

2546

2011-2012 Regular Sessions

I N S E N A T E

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Introduced by Sens. BONACIC, LARKIN -- read twice and ordered printed,
and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to the discretion
of localities in granting exemptions for certain organizations and to
repeal certain provisions of such law relating thereto

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

1 Section 1. Paragraph (a) of subdivision 1 of section 420-a of the real
2 property tax law, as amended by chapter 920 of the laws of 1981, is
3 amended to read as follows:
4 (a) Real property owned by a corporation or association organized or
5 conducted exclusively for religious, charitable, hospital, educational,
6 [or moral or mental improvement of men, women or children purposes,] or
7 for two or more such purposes, and used exclusively for carrying out
8 thereupon one or more of such purposes either by the owning corporation
9 or association or by another such corporation or association as herein-
10 after provided shall be exempt from taxation as provided in this
11 section.
12 S 2. Paragraph (a) of subdivision 1 of section 420-b of the real prop-
13 erty tax law, as added by chapter 919 of the laws of 1981, is amended to
14 read as follows:
15 (a) (I) Real property owned by a corporation or association which is
16 organized exclusively for PURPOSES RELATED TO THE MORAL OR MENTAL
17 IMPROVEMENT OF MEN, WOMEN, OR CHILDREN, OR FOR bible, tract, benevolent,
18 missionary, infirmary, public playground, scientific, literary, bar
19 association, medical society, library, patriotic or historical purposes,
20 for the development of good sportsmanship for persons under the age of
21 eighteen years through the conduct of supervised athletic games, for the
22 enforcement of laws relating to children or animals, or for two or more
23 such purposes, and used exclusively for carrying out thereupon one or
24 more of such purposes either by the owning corporation or association,

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

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1 or by another such corporation or association as hereinafter provided,
2 shall be exempt from taxation; provided, however, that such property
3 shall be taxable by any municipal corporation within which it is located
4 if the governing board of such municipal corporation, after public hear-
5 ing, adopts a local law, ordinance or resolution so providing. None of
6 the following subdivisions of this section providing that certain prop-
7 erties shall be exempt under circumstances or conditions set forth in
8 such subdivisions shall exempt such property from taxation by a munic-
9 pal corporation whose governing board has adopted a local law, ordinance
10 or resolution providing that such property shall be taxable pursuant to
11 this subdivision.

12 (II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVI-
13 SION, ONCE A PROPERTY IS EXEMPTED FROM TAXATION PURSUANT TO LOCAL LAW,
14 ORDINANCE, OR RESOLUTION, SUCH PROPERTY, SO LONG AS IT CONTINUES TO BE
15 USED EXCLUSIVELY FOR PURPOSES OF EXEMPT ACTIVITIES, SHALL CONTINUE TO BE
16 EXEMPT FROM TAXATION FOR NO MORE THAN THIRTY YEARS, UNLESS SUCH PROPERTY
17 IS SOLD OR LEASED; PROVIDED, HOWEVER, THAT SUCH EXEMPTION SHALL BE LOST
18 AFTER IT HAS BEEN ENJOYED FOR THIRTY YEARS IF A LOCAL LAW, ORDINANCE OR
19 RESOLUTION HAS BEEN ENACTED PROVIDING FOR THE TAXATION OF ALL PROPERTIES
20 IN THE SUB-CATEGORY THAT THE PARTICULAR PROPERTY IS IN, EXCEPT ANY OTHER
21 WHICH IS ENJOYING AN EXEMPTION FOR THIRTY YEARS PURSUANT TO THIS PARA-
22 GRAPH. SUCH LOCAL LAW MAY SPECIFY A MINIMUM NUMBER OF DAYS EACH ACRE
23 MUST ACTUALLY BE USED IN ORDER TO QUALIFY FOR THE EXEMPTION AUTHORIZED
24 IN THIS SECTION, PROVIDED, HOWEVER, THE NUMBER OF DAYS SHALL NOT BE
25 GREATER THAN NINETY.

