

# STATE OF NEW YORK

995--A

2017-2018 Regular Sessions

## 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 Finance -- 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 the exemption from taxation for non-profit organizations

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

1 Section 1. Subdivision 1 of section 420-a of the real property tax law  
2 is amended by adding a new paragraph (c) to read as follows:

3 (c) When used in this section:

4 (i) "organized or conducted exclusively" shall require that a corpo-  
5 ration's or association's organizational documents limit the purposes of  
6 such corporation or association to one or more exempt purposes, as set  
7 out in paragraph (a) of this subdivision;

8 (ii) "used exclusively" shall require that a corporation or associ-  
9 ation use its property only for exempt purposes. Uses which may be help-  
10 ful to the exempt organization but would not, if done on land owned by  
11 an otherwise taxable entity, qualify for tax exemption shall subject the  
12 portion of the property so used to real property taxation. Such phrase  
13 shall be strictly construed and shall be intended to limit exemptions to  
14 property and improvements utilized solely for exempt purposes. Where an  
15 exempt organization utilizes its land for other purposes, including but  
16 not limited to, the sale of products made on the land commercially or  
17 the sale of timber, or otherwise leases the land for commercial  
18 purposes, or allows the placement or construction of improvements on the  
19 land for commercial purposes, that portion of such property and any  
20 improvements thereon if such improvements are not utilized for wholly  
21 exempt purposes shall be subject to real property taxation;

22 (iii) "religious purposes" shall mean an activity that is fundamental,  
23 necessary and intrinsic to the practice of a religion. Meditation or

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

LBD04901-02-7

1 the maintenance of open space or property utilized primarily for hiking  
2 shall not be considered a fundamental or intrinsic religious purpose. A  
3 corporation or association organized or conducted exclusively for a  
4 religious purpose shall have its own beliefs, form of worship and form  
5 of organization. No exemption may be claimed for religious purposes for  
6 buildings which are on a parcel where persons live if such persons work  
7 in income producing ventures where the income either goes to the indi-  
8 vidual or to another claiming the exemption or to an organization which  
9 is legally associated or affiliated with the income producing venture,  
10 unless such goods or services are exclusively and without exception sold  
11 to or provided to individuals of the same religion. For the purposes of  
12 this paragraph, the term "income" need not include payment of money but  
13 may include the receipt by an individual who has provided work or his or  
14 her family of food, or clothing or shelter. The fact that individuals  
15 live in a classless society shall not be a factor in granting or denying  
16 an exemption based on religious purposes. The provisions of this subpar-  
17 agraph shall not affect the provisions of section four hundred thirty-  
18 six, four hundred sixty or four hundred sixty-two of this title;

19 (iv) "educational purpose" shall mean either:

20 (A) an activity which shall be undertaken in a manner which satisfies  
21 the compulsory education requirements of the education law or an activ-  
22 ity which is done under the supervision of an entity which is tax exempt  
23 pursuant to the not-for-profit corporation law or the internal revenue  
24 code and the entity which conducts such activities can issue a diploma  
25 and also holds a certificate of registration issued by the board of  
26 regents. Such term shall also mean purposes which are exclusively used  
27 to increase the knowledge of individuals and which are owned by an  
28 institution of higher learning or a school of medicine, dentistry or  
29 osteopathy created by law or otherwise authorized by the board of  
30 regents of the state university of New York to confer degrees and which  
31 meet standards of educational quality comparable to those as may be  
32 established from time to time by the board of regents of the state  
33 university of New York; such term shall also include property owned by  
34 one claiming an exemption from taxation for educational purposes which  
35 is used to house individuals who are actively engaged at least one  
36 hundred twenty days per year in seeking to satisfy the compulsory edu-  
37 cation requirements of the education law or who are seeking a degree,  
38 certificate, or diploma, through a property owner or lessee which holds  
39 a certificate of registration issued by the board of regents or who  
40 holds a charter granted by the New York state education department. An  
41 entity claiming exemption for educational purposes shall utilize each  
42 acre at least one hundred twenty days a year exclusively for educational  
43 purposes in order to maintain an exemption from property taxation pursu-  
44 ant to this subparagraph; or

