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992

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IN SENATE

January 6, 2017

Introduced by Sens. BONACIC, LARKIN -- 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 and the administrative code of
the city of New York, in relation to the discretion of localities in
granting exemptions for certain organizations and to repeal certain
provisions of the real property tax law relating thereto

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

1 Section 1. Paragraph (a) of subdivision 1 of section 420-a of the real
2 property tax law, as amended by chapter 920 of the laws of 1981, is
3 amended to read as follows:

4 (a) Real property owned by a corporation or association organized or
5 conducted exclusively for religious, charitable, hospital, educational,
6 ~~[or moral or mental improvement of men, women or children purposes]~~ or
7 for two or more such purposes, and used exclusively for carrying out
8 thereupon one or more of such purposes either by the owning corporation
9 or association or by another such corporation or association as herein-
10 after provided shall be exempt from taxation as provided in this
11 section.

12 § 2. Paragraph (a) of subdivision 1 of section 420-b of the real prop-
13 erty tax law, as added by chapter 919 of the laws of 1981, is amended to
14 read as follows:

15 (a) (i) Real property owned by a corporation or association which is
16 organized exclusively for purposes related to the moral or mental
17 improvement of men, women, or children, or for bible, tract, benevolent,
18 missionary, infirmary, public playground, scientific, literary, bar
19 association, medical society, library, patriotic or historical purposes,
20 for the development of good sportsmanship for persons under the age of
21 eighteen years through the conduct of supervised athletic games, for the
22 enforcement of laws relating to children or animals, or for two or more
23 such purposes, and used exclusively for carrying out thereupon one or

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

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1 more of such purposes either by the owning corporation or association,
2 or by another such corporation or association as hereinafter provided,
3 shall be exempt from taxation; provided, however, that such property
4 shall be taxable by any municipal corporation within which it is located
5 if the governing board of such municipal corporation, after public hear-
6 ing, adopts a local law, ordinance or resolution so providing. None of
7 the following subdivisions of this section providing that certain prop-
8 erties shall be exempt under circumstances or conditions set forth in
9 such subdivisions shall exempt such property from taxation by a munici-
10 pal corporation whose governing board has adopted a local law, ordinance
11 or resolution providing that such property shall be taxable pursuant to
12 this subdivision.

13 (ii) Notwithstanding the provisions of paragraph (b) of this subdivi-
14 sion, once a property is exempted from taxation pursuant to local law,
15 ordinance, or resolution, such property, so long as it continues to be
16 used exclusively for purposes of exempt activities, shall continue to be
17 exempt from taxation for no more than thirty years, unless such property
18 is sold or leased; provided, however, that such exemption shall be lost
19 after it has been enjoyed for thirty years if a local law, ordinance or
20 resolution has been enacted providing for the taxation of all properties
21 in the sub-category that the particular property is in, except any other
22 which is enjoying an exemption for thirty years pursuant to this para-
23 graph. Such local law may specify a minimum number of days each acre
24 must actually be used in order to qualify for the exemption authorized
25 in this section, provided, however, the number of days shall not be
26 greater than ninety.

27 § 3. Subdivision 1 of section 420-b of the real property tax law is
28 amended by adding a new paragraph (d) to read as follows:

29 (d) Property organized exclusively for purposes related to the moral
30 or mental improvement of men, women, or children shall include each of
31 the following categories of real property. Such property shall be owned
32 by a corporation classified as tax exempt or not-for-profit under the
33 federal internal revenue code. Any such category may be subject to taxa-
34 tion provided a local law, ordinance, or resolution is passed consistent
35 with this section:

36 (i) Arts. Real property primarily used to facilitate or enhance the
37 arts;

38 (ii) Sciences. Real property primarily used in the study of sciences,
39 biology, and horticulture;

40 (iii) Benefit of animals. Real property primarily used for the benefit
41 of non-human animals;

42 (iv) Open Space. Real property which is open to the public, is prima-
43 rily unimproved, and is kept open for hiking, walking, or forms of exer-
44 cise which do not commonly use mechanized devices except by those
45 persons who are disabled or otherwise unable to walk without mechanized
46 assistance. Such open space may be open to the public upon the payment
47 of a fee which is directly related to the costs of maintaining and
48 improving the property. Open space shall not include any property or
49 portion of property from which the public is excluded except for exclu-
50 sions solely for public health purposes as determined by a governmental
51 agency or for public safety as determined by the property owner, with
52 such determination to be reviewable in any court of equity jurisdiction;
53 provided, however a presumption shall attach that the property owner's
54 determination is reasonable. Attorneys fees may be awarded, at the
55 discretion of the court, for any prevailing party who commences or