26 S 3. Subdivision 1 of section 420-b of the real property tax law is
27 amended by adding a new paragraph (d) to read as follows:

28 (D) PROPERTY ORGANIZED EXCLUSIVELY FOR PURPOSES RELATED TO THE MORAL
29 OR MENTAL IMPROVEMENT OF MEN, WOMEN, OR CHILDREN SHALL INCLUDE EACH OF
30 THE FOLLOWING CATEGORIES OF REAL PROPERTY. SUCH PROPERTY SHALL BE OWNED
31 BY A CORPORATION CLASSIFIED AS TAX EXEMPT OR NOT-FOR-PROFIT UNDER THE
32 FEDERAL INTERNAL REVENUE CODE. ANY SUCH CATEGORY MAY BE SUBJECT TO TAXA-
33 TION PROVIDED A LOCAL LAW, ORDINANCE, OR RESOLUTION IS PASSED CONSISTENT
34 WITH THIS SECTION:

35 (I) ARTS. REAL PROPERTY PRIMARILY USED TO FACILITATE OR ENHANCE THE
36 ARTS;

37 (II) SCIENCES. REAL PROPERTY PRIMARILY USED IN THE STUDY OF SCIENCES,
38 BIOLOGY, AND HORTICULTURE;

39 (III) BENEFIT OF ANIMALS. REAL PROPERTY PRIMARILY USED FOR THE BENEFIT
40 OF NON-HUMAN ANIMALS;

41 (IV) OPEN SPACE. REAL PROPERTY WHICH IS OPEN TO THE PUBLIC, IS PRIMA-
42 RILY UNIMPROVED, AND IS KEPT OPEN FOR HIKING, WALKING, OR FORMS OF EXER-
43 CISE WHICH DO NOT COMMONLY USE MECHANIZED DEVICES EXCEPT BY THOSE
44 PERSONS WHO ARE DISABLED OR OTHERWISE UNABLE TO WALK WITHOUT MECHANIZED
45 ASSISTANCE. SUCH OPEN SPACE MAY BE OPEN TO THE PUBLIC UPON THE PAYMENT
46 OF A FEE WHICH IS DIRECTLY RELATED TO THE COSTS OF MAINTAINING AND
47 IMPROVING THE PROPERTY. OPEN SPACE SHALL NOT INCLUDE ANY PROPERTY OR
48 PORTION OF PROPERTY FROM WHICH THE PUBLIC IS EXCLUDED EXCEPT FOR EXCLU-
49 SIONS SOLELY FOR PUBLIC HEALTH PURPOSES AS DETERMINED BY A GOVERNMENTAL
50 AGENCY OR FOR PUBLIC SAFETY AS DETERMINED BY THE PROPERTY OWNER, WITH
51 SUCH DETERMINATION TO BE REVIEWABLE IN ANY COURT OF EQUITY JURISDICTION;
52 PROVIDED, HOWEVER A PRESUMPTION SHALL ATTACH THAT THE PROPERTY OWNER'S
53 DETERMINATION IS REASONABLE. ATTORNEYS FEES MAY BE AWARDED, AT THE
54 DISCRETION OF THE COURT, FOR ANY PREVAILING PARTY WHO COMMENCES OR
55 DEFINES A CIVIL ACTION BASED ON THE PUBLIC SAFETY EXCLUSIONS PERMISSIBLE
56 BY THIS SUBPARAGRAPH;

