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

5148

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sens. BONACIC, SEWARD -- 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 technical amendments to the assessment and payment of taxes on watershed and agricultural easements

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

Section 1. Subdivision 4 of section 583 of the real property tax law, as added by chapter 2 of the laws of 1997, is amended to read as follows:

4. "Watershed conservation easement" means an easement, covenant, restriction or other interest in real property purchased by or on behalf of the city of New York [on or before December thirty-first, two thousand sixteen] THAT IS located in those areas of the counties of Delaware, Dutchess, Greene, Putnam, Schoharie, Sullivan, Ulster and Westchester located in the watershed of the New York city water supply, created under and subject to the provisions of article forty-nine of the environmental conservation law which, for the purpose of maintaining the open space, natural condition, or character of the real property in a manner consistent with the protection of water quality generally and the New York city water supply specifically, limits or restricts development, management or use of such real property.

S 2. Section 585 of the real property tax law, as added by chapter 2 of the laws of 1997, is amended to read as follows:

S 585. Taxation or exemption of watershed agricultural easements. 1. Any watershed agricultural easement ACQUIRED BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN shall be exempt from taxation on any assessment roll on which the land subject to the easement qualifies for and receives an agricultural assessment pursuant to article twenty-five-AA of the agriculture and markets law.

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

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2. Any watershed agricultural easement that burdens land which does not receive an agricultural assessment pursuant to article twenty-five-AA of the agriculture and markets law OR WHICH IS ACQUIRED ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN shall be subject to taxation for all purposes. The taxes levied on such easement shall be levied as provided in this title.

S 3. Subdivision 2, subparagraphs i and ii of paragraph a and paragraph b of subdivision 5 and subdivisions 6 and 7 of section 586 of the real property tax law, as added by chapter 2 of the laws of 1997, are amended to read as follows:

2. The assessment of a watershed conservation easement or watershed agricultural easement shall be determined by multiplying the allocation factor for that easement as computed in subdivision one of this section by the assessment determined by the assessor for the land subject to such easement exclusive of the improvements thereon. After subtracting the assessment for each watershed conservation easement or watershed agricultural easement from the parcel's total assessment, the remaining assessment shall be entered on the assessment roll as taxable to the owner of the property. Each watershed conservation easement or watershed agricultural easement, WHETHER IT ENCUMBERS THE ENTIRE PARCEL OR ONLY A PORTION THEREOF, shall be entered as a separate parcel on the taxable portion of the assessment roll and shall be assessed in the name of the city of New York.

(i) On a parcel of property which is otherwise fully exempt from taxation, the assessor shall determine the taxable [assessment] ASSESSED VALUE of the easement by multiplying the allocation factor by the total assessed value of the land; or

(ii) On a parcel of property which is partially exempt from taxation, the assessor shall determine the taxable [assessment] ASSESSED VALUE of the easement by multiplying the allocation factor by the total assessed value of the land; or

(b) The provisions of this subdivision shall not apply to [parcels receiving an agricultural assessment pursuant to article twenty-five-AA of the agriculture and markets law] WATERSHED AGRICULTURAL EASEMENTS AS DESCRIBED IN SUBDIVISION ONE OF SECTION FIVE HUNDRED EIGHTY-FIVE OF THIS TITLE OR TO PARCELS BURDENED BY SUCH EASEMENTS.

6. [Whenever a watershed conservation easement or watershed agricultural easement encumbers only a portion of a parcel, the assessor shall henceforth enter that portion of the parcel encumbered by such easement as a separate parcel on all subsequent assessment rolls.

7.] Whenever a watershed conservation easement or watershed agricultural easement encumbers a parcel containing improvements, those improvements shall be separately assessed in the name of the owner thereof.

S 4. Section 589 of the real property tax law, as added by chapter 2 of the laws of 1997, subdivisions 2 and 4 as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

S 589. Change in allocation factor. 1. [The allocation factor determined in subdivision one of section five hundred eighty-six of this title shall remain in effect for at least twenty years from the date it is initially certified to the assessing unit.

2.] At any time after twenty years from the date the allocation factor is initially certified to the assessing unit, upon the request of the city or the owner of the parcel burdened by the easement, the commissioner may compute and certify a new allocation factor based on a change

in circumstances. A request for a review of the allocation factor shall be made by submitting to the commissioner (a) a written request by the landowner, (b) a written request by the city setting forth the claimed change in circumstances, (c) a written stipulation entered into by the city and the landowner setting forth the new allocation factor, or (d) an appraisal or appraisals performed by a licensed real estate appraiser within one year of submission setting forth the current fair market value of the easement and the current fair market value of the land subject to the easement exclusive of improvements and unencumbered by the easement. The commissioner shall define the changes in circumstances required to change the allocation factor. The party seeking the change in allocation factor shall provide copies of the appraisals and written request to the other party.

[3.] 2. If one party objects to a change in the allocation factor, the party may submit the appraisals specified in subdivision [two] ONE of this section within ninety days of receipt of the other parties' appraisal or written request.

[4.] 3. The commissioner shall review the materials submitted and issue a current allocation factor determined by the materials submitted.

[5.] 4. If judicial review is sought to challenge a determination under this section, the action shall be commenced in the county in which the real property is located.

S 5. This act shall take effect immediately.