

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

S. 7623--A
Cal. No. 1307

A. 9719--A
R. R. 215

S E N A T E - A S S E M B L Y

May 19, 2014

IN SENATE -- Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged and said bill committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

IN ASSEMBLY -- Introduced by M. of A. FAHY -- read once and referred to the Committee on Real Property Taxation -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the real property tax law, in relation to conservation agreement exemptions in certain towns

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. IN A TOWN HAVING A POPULATION OF NOT LESS THAN THIRTY-TWO
5 THOUSAND AND NOT MORE THAN THIRTY-FIVE THOUSAND, THAT IS LOCATED IN A
6 COUNTY HAVING A POPULATION OF NOT LESS THAN THREE HUNDRED THOUSAND AND
7 NOT MORE THAN THREE HUNDRED SEVEN THOUSAND, BASED UPON AND RECORDED BY
8 THE LATEST CENSUS, IS HEREBY AUTHORIZED TO ADOPT A LOCAL LAW TO PROVIDE
9 THAT, REAL PROPERTY WHOSE INTERESTS OR RIGHTS HAVE BEEN ACQUIRED FOR THE
10 PURPOSE OF THE PRESERVATION OF AN OPEN SPACE OR AN OPEN AREA, AS AUTHOR-
11 IZED IN SECTION TWO HUNDRED FORTY-SEVEN OF THE GENERAL MUNICIPAL LAW,
12 MAY BE PARTIALLY EXEMPT FROM LOCAL REAL PROPERTY TAXATION, PROVIDED THAT
13 THE OWNER OR OWNERS OF SUCH REAL PROPERTY ENTER INTO A CONSERVATION
14 EASEMENT AGREEMENT WITH THE MUNICIPALITY IN ACCORDANCE WITH THE PROCE-
15 DURES SPECIFIED IN SUBDIVISION THREE OF THIS SECTION. A COUNTY HAVING A
16 POPULATION OF NOT LESS THAN THREE HUNDRED THOUSAND AND NOT MORE THAN

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

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1 THREE HUNDRED SEVEN THOUSAND BASED UPON AND RECORDED IN THE LATEST
2 CENSUS MAY, BY LOCAL LAW, AND ANY SCHOOL DISTRICT, ALL OR PART OF WHICH
3 IS LOCATED IN A TOWN HAVING A POPULATION OF NOT LESS THAN THIRTY-TWO
4 THOUSAND AND NOT MORE THAN THIRTY-FIVE THOUSAND THAT IS LOCATED IN A
5 COUNTY HAVING A POPULATION OF NOT LESS THAN THREE HUNDRED THOUSAND AND
6 NOT MORE THAN THREE HUNDRED SEVEN THOUSAND BASED UPON AND RECORDED BY
7 THE LATEST CENSUS, MAY, BY RESOLUTION, EXEMPT SUCH PROPERTY FROM ITS
8 TAXATION IN THE SAME MANNER AND TO THE SAME EXTENT AS SUCH TOWN HAS
9 DONE.

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

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

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

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

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

54 (E) IF SUCH PROPOSAL IS ADOPTED BY THE TOWN BOARD, IT SHALL BE
55 EXECUTED BY THE OWNER OR OWNERS IN WRITTEN FORM AND IN A FORM SUITABLE
56 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) PAYMENTS 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.