1 (V) LAND TRUST. REAL PROPERTY WHICH IS PRIMARILY UNIMPROVED. NO OWNER
2 SHALL BE ENTITLED TO A PROPERTY TAX EXEMPTION AS A LAND TRUST UNLESS
3 THAT PROPERTY OWNER AND THE SUBJECT PROPERTY MEETS ALL OF THE FOLLOWING
4 CRITERIA: (1) ENTERS INTO A CONTRACT WITH THE ASSESSING UNIT PROVIDING
5 THAT THE LAND IN THE LAND TRUST MAY NOT BE SOLD OR ENCUMBERED EXCEPT BY
6 MORTGAGE OR CONSERVATION EASEMENT, UNLESS THE PROPERTY OWNER, WITHIN
7 THIRTY DAYS OF SUCH SALE OR ENCUMBRANCE, ENTERS INTO A VALID CONTRACT TO
8 PURCHASE LAND IN NEW YORK STATE OF AT LEAST AN EQUAL VALUE TO BE PLACED
9 IN A LAND TRUST, AND THE OWNER DOES SO PURCHASE SUCH LAND WITHIN ONE
10 YEAR OF ENTERING INTO SUCH PURCHASE AND SALE CONTRACT; (2) IS INCLUDED
11 AS PART OF A LAWFULLY ENACTED COMPREHENSIVE PLAN BY THE COUNTY, CITY,
12 TOWN, OR VILLAGE IN WHICH SUCH PROPERTY IS IN; OR IS IDENTIFIED IN AN
13 OFFICIAL OPEN SPACE OR NATURAL RESOURCES PROTECTION PLAN DULY ADOPTED BY
14 A FEDERAL, STATE, OR LOCAL GOVERNMENT OR AGENCY THEREOF; (3) EXISTS AS A
15 LAND TRUST TO PROTECT ECOLOGICAL RESOURCES CONSIDERED VALUABLE IN A
16 LAWFULLY ENACTED COMPREHENSIVE PLAN. PUBLIC ACCESS SHALL NOT BE A CRITE-
17 RIA IN DETERMINING AN EXEMPTION FROM TAXATION FOR LAND TRUST PURPOSES;
18 (4) UNLESS THE GOVERNING BOARD OF THE COUNTY, CITY, TOWN OR VILLAGE IN
19 WHICH THE PROPERTY IS SITUATED PASSES A RESOLUTION TO THE CONTRARY, IF
20 THE PURCHASE, REFERRED TO IN CLAUSE ONE OF THIS SUBPARAGRAPH DOES NOT
21 OCCUR WITHIN THE TIME LIMITATIONS THEREUNDER, THE LAND TRUST SHALL BE
22 LIABLE FOR ALL TAX PAYMENTS WHICH IT WOULD HAVE PAID ON THE PROPERTY IT
23 SOLD FOR THE PERIOD OF TIME WHICH IT WOULD HAVE OWED SUCH TAX PAYMENTS
24 TO ALL LAWFUL TAXING JURISDICTIONS, UNLESS THE TITLE TO THE EQUALLY
25 VALUED LAND UNDER CONTRACT FOR PURCHASE AND SALE WAS DEEMED UNMARKETA-
26 BLE, OR THE SELLER OF SUCH PROPERTY WITHDREW THE OFFER TO SELL, IN WHICH
27 CASE THE LAND TRUST SHALL HAVE AN ADDITIONAL THREE HUNDRED SIXTY-FIVE
28 DAYS TO PURCHASE AND CLOSE TITLE ON ANOTHER PROPERTY IN NEW YORK STATE
29 PURSUANT TO THE PROVISIONS OF CLAUSE ONE OF THIS SUBPARAGRAPH;

30 (VI) NON-SCHOLASTIC EDUCATIONAL. REAL PROPERTY OWNED BY AN ORGANIZA-
31 TION WHICH IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND
32 WHICH IS PRIMARILY USED TO IMPROVE THE INTELLECTUAL CAPABILITIES OF
33 PERSONS, AND WHICH DOES NOT QUALIFY FOR TAX EXEMPTION PURSUANT TO
34 SECTION FOUR HUNDRED TWENTY-A OF THIS TITLE;

35 (VII) RECREATIONAL. REAL PROPERTY OWNED BY AN ORGANIZATION WHICH IS
36 TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND WHICH PROVIDES
37 RECREATIONAL OPPORTUNITY FOR PERSONS REGARDLESS OF ABILITY TO PAY.
38 RECREATIONAL OPPORTUNITIES MAY BE EITHER INDOORS OR OUTDOORS AND MAY
39 INCLUDE OVERNIGHT OPPORTUNITIES FOR PERSONS UNDER THE AGE OF TWENTY-ONE;

40 (VIII) MEDICAL PURPOSES. REAL PROPERTY OWNED BY AN ORGANIZATION WHICH
41 IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND WHICH IS NOT A
42 HOSPITAL AS DEFINED BY SECTION FOUR HUNDRED TWENTY-A OF THIS TITLE, BUT
43 WHICH QUALIFIES AS A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE
44 PUBLIC HEALTH LAW;

45 (IX) HOME CARE SERVICES. REAL PROPERTY OWNED BY AN ORGANIZATION WHICH
46 IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND IS A HOME CARE
47 SERVICES AGENCY AS DEFINED IN ARTICLE THIRTY-SIX OF THE PUBLIC HEALTH
48 LAW;

49 (X) RESIDENTIAL HEALTH CARE FACILITY. REAL PROPERTY OWNED BY AN ORGAN-
50 IZATION WHICH IS TAX EXEMPT AS A RESIDENTIAL HEALTH CARE FACILITY AS
51 DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW;

52 (XI) OTHER MEDICAL PURPOSES. REAL PROPERTY WHICH IS OWNED BY AN ORGAN-
53 IZATION WHICH IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE AND
54 IS USED TO PROVIDE MEDICAL SERVICES TO PERSONS WITH LIMITED ECONOMIC
55 MEANS;