1 defines a civil action based on the public safety exclusions permissible
2 by this subparagraph;

3 (v) Land Trust. Real property which is primarily unimproved and is
4 owned by a not-for-profit corporation and all of the following criteria
5 are met: (1) the not-for-profit corporation enters into a contract with
6 the assessing unit providing that the land in the land trust may not be
7 sold or encumbered except by mortgage or conservation easement, unless
8 the not-for-profit corporation, within thirty days of such sale or
9 encumbrance, enters into a valid contract to purchase land in New York
10 state of at least an equal value to be placed in a land trust, and the
11 not-for-profit corporation does so purchase such land within one year of
12 entering into such purchase and sale contract; (2) the real property is
13 included as part of a lawfully enacted comprehensive plan by the county,
14 city, town, or village in which such real property is in; or is identi-
15 fied in an official open space or natural resources protection plan duly
16 adopted by a federal, state, or local government or agency thereof.
17 Unless the governing board of the county, city, town or village in which
18 the property is situated passes a resolution to the contrary, if the
19 purchase, referred to in clause one of this subparagraph does not occur
20 within the time limitations thereunder, the land trust shall be liable
21 for all tax payments which it would have paid on the property it sold
22 for the period of time which it would have owed such tax payments to all
23 lawful taxing jurisdictions, unless the title to the equally valued land
24 under contract for purchase and sale was deemed unmarketable, or the
25 seller of such property withdrew the offer to sell, in which case the
26 land trust shall have an additional three hundred sixty-five days to
27 purchase and close title on another property in New York state pursuant
28 to the provisions of clause one of this subparagraph;

29 (vi) Non-scholastic educational. Real property owned by an organiza-
30 tion which is tax exempt under the federal internal revenue code and
31 which is primarily used to improve the intellectual capabilities of
32 persons, and which does not qualify for tax exemption pursuant to
33 section four hundred twenty-a of this title; provided, however, that
34 notwithstanding the preceding portion of this subparagraph, a property
35 shall continue to be exempt from taxation pursuant to section four
36 hundred twenty-a of this title when such property is owned by a tax
37 exempt entity and is: (1) used for educational purposes in that it is
38 used at least one hundred twenty days a year in a manner which satisfies
39 the compulsory education requirements of the education law; or (2) is
40 used for educational purposes by a tax exempt organization which holds a
41 certificate of registration from the board of regents; or (3) each acre
42 of which is used at least one hundred twenty days a year to increase
43 knowledge of persons and such property is owned by an institution of
44 higher learning or a school of medicine, dentistry or osteopathy created
45 by law or otherwise authorized by the board of regents of the state
46 university of New York to confer degrees and which meets standards of
47 educational quality comparable to those as may be established from time
48 to time by the board of regents of the state university of New York;
49 such terms shall also include property owned by an organization claiming
50 an exemption from taxation for educational purposes which is used to
51 house individuals who are actively engaged at least one hundred twenty
52 days per year in seeking to satisfy the compulsory education require-
53 ments of the education law or who are seeking a degree, certificate, or
54 diploma, through a property owner which holds a certificate of registra-
55 tion issued by the board of regents or holds a charter granted by the
56 New York state education department; or (4) is used actively and exclu-

1 sively at least sixty days per year by persons under the age of twenty-
2 one who are learning skills related to nature, the outdoors and/or
3 personal and civic responsibilities, provided, however, that the proper-
4 ty may also be used for community meetings or other exempt purposes when
5 no more than the actual expenses of utilizing the facility are charged
6 to the organization or individual; or (5) is used for the carrying out
7 of educational purposes, including property necessary for transportation
8 facilities, athletic facilities, parking facilities, or administrative
9 offices if owned by an organization which qualifies as exempt for educa-
10 tional purposes under section four hundred twenty-a of this title.

