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

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I N A S S E M B L Y

March 22, 2012

Introduced by M. of A. THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to making technical corrections to the conservation easement tax credit

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

Section 1. Paragraph 1 of subsection (kk) of section 606 of the tax law, as added by section 1 of part F of chapter 62 of the laws of 2006, is amended to read as follows:

(1) Credit allowed. In the case of a taxpayer who owns land that is subject to a conservation easement held by a public or private conservation agency, there shall be allowed a credit for twenty-five percent of the [allowable school district, county and town] real property taxes PAID on [such] THE land, OR PORTION OF THE LAND, SUBJECT TO THE EASEMENT. In no event shall the credit allowed under this subsection in combination with any other credit for [such school district, county and town] real property taxes under this section exceed such taxes.

S 2. Subdivision 38 of section 210 of the tax law, as added by section 3 of part F of chapter 62 of the laws of 2006, is renumbered subdivision 45 and is amended to read as follows:

45. Conservation easement tax credit. (1) Credit allowed. In the case of a taxpayer who owns land that is subject to a conservation easement held by a public or private conservation agency, there shall be allowed a credit for twenty-five percent of the [allowable school district, county and town] real property taxes PAID on [such] THE land, OR PORTION OF THE LAND, SUBJECT TO THE EASEMENT. In no such case shall the credit allowed under this subdivision in combination with any other credit for [such school district, county and town] real property taxes under this section exceed such taxes.

(2) Conservation easement. For purposes of this subdivision, the term "conservation easement" means a perpetual and permanent conservation easement as defined in article forty-nine of the environmental conservation law that serves to protect open space, scenic, natural resources, biodiversity, agricultural, watershed and/or historic preservation

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

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resources. Any conservation easement for which a tax credit is claimed under this subdivision shall be filed with the department of environmental conservation, as provided for in article forty-nine of the environmental conservation law and such conservation easement shall comply with the provisions of title three of such article, and the provisions of subdivision (h) of section 170 of the internal revenue code. Dedications of land for open space through the execution of conservation easements for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered a conservation easement under this subdivision.

(3) Land. For purposes of this subdivision, the term "land" means a fee simple title to real property located in this state, with or without improvements thereon; rights of way; water and riparian rights; easements; privileges and all other rights or interests of any land or description in, relating to or connected with real property, excluding buildings, structures, or improvements.

(4) Public or private conservation agency. For purposes of this subdivision, the term "public or private conservation agency" means any state, local, or federal governmental body; or any private not-for-profit charitable corporation or trust which is authorized to do business in the state of New York, is organized and operated to protect land for natural resources, conservation or historic preservation purposes, is exempt from federal income taxation under section 501(c)(3) of the internal revenue code, and has the power to acquire, hold and maintain land and/or interests in land for such purposes.

(5) Credit limitation. The amount of the credit that may be claimed by a taxpayer pursuant to this subsection shall not exceed five thousand dollars in any given year.

(6) Application of the credit. The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the higher of the amounts prescribed in paragraphs (c) and (d) of subdivision one of this section. However, if the amount of the credit allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of the credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of subsection (c) of section [ten hundred] ONE THOUSAND eighty-eight of this chapter, except that, no interest shall be paid thereon.

S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxiv) to read as follows:

(XXXIV) CONSERVATION EASEMENT TAX CREDIT UNDER SUBSECTION (KK)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-FIVE OF SECTION TWO HUNDRED TEN

S 4. This act shall take effect immediately and shall be made applicable to taxable years commencing on and after January 1, 2012 and thereafter.