1 (XII) INTERDENOMINATIONAL CENTERS. (1) REAL PROPERTY OWNED BY A CORPO-
2 RATION ORGANIZED FOR THE PURPOSES OF ESTABLISHING AN INTERDENOMINATIONAL
3 CENTER TO ASSIST IN THE WORK OF, AND TO PROMOTE COOPERATION AMONG, VARI-
4 OUS RELIGIOUS DENOMINATIONS, AND TO ACQUIRE OR ERECT A BUILDING OR
5 BUILDINGS FOR SUCH CENTER, AND TO LEASE A PORTION OR PORTIONS FOR USE BY
6 RELIGIOUS, EDUCATIONAL, MISSIONARY AND CHARITABLE CORPORATIONS OR ASSO-
7 CIATIONS; OR REAL PROPERTY LEASED TO CORPORATIONS ORGANIZED FOR SUCH
8 PURPOSES BY A CORPORATION ORGANIZED FOR PURPOSES WHICH ARE EXEMPT UNDER
9 THIS SECTION, OR SECTION FOUR HUNDRED TWENTY-A, FOUR HUNDRED TWENTY-TWO,
10 FOUR HUNDRED TWENTY-FOUR, FOUR HUNDRED TWENTY-SIX OR FOUR HUNDRED TWEN-
11 TY-EIGHT OF THIS TITLE, SHALL BE EXEMPT FROM TAXATION AND EXEMPT FROM
12 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS TO THE EXTENT PROVIDED
13 IN SECTION FOUR HUNDRED NINETY OF THIS ARTICLE, TO THE SAME EXTENT AND
14 SUBJECT TO THE SAME CONDITIONS AND EXCEPTIONS AS PROPERTY OF A CORPO-
15 RATION ORGANIZED EXCLUSIVELY FOR RELIGIOUS, EDUCATIONAL, MISSIONARY OR
16 CHARITABLE PURPOSES.

17 (2) IN ADDITION TO ANY OTHER RENTAL FEES CHARGED FOR SUCH USE, WITH
18 THE CONSENT OF EACH CORPORATION OR ASSOCIATION LEASING A PORTION OF SUCH
19 REAL PROPERTY, THE INTERDENOMINATIONAL CENTER MAY REQUIRE EACH LESSEE TO
20 MAKE ANNUAL PAYMENTS INTO A CAPITAL IMPROVEMENT FUND TO BE USED EXCLU-
21 SIVELY FOR CAPITAL IMPROVEMENTS, IN ACCORDANCE WITH A CAPITAL IMPROVE-
22 MENT PLAN ADOPTED OR UPDATED ANNUALLY BY THE INTERDENOMINATIONAL CENTER.
23 FOR PURPOSES OF THIS SUBPARAGRAPH, "CAPITAL IMPROVEMENT" SHALL MEAN ANY
24 ADDITION TO, REPLACEMENT OF, OR REMODELING OF PHYSICAL PLANT, STRUC-
25 TURES, OR EQUIPMENT NOW OR HEREAFTER OWNED BY AN INTERDENOMINATIONAL
26 CENTER, WHICH IS USED OR IS TO BE USED IN CONNECTION WITH THE OPERATION
27 OF THE INTERDENOMINATIONAL CENTER, AND WHICH SHALL INCLUDE IMPROVEMENTS
28 TO LAND, BUT NOT LAND ITSELF;

29 (XIII) PRIMARILY CHARITABLE PURPOSES. AN ACTIVITY CONDUCTED ON REAL
30 PROPERTY OWNED BY AN ORGANIZATION WHICH IS TAX EXEMPT UNDER THE FEDERAL
31 INTERNAL REVENUE CODE, AND WHICH ACTIVITY ACTUALLY AND PRIMARILY ALLEVI-
32 ATES THE CONDITION OF POOR, OR PHYSICALLY OR MENTALLY DISABLED PERSONS;
33 AND

34 (XIV) OTHER MORAL OR MENTAL IMPROVEMENT. REAL PROPERTY OWNED BY AN
35 ORGANIZATION WHICH IS TAX EXEMPT UNDER THE FEDERAL INTERNAL REVENUE CODE
36 AND WHICH IS DEDICATED, IN A MANNER OTHER THAN AS PROVIDED IN THIS PARA-
37 GRAPH, TO THE MORAL OR MENTAL IMPROVEMENT OF MEN, WOMEN, OR CHILDREN.

38 S 4. Section 430 of the real property tax law is REPEALED.

39 S 5. This act shall take effect on the first of January next succeed-
40 ing the date on which it shall have become a law and shall apply to
41 assessment rolls on and after such date.