11 (vii) Recreational. Real property owned by an organization which is
12 tax exempt under the federal internal revenue code and which provides
13 recreational opportunity for persons regardless of ability to pay.
14 Recreational opportunities may be either indoors or outdoors and may
15 include overnight opportunities primarily for persons under the age of
16 twenty-one;

17 (viii) Medical purposes. Real property owned by an organization which
18 is tax exempt under the federal internal revenue code and which is not a
19 hospital as defined by section four hundred twenty-a of this title, but
20 which qualifies as a hospital as defined in article twenty-eight of the
21 public health law;

22 (ix) Home care services. Real property owned by an organization which
23 is tax exempt under the federal internal revenue code and is a home care
24 services agency as defined in article thirty-six of the public health
25 law;

26 (x) Residential health care facility. Real property owned by an organ-
27 ization which is tax exempt as a residential health care facility as
28 defined in article twenty-eight of the public health law;

29 (xi) Other medical purposes. Real property which is owned by an organ-
30 ization which is tax exempt under the federal internal revenue code and
31 is used to provide medical services to persons with limited economic
32 means; provided, however, that notwithstanding the preceding portion of
33 this subparagraph, a property shall continue to be exempt from taxation
34 pursuant to section four hundred twenty-a of this title when such prop-
35 erty is owned by a tax exempt entity and is a hospice facility as
36 defined in article forty of the public health law as well as a hospital
37 facility or institution engaged principally in providing services by or
38 under the supervision of a physician for the prevention, diagnosis, or
39 treatment of human disease, pain, injury, deformity or physical condi-
40 tion and which is certified or licensed pursuant to article twenty-eight
41 of the public health law, and which on an ongoing and constant basis
42 provides or offers overnight accommodations to those in need of such
43 medical services. It shall also include facilities owned by a hospital
44 facility or corporation related thereto which provides medical care,
45 even if not on a constant basis. It shall also include related parking
46 facilities which are owned by the hospital facility or hospice facility
47 or a corporation related thereto which is exempt from taxation and
48 generally used on an ongoing basis primarily by hospital facility or
49 hospice facility employees, patients, and visitors. It shall not include
50 living accommodation for hospital personnel or their families;

51 (xii) Interdenominational centers. (1) Real property owned by a corpo-
52 ration organized for the purposes of establishing an interdenominational
53 center to assist in the work of, and to promote cooperation among, vari-
54 ous religious denominations, and to acquire or erect a building or
55 buildings for such center, and to lease a portion or portions for use by
56 religious, educational, missionary and charitable corporations or asso-

1 ciations; or real property leased to corporations organized for such
2 purposes by a corporation organized for purposes which are exempt under
3 this section, or section four hundred twenty-a, four hundred twenty-two,
4 four hundred twenty-four, four hundred twenty-six or four hundred twen-
5 ty-eight of this title, shall be exempt from taxation and exempt from
6 special ad valorem levies and special assessments to the extent provided
7 in section four hundred ninety of this article, to the same extent and
8 subject to the same conditions and exceptions as property of a corpo-
9 ration organized exclusively for religious, educational, missionary or
10 charitable purposes.

11 (2) In addition to any other rental fees charged for such use, with
12 the consent of each corporation or association leasing a portion of such
13 real property, the interdenominational center may require each lessee to
14 make annual payments into a capital improvement fund to be used exclu-
15 sively for capital improvements, in accordance with a capital improve-
16 ment plan adopted or updated annually by the interdenominational center.
17 For purposes of this subparagraph, "capital improvement" shall mean any
18 addition to, replacement of, or remodeling of physical plant, struc-
19 tures, or equipment now or hereafter owned by an interdenominational
20 center, which is used or is to be used in connection with the operation
21 of the interdenominational center, and which shall include improvements
22 to land, but not land itself;

23 (xiii) Primarily charitable purposes. An activity conducted on real
24 property owned by an organization which is tax exempt under the federal
25 internal revenue code, and which activity actually and primarily allevi-
26 ates the condition of poor, or physically or mentally disabled persons;
27 provided, however, that notwithstanding the preceding portion of this
28 subparagraph, a property shall continue to be exempt from taxation
29 pursuant to section four hundred twenty-a of this title when such prop-
30 erty is owned by a tax exempt entity and either (1) undertakes signif-
31 icant blood donation initiatives as well as other health related initi-
32 atives, including, but not limited to the teaching of classes, and also
33 responds to disasters; or (2) which actively and exclusively alleviates
34 the condition of the poor or physically or mentally disabled humans,
35 provided, however, that the intended beneficiaries shall not be speci-
36 fied individuals and the services provided by an organization claiming a
37 charitable exemption under section four hundred twenty-a of this title
38 shall be open to the public based on economic or physical criteria and
39 such organization shall actively use each acre exempted pursuant to
40 section four hundred twenty-a of this title at least one hundred twenty
41 days per year for such purposes in order to maintain an exemption from
42 property taxation pursuant to this subparagraph; further, provided
43 however, that no person shall be determined to be poor or able to accept
44 charitable services because such person or his or her family gives as
45 much or more of their income to the charitable entity or another entity
46 which is tax exempt pursuant to the internal revenue code or exempt from
47 real property taxation under section four hundred twenty-a of this title
48 as would be required to make a determination that such a person or his
49 or her spouse or child is poor; and

50 (xiv) Other moral or mental improvement. Real property owned by an
51 organization which is tax exempt under the federal internal revenue code
52 and which is dedicated, in a manner other than as provided in this para-
53 graph, to the moral or mental improvement of men, women, or children.