45 (B) property owned by an organization which is a not-for-profit corpo-  
46 ration or is otherwise tax exempt pursuant to the internal revenue code,  
47 each exempt acre of which is actively and exclusively used at least  
48 sixty days per year by persons under the age of twenty-one who are  
49 learning skills related to nature, the outdoors and/or personal and  
50 civic responsibilities. The provisions of this subparagraph shall be  
51 strictly interpreted. Notwithstanding any other portion of this subpar-  
52 agraph, the property may also be utilized by organizations or individ-  
53 uals for community meetings or community classes or events when no more  
54 than the actual expenses of utilizing the facility are charged to the  
55 organization or individual; provided no activity described in this  
56 subparagraph shall count as part of the day requirements otherwise

1 provided for in this subparagraph. Property necessary for the carrying  
2 out of educational purposes, including property necessary for transpor-  
3 tation facilities, athletic facilities, parking facilities, or adminis-  
4 trative offices shall be considered an educational purpose if owned by  
5 an organization which otherwise qualifies as exempt for educational  
6 purposes;

7 (v) "charitable purposes" shall mean an activity done without profit  
8 which actually and exclusively either:

9 (A) undertakes significant blood donation initiatives, as well as  
10 other health related initiatives, including, but not limited to the  
11 teaching of classes, and also responds to disasters; or

12 (B) which actively and exclusively alleviates the condition of poor or  
13 physically or mentally disabled humans. The intended beneficiaries shall  
14 not be specified individuals and the services provided by an organiza-  
15 tion claiming charitable exemption shall be open to the public based on  
16 economic or physical criteria. An entity claiming exemption for charita-  
17 ble purposes shall utilize each acre at least one hundred twenty days a  
18 year exclusively for charitable purposes in order to maintain an  
19 exemption from property taxation pursuant to this subparagraph. For the  
20 purposes of this section and section four hundred twenty-b of this  
21 title, no person who receives food, clothing, or housing from an educa-  
22 tional, charitable, religious, moral or mental improvement of men,  
23 women, and children entity shall be determined to be poor because such  
24 person or his or her family gives as much or more of their income to the  
25 charitable entity or another entity which is tax exempt pursuant to the  
26 Internal Revenue Code or exempt from real property taxation under this  
27 section, or both, as would be required to make a determination that that  
28 person or his or her spouse or child is poor;

29 (vi) "hospital purposes" shall mean a hospice facility as defined in  
30 article forty of the public health law as well as a hospital facility or  
31 institution engaged principally in providing services by or under the  
32 supervision of a physician for the prevention, diagnosis or treatment of  
33 human disease, pain, injury, deformity or physical condition and which  
34 is certified or licensed pursuant to article twenty-eight of the public  
35 health law, and which on an ongoing and constant basis provides over-  
36 night accommodations to those in need of medical services. It shall also  
37 include facilities owned by a hospital facility or corporation related  
38 thereto which provides medical care, even if not on a constant basis. It  
39 shall also include related parking facilities which exclusively serve  
40 the hospital as well as related grounds which are used by hospital  
41 patients; and shall also include an emergency room, which is defined to  
42 mean a center open on a continuous basis which provides emergency care  
43 for those in need of medical services and which is in the same building  
44 as a hospital. It shall not include living accommodations for hospital  
45 personnel or their families;

46 (vii) "moral or mental improvement of men, women, or children" shall  
47 include each of the following categories of real property described in  
48 this subparagraph. In order to be exempt from taxation, each acre shall  
49 have to be actively and actually utilized for an exempt purpose at least  
50 one hundred twenty days in any year an exemption is claimed for or  
51 sought. In addition, the property, in addition to any other requirement,  
52 shall be classified as not-for-profit or tax exempt under the Internal  
53 Revenue Code.

