

# STATE OF NEW YORK

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S. 4117

A. 4838

2017-2018 Regular Sessions

## SENATE - ASSEMBLY

February 3, 2017

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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 the trustees of the Freeholders and the Commonalty of the town of Southampton, county of Suffolk

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature enacted chapter 255  
2 of the laws of 1818 and chapter 283 of the laws of 1831, addressing the  
3 respective powers of the trustees of the Freeholders and Commonalty of  
4 the town of Southampton, a body politic created by the Dongan Patent of  
5 1686, and the trustees for the proprietors of the town of Southampton, a  
6 body created by chapter 255 of the laws of 1818, with respect to the  
7 title to and use of the ocean beaches in the town, and further, to make  
8 clear the continuing ownership of the trustees of the Freeholders and  
9 Commonalty of the town of Southampton of the underwater lands in the  
10 town and the taking of the products thereof, and their right to protect  
11 the public's right to use and enjoy the easement upon the ocean beaches  
12 that was granted to them by the Dongan Patent. The trustees for the  
13 proprietors of the town of Southampton sold the last of the ocean beach  
14 lands owned by them and disbanded the board of trustees in 1882 and  
15 thereafter ceased to exist. The Legislature enacted chapter 257 of the  
16 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  
17 time to time, whenever in their judgment it shall become necessary" to  
18 determine the necessity and location of one or more inlets in the town  
19 of Southampton from the Atlantic Ocean to Shinnecock Bay, or into Mecox  
20 Bay, or into Sag Pond, and to exercise the power of eminent domain over  
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 ocean beaches in order to locate such inlet or inlets. For more than a  
2 century the courts of this state have rendered inconsistent decisions  
3 with respect to the powers of the said trustees over the ocean beaches.  
4 The legislature wishes to confirm that the Proprietors' Trustees no  
5 longer exist, address the powers of the trustees of the Freeholders and  
6 Commonalty of the town of Southampton in light of contemporary circum-  
7 stances, and clarify the application of chapter 255 of the laws of 1818  
8 and chapter 283 of the laws of 1831.

9 § 2. The Legislature confirms that the Trustees for the Proprietors of  
10 the town of Southampton, created by chapter 255 of the laws of 1818, are  
11 extinguished as a body politic.

12 § 3. Notwithstanding any provisions of chapter 255 of the laws of 1818  
13 and chapter 283 of the laws of 1831 to the contrary, the trustees of the  
14 Freeholders and Commonalty of the town of Southampton have and shall  
15 continue to have the authority to enforce the public's easement and  
16 access upon the ocean beaches within the town of Southampton, including  
17 all rights of the public with respect to the said ocean beaches which  
18 were conferred upon them by the Dongan Patent of 1686. The legislature  
19 recognizes that any authority over the ocean beaches that may have been  
20 conferred upon the trustees for the proprietors of the town of Southamp-  
21 ton revert to the trustees of the Freeholders and Commonalty of the town  
22 of Southampton.

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

27 § 5. The trustees of the Freeholders and Commonalty of the town of  
28 Southampton shall continue to have and exercise all of the rights of  
29 ownership over the waters of the town of Southampton and the products  
30 thereof that they had and exercised by virtue of the powers conferred  
31 upon them by the Dongan Patent, as well as the rights of ownership over  
32 the said waters and the productions thereof that they were authorized to  
33 have and exercise by chapter 255 of the laws of 1818 and chapter 283 of  
34 the laws of 1831.

35 § 6. Nothing in this act shall be construed to take from the trustees  
36 of the Freeholders and Commonalty of the town of Southampton any of the  
37 powers conferred upon them by chapter 283 of the laws of 1831, including  
38 the power to make rules, orders and by-laws for the management of the  
39 property and franchises of the town; to regulate their affairs; to  
40 impose penalties on any person offending against such rules, orders or  
41 by-laws; and to appropriate and apply the funds arising from their  
42 activities as they deem most proper to promote the interest of the town.

43 § 7. This act shall take effect immediately.