

7357--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

May 14, 2013

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Introduced by M. of A. DIPIETRO -- read once and referred to the Committee on Real Property Taxation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to establishing a conservation easement agreement exemption in a town having a certain population based upon the latest decennial federal census

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

1     Section 1. The real property tax law is amended by adding a new  
2     section 491-a to read as follows:  
3     S 491-A. CONSERVATION EASEMENT AGREEMENT EXEMPTION; CERTAIN TOWNS. 1.  
4     APPLICABILITY. (A) IN A TOWN HAVING A POPULATION OF NOT LESS THAN SEVEN  
5     THOUSAND FIVE HUNDRED AND NOT MORE THAN SEVEN THOUSAND SEVEN HUNDRED,  
6     THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE  
7     HUNDRED THOUSAND AND NOT MORE THAN NINE HUNDRED TWENTY THOUSAND, BASED  
8     UPON THE LATEST DECENNIAL FEDERAL CENSUS, IS HEREBY AUTHORIZED TO ADOPT  
9     A LOCAL LAW TO PROVIDE THAT, REAL PROPERTY WHOSE INTERESTS OR RIGHTS  
10    HAVE BEEN ACQUIRED FOR THE PURPOSE OF THE PRESERVATION OF AN OPEN SPACE  
11    OR AN OPEN AREA, AS AUTHORIZED IN SECTION TWO HUNDRED FORTY-SEVEN OF THE  
12    GENERAL MUNICIPAL LAW, MAY BE PARTIALLY EXEMPT FROM LOCAL REAL PROPERTY  
13    TAXATION, PROVIDED THAT THE OWNER OR OWNERS OF SUCH REAL PROPERTY ENTER  
14    INTO A CONSERVATION EASEMENT AGREEMENT WITH THE MUNICIPALITY IN ACCORD-  
15    ANCE WITH THE PROCEDURES SPECIFIED IN SUBDIVISION THREE OF THIS SECTION.  
16    A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED THOUSAND AND  
17    NOT MORE THAN NINE HUNDRED TWENTY THOUSAND BASED UPON THE LATEST DECEN-  
18    NIAL FEDERAL CENSUS MAY, BY LOCAL LAW, AND ANY SCHOOL DISTRICT, ALL OR  
19    PART OF WHICH IS LOCATED IN A TOWN HAVING A POPULATION OF NOT LESS THAN  
20    SEVEN THOUSAND FIVE HUNDRED AND NOT MORE THAN SEVEN THOUSAND SEVEN  
21    HUNDRED THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN  
22    NINE HUNDRED THOUSAND, MAY BY RESOLUTION, EXEMPT SUCH PROPERTY FROM ITS

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

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1 TAXATION IN THE SAME MANNER AND TO THE SAME EXTENT AS SUCH TOWN HAS  
2 DONE.

3 (B) A TOWN HAVING A POPULATION OF NOT LESS THAN SEVEN THOUSAND FIVE  
4 HUNDRED AND NOT MORE THAN SEVEN THOUSAND SEVEN HUNDRED THAT IS LOCATED  
5 IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED THOUSAND  
6 AND NOT MORE THAN NINE HUNDRED TWENTY THOUSAND, BASED UPON THE LATEST  
7 DECENNIAL FEDERAL CENSUS MAY, BY A VOTE OF THE TOWN BOARD, OPT OUT OF  
8 THIS EXEMPTION AT ANY TIME.

9 2. DEFINITIONS. FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING TERMS  
10 SHALL HAVE THE FOLLOWING MEANINGS: "OPEN SPACE" OR "OPEN AREA" MEANS ANY  
11 SPACE OR AREA CHARACTERIZED BY NATURAL SCENIC BEAUTY OR WHOSE EXISTING  
12 OPENNESS, NATURAL CONDITION OR PRESENT STATE OF USE, IF RETAINED, WOULD  
13 ENHANCE THE PRESENT OR POTENTIAL VALUE OF ABUTTING OR SURROUNDING URBAN  
14 DEVELOPMENT OR WOULD MAINTAIN OR ENHANCE THE CONSERVATION OF NATURAL OR  
15 SCENIC RESOURCES. FOR THE PURPOSES OF THIS DEFINITION, "NATURAL  
16 RESOURCES" SHALL INCLUDE, BUT NOT BE LIMITED TO, AGRICULTURAL LANDS  
17 DEFINED AS OPEN LANDS ACTUALLY USED IN BONA FIDE AGRICULTURAL  
18 PRODUCTION.

19 3. PROCEDURES FOR OBTAINING A CONSERVATION EASEMENT AGREEMENT. (A) ANY  
20 OWNER OR OWNERS OF LAND MAY SUBMIT A PROPOSAL TO THE TOWN BOARD OF A  
21 TOWN HAVING A POPULATION OF NOT LESS THAN SEVEN THOUSAND FIVE HUNDRED  
22 AND NOT MORE THAN SEVEN THOUSAND SEVEN HUNDRED THAT IS LOCATED IN A  
23 COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED THOUSAND AND  
24 NOT MORE THAN NINE HUNDRED TWENTY THOUSAND, BASED UPON THE LATEST DECEN-  
25 NIAL FEDERAL CENSUS, FOR THE GRANTING OF INTEREST OR RIGHTS IN REAL  
26 PROPERTY FOR THE PRESERVATION OF OPEN SPACE OR AREAS. SUCH PROPOSAL  
27 SHALL BE SUBMITTED IN SUCH A MANNER AND FORM AS MAY BE PRESCRIBED BY THE  
28 CONSERVATION BOARD OF SUCH TOWN.

