE DAYS REPORT TO THE COUNTY LEGISLATIVE BODY ITS RECOMMENDATIONS CONCERNING THE PROPOSED REMOVAL OF ELIGIBILITY. THE COUNTY LEGISLATIVE BODY SHALL PROVIDE A COPY OF THE REPORT, OR, IN THE EVENT THAT NO REPORT IS PROVIDED BY THE COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD, A STATEMENT OF THE FACTS AND CIRCUMSTANCES CONCERNING THE COUNTY LEGISLATIVE BODY'S REFERRAL TO THE COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD, TO THE COMMISSIONER.

(D) UPON THE REMOVAL OF ELIGIBILITY FOR THE WORKING FARMLAND PROPERTY TAX CREDIT AS PROVIDED IN THIS SECTION, THE COMMISSIONER SHALL FILE NOTICE OF SUCH ACTION AS REQUIRED BY SECTION NINE HUNDRED SEVENTY-TWO-E OF THIS ARTICLE.

(E) WITHIN THIRTY DAYS AFTER RECEIPT OF WRITTEN NOTICE FROM THE COMMISSIONER THAT A REQUEST FOR REMOVAL OF THE WORKING FARMLAND PROPERTY TAX CREDIT HAS BEEN APPROVED, THE COUNTY CLERK SHALL RECORD SUCH NOTICE RELATING TO THE PARCELS SO AFFECTED.

S 972-H. RESTRICTION OF LANDS TO AGRICULTURAL USES. (A) ANY COUNTY WHICH IS ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT PURSUANT TO THIS ARTICLE SHALL UTILIZE A COVENANT OR DEED RESTRICTION WITH THE LANDOWNER TO LIMIT THE USE OF AGRICULTURAL ASSESSMENT LAND FOR THE PURPOSE OF PRESERVING SUCH LAND SUBJECT TO THE CONDITIONS SET FORTH IN THE COVENANT AND IN THIS ARTICLE. THE OWNER OF SUCH LAND SHALL FURNISH THE COUNTY WITH SUCH INFORMATION AS THE COUNTY SHALL REQUIRE IN ORDER TO ENABLE IT TO DETERMINE THE ELIGIBILITY OF THE LAND INVOLVED.

(B) IF SUCH A COVENANT IS MADE WITH ANY LANDOWNER, THE COUNTY SHALL OFFER SUCH A COVENANT UNDER SIMILAR TERMS TO EVERY OTHER OWNER OF AGRICULTURAL ASSESSMENT LAND LOCATED IN AN AGRICULTURAL DISTRICT IN THE COUNTY.

(C) EVERY COVENANT SHALL PROVIDE FOR THE EXCLUSION OF USES OTHER THAN AGRICULTURAL, AND OTHER THAN THOSE COMPATIBLE WITH AGRICULTURAL USES, FOR THE DURATION OF THE COVENANT AND BE BINDING UPON, AND INURE TO THE BENEFIT OF, ALL SUCCESSORS IN INTEREST OF THE OWNER.

(D) EACH COVENANT SHALL BE FOR A TERM OF EIGHT YEARS AND SHALL AUTOMATICALLY BE RENEWED EACH YEAR UNLESS THE LANDOWNER FILES NOTICE WITH THE COUNTY CLERK.

(E) NO LATER THAN TWENTY DAYS AFTER A COUNTY ENTERS INTO A COVENANT WITH A LANDOWNER PURSUANT TO THIS SECTION, THE COUNTY CLERK SHALL RECORD THE COVENANT, WHICH SHALL DESCRIBE THE LAND SUBJECT THERETO, INCLUDING THE TAX MAP IDENTIFICATION NUMBER OR NUMBERS FOR SUCH LAND, TOGETHER WITH A REFERENCE TO THE MAP SHOWING THE LOCATION OF THE AGRICULTURAL DISTRICT IN WHICH THE PROPERTY LIES. FROM AND AFTER THE TIME OF SUCH RECORDATION SUCH COVENANT SHALL IMPART SUCH NOTICE THEREOF TO ALL PERSONS AS IS AFFORDED BY THE RECORDING LAWS OF THIS STATE.

(F) THE COUNTY MAY BRING ANY ACTION IN COURT NECESSARY TO ENFORCE ANY COVENANT, INCLUDING, BUT NOT LIMITED TO, AN ACTION TO ENFORCE THE COVENANT BY INJUNCTION.

S 972-I. ANNUAL REPORT. EACH COUNTY WHICH BECOMES ELIGIBLE FOR THE WORKING FARMLAND PROPERTY TAX CREDIT ESTABLISHED PURSUANT TO THIS ARTICLE SHALL EVERY EIGHT YEARS FILE WITH THE COMMISSIONER, THE COMMISSIONER OF TAXATION AND FINANCE AND THE STATE BOARD OF REAL PROPERTY SERVICES A REPORT CONCERNING THE STATUS OF ELIGIBLE AGRICULTURAL LAND. THE REPORT SHALL INCLUDE THE TAX MAP IDENTIFICATION NUMBERS FOR ALL PARCELS IN THE COUNTY FOR WHICH A LANDOWNER HAS FILED A NON-AGRICULTURAL DEVELOPMENT COVENANT PURSUANT TO THIS ARTICLE AND THE TOTAL NUMBER OF ACRES IN THE COUNTY WHICH ARE SUBJECT TO SUCH A NON-AGRICULTURAL DEVELOPMENT COVENANT. IN THE EVENT THAT ANY OF THESE PARCELS OF LAND HAVE BEEN CONVERTED TO A USE WHICH WOULD DISQUALIFY SUCH LAND FOR AN AGRICULTURAL ASSESSMENT UNDER SECTION THREE HUNDRED FIVE OR THREE HUNDRED SIX OF THE AGRICULTURE AND MARKETS LAW, THE REPORT SHALL IDENTIFY SUCH PARCELS.

S 5. Paragraph (a) of subdivision 1 of section 922 of the real property tax law is amended by adding a new subparagraph (xv) to read as follows:

(XV) A STATEMENT AS TO WHETHER THE PARCEL IS ELIGIBLE FOR A WORKING FARMLAND PROPERTY TAX CREDIT CREATED PURSUANT TO ARTICLE EIGHTEEN-D OF THE GENERAL MUNICIPAL LAW.

S 6. Subdivision 1 of section 302 of the agriculture and markets law is amended by adding a new paragraph (f) to read as follows:

(F) THE COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD SHALL ADVISE THE COUNTY LEGISLATIVE BODY IN RELATION TO THE PROPOSED ESTABLISHMENT OR REVIEW OF ANY WORKING FARMLAND PROPERTY TAX CREDIT ESTABLISHED PURSUANT TO ARTICLE EIGHTEEN-D OF THE GENERAL MUNICIPAL LAW. THE BOARD SHALL RENDER EXPERT ADVICE RELATING TO THE DESIRABILITY OF SUCH ACTION, INCLUDING ADVICE AS TO THE NATURE OF FARMING AND FARM RESOURCES WITHIN THE COUNTY AND THE EXTENT TO WHICH IT IS CONSISTENT WITH THE COUNTY AGRICULTURAL AND FARMLAND PROTECTION PLAN THAT MAY HAVE BEEN ADOPTED PURSUANT TO SECTION THREE HUNDRED TWENTY-FOUR OF THE AGRICULTURE AND MARKETS LAW.

S 7. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to taxable years beginning on or after January 1, 2010. Provided that any rule or regulation necessary for the timely implementation of the provisions of this act on its effective date may be promulgated on or before such effective date.