54 § 4. Section 430 of the real property tax law is REPEALED.

§ 5. Subdivision 2 of section 420-a of the real property tax law, as amended by section 17 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of such purposes but is leased or otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or ~~[sections]~~ section four hundred twenty-b, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight~~[, four hundred thirty]~~ or four hundred fifty of this ~~[chapter]~~ title by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred six or section four hundred eight of this ~~[chapter]~~ article by a corporation which owns real property exempt from taxation pursuant to such section or if it owned any would be exempt from taxation pursuant to such section, (c) for purposes which are exempt pursuant to section four hundred sixteen of this ~~[chapter]~~ article by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section, (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or test ordered or directed by civil defense authorities, or (e) for purposes of a tax-free NY area that has been approved pursuant to article twenty-one of the economic development law, subject to the conditions that the real property must have been owned by the corporation or association organized exclusively for educational purposes and exempt pursuant to this section on June first, two thousand thirteen, and that the exemption shall apply only to the portion of such real property that is used for purposes of the START-UP NY program; and provided further that such real property shall be exempt from taxation only so long as it or a portion thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid for such use do not exceed the amount of the carrying, maintenance and depreciation charges of the property or portion thereof, as the case may be.

§ 6. Subdivision 2 of section 420-b of the real property tax law, as amended by chapter 534 of the laws of 2003, is amended to read as follows:

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of the purposes listed in subdivision one of this section, but is (a) leased or (b) otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or ~~[sections]~~ section four hundred twenty-a, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight~~[, four hundred thirty]~~ or four hundred fifty of this ~~[article]~~ title by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for

1 purposes which are exempt pursuant to section four hundred six or
2 section four hundred eight of this ~~[chapter]~~ article by a corporation
3 which owns real property exempt from taxation pursuant to such section,
4 (c) for purposes which are exempt pursuant to section four hundred
5 sixteen of this ~~[chapter]~~ article by an organization which owns real
6 property exempt from taxation pursuant to such section or whose real
7 property if it owned any would be exempt from taxation pursuant to such
8 section or (d) for purposes relating to civil defense pursuant to the
9 New York state defense emergency act, including but not limited to
10 activities in preparation for anticipated attack, during attack, or
11 following attack or false warning thereof, or in connection with drill
12 or test ordered or directed by civil defense authorities; and provided
13 further that such real property shall be exempt from taxation only so
14 long as it or a portion thereof, as the case may be, is devoted to such
15 exempt purposes and so long as any moneys paid for such use do not
16 exceed the amount of carrying, maintenance and depreciation charges of
17 the property or portion thereof, as the case may be.

18 § 7. Subdivision 2 of section 432 of the real property tax law, as
19 amended by chapter 620 of the laws of 1982, is amended to read as
20 follows:

21 2. Such real property shall be fully exempt although (a) it or a
22 portion thereof is leased or otherwise used by another corporation,
23 organized for purposes which are exempt pursuant to section four hundred
24 twenty-a, four hundred twenty-b, four hundred twenty-two, four hundred
25 twenty-four, four hundred twenty-six~~[7]~~ or four hundred twenty-eight ~~[or~~
26 ~~four hundred thirty]~~ of this ~~[article]~~ title and for one or more of the
27 purposes for which the owner corporation is organized, as long as such
28 real property or portion thereof as the case may be is devoted to such
29 uses and as long as any moneys paid for such use do not exceed the
30 amount of carrying, maintenance and depreciation charges of the property
31 or portion thereof as the case may be or (b) the auditorium located
32 thereon is leased or otherwise used for public performances, theatrical
33 presentations, opera, ballet, concerts, lectures, meetings, graduation
34 exercises and educational non-commercial uses for the purposes of
35 income, if such income is necessary for and actually applied to the
36 maintenance and support of such owner corporation and such is not used
37 for the acquisition of additional real property in this state.