29 (B) UPON RECEIPT OF SUCH PROPOSAL, THE TOWN BOARD SHALL CONVEY THE  
30 PROPOSAL TO THE CONSERVATION BOARD OF SUCH TOWN. SUCH CONSERVATION BOARD  
31 SHALL INVESTIGATE THE AREA TO DETERMINE IF THE PROPOSAL WOULD BE OF  
32 BENEFIT TO THE PEOPLE OF THE TOWN AND MAY NEGOTIATE THE TERMS AND CONDI-  
33 TIONS OF THE OFFER. IF THE CONSERVATION BOARD DETERMINES THAT IT IS IN  
34 THE PUBLIC INTEREST TO ACCEPT SUCH PROPOSAL, IT SHALL RECOMMEND TO THE  
35 TOWN BOARD THAT IT HOLD A PUBLIC HEARING FOR THE PURPOSE OF DETERMINING  
36 WHETHER OR NOT THE TOWN SHOULD ACCEPT SUCH PROPOSAL.

37 (C) THE TOWN BOARD SHALL, WITHIN THIRTY DAYS OF RECEIPT OF SUCH ADVI-  
38 SORY OPINION, HOLD A PUBLIC HEARING CONCERNING SUCH PROPOSAL AT A PLACE  
39 WITHIN THE TOWN. AT LEAST TEN DAYS NOTICE OF THE TIME AND PLACE OF SUCH  
40 HEARING SHALL BE PUBLISHED IN A PAPER OF GENERAL CIRCULATION IN SUCH  
41 TOWN, AND A WRITTEN NOTICE OF SUCH PROPOSAL SHALL BE GIVEN TO ALL ADJA-  
42 CENT PROPERTY OWNERS AND TO ANY MUNICIPALITY WHOSE BOUNDARIES ARE WITHIN  
43 FIVE HUNDRED FEET OF THE BOUNDARIES OF SAID PROPOSED AREA, AND TO THE  
44 SCHOOL DISTRICT IN WHICH IT IS LOCATED.

45 (D) THE TOWN BOARD, AFTER RECEIVING THE REPORTS OF THE CONSERVATION  
46 BOARD OF A TOWN HAVING A POPULATION OF NOT LESS THAN SEVEN THOUSAND FIVE  
47 HUNDRED AND NOT MORE THAN SEVEN THOUSAND SEVEN HUNDRED THAT IS LOCATED  
48 IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED THOUSAND  
49 AND NOT MORE THAN NINE HUNDRED TWENTY THOUSAND, BASED UPON THE LATEST  
50 DECENNIAL FEDERAL CENSUS, AND AFTER SUCH PUBLIC HEARING, MAY ADOPT THE  
51 PROPOSAL OR ANY MODIFICATION THEREOF IT DEEMS APPROPRIATE OR MAY REJECT  
52 IT IN ITS ENTIRETY.

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

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

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

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

COMMITMENT	PERCENTAGE OF EXEMPTION
15 TO 29 YEARS	50%
30 TO 49 YEARS	75%
50 TO 75 YEARS	85%
PERPETUAL	90%

SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OR OWNERS OF SUCH REAL PROPERTY ON A FORM PRESCRIBED BY THE COMMISSIONER. SUCH APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE TOWN ON OR BEFORE THE TAXABLE STATUS DATE OF SUCH TOWN.

(C) IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH REAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD VALOREM LEVIES AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESSMENT ROLL PREPARED ON THE BASIS OF THE TAXABLE STATUS DATE. THE ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL BE ENTERED BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE PROPERTY, WITH THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

(D) WHENEVER A CONSERVATION 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.

5. PENALTIES FOR OFFENSES. IF THERE IS A VIOLATION OF THE TERMS AND CONDITIONS OF THE CONSERVATION EASEMENT AGREEMENT OR IF SUCH CONSERVATION EASEMENT AGREEMENT IS CANCELED BY THE TOWN BOARD UPON PETITION, THEN THE OWNER OR OWNERS OF SUCH PROPERTY MUST PAY TO THE TOWN THE FOLLOWING AMOUNTS.

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

(B) PAYMENT SHALL BE ADDED BY OR ON BEHALF OF EACH TAXING JURISDICTION TO THE TAXES LEVIED ON THE ASSESSMENT ROLL PREPARED ON THE BASIS OF THE FIRST TAXABLE STATUS DATE AFTER THERE IS A VIOLATION OF THE TERMS AND CONDITIONS OF THE CONSERVATION EASEMENT OR SUCH CONSERVATION EASEMENT AGREEMENT IS CANCELED.

S 2. This act shall take effect immediately.