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

S. 7259 A. 9823

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

April 12, 2016

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments

AN ACT in relation to clarifying certain powers of the trustees of the Freeholders and the Commonalty of the town of Southampton

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

Section 1. Legislative findings. The legislature enacted chapter 255 of the laws of 1818 and chapter 283 of the laws of 1831, addressing the respective powers of the trustees of the Freeholders and Commonalty of the town of Southampton, a body politic created by the Dongan Patent of 1686, and the trustees for the proprietors of the town of Southampton, a body created by chapter 255 of the laws of 1818, with respect to title to and the power to regulate the use of the ocean beaches in the town, and further, to make clear the continuing ownership of the trustees of the Freeholders and Commonalty of the town of Southampton of the underwater lands in the town, their right to regulate the said underwater lands and the taking of the products thereof, and their right to protect the public's right to use and enjoy the easement upon the ocean beaches that was granted to them by the Dongan Patent.

The trustees for the proprietors of the town of Southampton sold the last of the ocean beach lands owned by them and disbanded as a board of trustees in or about 1882 and thereafter ceased to exist.

The Legislature enacted chapter 257 of the laws of 1892 and chapter 872 of the laws of 1896 authorizing the Trustees of the Freeholders and Commonalty of the town of Southampton, "from time to time, whenever in their judgment it shall become necessary" to determine the necessity and location of one or more inlets in the town of Southampton from the Atlantic Ocean to Shinnecock Bay, or into Mecox Bay, or into Sag Pond, and to exercise the power of eminent domain over ocean beaches in order to locate such inlet or inlets.

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

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For more than a century the courts of this state have rendered inconsistent decisions with respect to the regulatory powers of the said trustees over the ocean beaches.

The legislature wishes to take account of the fact that the Proprietors' Trustees are no longer in existence, address the powers of the trustees of the Freeholders and Commonalty of the town of Southhampton in light of contemporary circumstances, and clarify the application of chapter 255 of the laws of 1818 and chapter 283 of the laws of 1831.

S 2. The Legislature declares that the Trustees for the Proprietors of the town of Southampton, created by chapter 255 of the laws of 1818, no longer exist.

S 3. Notwithstanding any language of chapter 255 of the laws of 1818 and chapter 283 of the laws of 1831 to the contrary, the trustees of the Freeholders and Commonalty of the town of Southampton have and shall continue to have the right to protect the public's easement upon the ocean beaches within the town of Southampton, by, among other things, exercising for the benefit of the people of the town of Southampton all of the regulatory powers with respect to the said ocean beaches which were conferred upon them by the Dongan Patent of 1686 and that they exercised prior to the year 1818. The legislature recognizes that any regulatory powers over the ocean beaches that by operation of the two said laws may have been conferred upon the trustees for the proprietors of the town of Southampton, reverted to the trustees of the Freeholders and Commonalty of the town of Southampton after the year 1882.

S 4. For the purposes of this act, "ocean beaches" shall be the area of the Atlantic Ocean beaches within the town of Southampton, whether within or without an incorporated village, that lies between the crest of the primary dune and the high water mark of the Atlantic Ocean.

S 5. The trustees of the Freeholders and Commonalty of the town of Southampton shall continue to have and exercise all of the rights of ownership and regulation over the waters of the town of Southampton and the products thereof that they had and exercised by virtue of the powers conferred upon them by the Dongan Patent and that they had and exercised prior to the year 1818, as well as the rights of ownership and regulation over the said waters and the productions thereof that they were authorized to have and exercise by chapter 255 of the laws of 1818 and chapter 283 of the laws of 1831.

S 6. Nothing in this act shall be construed to take from the trustees of the Freeholders and Commonalty of the town of Southampton any of the powers conferred upon them by chapter 283 of the laws of 1831, including without limitation the power to make rules, orders and by-laws for the management of the property and franchises of the town; to regulate their affairs; to impose penalties on any person offending against such rules, orders or by-laws; and to appropriate and apply the funds arising from their activities as they deem most proper to promote the interest of the town.

S 7. This act shall take effect immediately.