38 § 8. Section 490 of the real property tax law, as amended by chapter
39 87 of the laws of 2001, is amended to read as follows:

40 § 490. Exemption from special ad valorem levies and special assess-
41 ments. Real property exempt from taxation pursuant to subdivision two
42 of section four hundred, subdivision one of section four hundred four,
43 subdivision one of section four hundred six, sections four hundred
44 eight, four hundred ten, four hundred ten-a, four hundred ten-b, four
45 hundred eighteen, four hundred twenty-a, four hundred twenty-b, four
46 hundred twenty-two, four hundred twenty-six, four hundred twenty-seven,
47 four hundred twenty-eight, ~~[four hundred thirty,~~ four hundred thirty-
48 two, four hundred thirty-four, four hundred thirty-six, four hundred
49 thirty-eight, four hundred fifty, four hundred fifty-two, four hundred
50 fifty-four, four hundred fifty-six, four hundred sixty-four, four
51 hundred seventy-two, four hundred seventy-four and four hundred eighty-
52 five of this ~~[chapter]~~ article shall also be exempt from special ad
53 valorem levies and special assessments against real property located
54 outside cities and villages for a special improvement or service or a
55 special district improvement or service and special ad valorem levies
56 and special assessments imposed by a county improvement district or

1 district corporation except (1) those levied to pay for the costs,
2 including interest and incidental and preliminary costs, of the acqui-
3 sition, installation, construction, reconstruction and enlargement of or
4 additions to the following improvements, including original equipment,
5 furnishings, machinery or apparatus, and the replacements thereof: water
6 supply and distribution systems; sewer systems (either sanitary or
7 surface drainage or both, including purification, treatment or disposal
8 plants or buildings); waterways and drainage improvements; street, high-
9 way, road and parkway improvements (including sidewalks, curbs, gutters,
10 drainage, landscaping, grading or improving the right of way) and (2)
11 special assessments payable in installments on an indebtedness including
12 interest contracted prior to July first, nineteen hundred fifty-three,
13 pursuant to section two hundred forty-two of the town law or pursuant to
14 any other comparable provision of law.

15 § 9. Section 492 of the real property tax law, as amended by chapter
16 620 of the laws of 1982, is amended to read as follows:

17 § 492. Ascertainment of amount of special assessment in certain
18 cases. If a portion of a parcel of real property is subject to taxation
19 pursuant to section four hundred twenty-a, four hundred twenty-b, four
20 hundred twenty-four, four hundred twenty-six, ~~four hundred thirty,~~
21 four hundred thirty-six or four hundred thirty-eight of this article,
22 the amount of any special assessment to be levied on such portion shall
23 be ascertained by considering the benefit to the property to be in the
24 same proportion as the assessed valuation of the taxable portion of the
25 property bears to the assessed valuation of the property.

26 § 10. The opening paragraph of paragraph 2 of subdivision a of section
27 25-309 of the administrative code of the city of New York is amended to
28 read as follows:

29 In any case where any application and request for a certificate of
30 appropriateness mentioned in paragraph one of this subdivision [a] is
31 filed with the commission with respect to an improvement, the provisions
32 of this section shall not apply to such request if the improvement
33 parcel which includes such improvement has received, for three years
34 next preceding the filing of such request, and at the time of such
35 filing continues to receive, under any provision of law (other than this
36 chapter or section four hundred fifty-eight, four hundred sixty or four
37 hundred seventy-nine of the real property tax law), exemption in whole
38 or in part from real property taxation; provided, however, that the
39 provisions of this section shall nevertheless apply to such request if
40 such exemption is and has been received pursuant to section four hundred
41 twenty-a, four hundred twenty-two, four hundred twenty-four, four
42 hundred twenty-five, four hundred twenty-six, four hundred twenty-seven,
43 four hundred twenty-eight, ~~four hundred thirty,~~ four hundred thirty-
44 two, four hundred thirty-four, four hundred thirty-six, four hundred
45 thirty-eight, four hundred forty, four hundred forty-two, four hundred
46 forty-four, four hundred fifty, four hundred fifty-two, four hundred
47 sixty-two, four hundred sixty-four, four hundred sixty-eight, four
48 hundred seventy, four hundred seventy-two or four hundred seventy-four
49 of the real property tax law and the applicant establishes to the satis-
50 faction of the commission, in lieu of the requirements set forth in
51 paragraph one of this subdivision [a], that:

52 § 11. This act shall take effect on the first of January next succeed-
53 ing the date on which it shall have become a law and shall apply to
54 assessment rolls on and after such date.