54 (A) Real property primarily used to facilitate or enhance the arts;

55 (B) Real property primarily used in the study of sciences, biology,  
56 and horticulture;

1 (C) Real property primarily used for the benefit of non-human animals;

2 (D) Real property which is open to the public and is primarily unim-  
3 proved and is kept open for hiking, walking, or forms of exercise which  
4 do not commonly use mechanized devices except by those persons who are  
5 disabled or otherwise unable to walk without mechanized assistance. Such  
6 open space may be open to the public upon the payment of a fee which is  
7 directly related to the costs of maintaining the property, including the  
8 improvements thereon. Open space shall not include any property or  
9 portion therefor from which the public is excluded except for exclusions  
10 based exclusively on public health purposes, as determined by a govern-  
11 mental agency, or for public safety reasoning, as determined by the  
12 property owner, such determination to be reviewable in any court having  
13 equity jurisdiction and a presumption shall be attached thereto that the  
14 property owner's determination is reasonable. Attorneys fees may be  
15 awarded, at the discretion of the court, for any primarily prevailing  
16 party who commences or defends a civil action based on the public safety  
17 aspects of this subparagraph;

18 (E) "Land trust" shall mean real property which is primarily unim-  
19 proved. No owner shall be entitled to a property tax exemption as a land  
20 trust unless that property owner meets all of the following criteria:  
21 (1) enters into a contract with the assessing unit which provides that  
22 the land in the land trust may not be sold or encumbered, except by  
23 mortgage or conservation easement, without the property owner, within  
24 thirty days of such sale or encumbrance, entering into a valid contract  
25 to purchase land of at least an equal value in the state of New York to  
26 be placed in a land trust and actually so purchasing within one year of  
27 entering into such contract; (2) is included as part of a lawfully  
28 enacted comprehensive plan by the county, city, town, or village which  
29 such property is in or is identified in an official open space or  
30 natural resources protection plan duly adopted by a federal, state or  
31 local government or agency thereof; (3) exists as a land trust to  
32 protect ecological resources which are considered valuable in a lawfully  
33 enacted comprehensive plan provided that public access shall not be a  
34 criteria in deterring an exemption from taxation for land trust  
35 purposes; and (4) unless the governing board of the town, city, or  
36 village where the property is situated passes a resolution to the  
37 contrary, if the purchase, referred to in item (A) of this clause does  
38 not occur within the time limitations provided in such item, the land  
39 trust shall be liable for all tax payments which such land trust would  
40 have paid on the property such land trust sold for the period of time  
41 which such land trust would have owed to all lawful taxing jurisdictions  
42 unless the title to the land such land trust entered into a contract to  
43 purchase was unmarketable or the seller of such property withdrew the  
44 offer to sell in which case such land trust shall have an additional  
45 three hundred sixty-five day period to purchase and close title on prop-  
46 erty in the state of New York, the value of which is at least equal to  
47 the value of the property such land trust sold which required the  
48 purchase of the property whose title was unmarketable or whose offer to  
49 sell was withdrawn;

50 (F) "Personal improvement" shall mean real property other than that  
51 provided for in clause (B) of subparagraph (iv) of this paragraph, which  
52 is used primarily by persons under the age of twenty-one who are learn-  
53 ing skills related to nature, the outdoors and/or personal and civic  
54 responsibilities. Such property shall be owned by organizations or asso-  
55 ciations which are tax exempt under the Internal Revenue Code. Notwith-  
56 standing any part of this subdivision to the contrary, each acre of

1 property exempted as personal improvement property need only be utilized  
2 ninety days per year in order to maintain such property's exemption;

3 (G) "Non-scholastic educational" shall mean real property owned by an  
4 organization which is tax exempt under the Internal Revenue Code and  
5 which is primarily used to improve the intellectual capabilities of  
6 human beings which do not otherwise qualify for tax exemption pursuant  
7 to this section;

8 (H) "Recreational" shall mean real property owned by an organization  
9 which is tax exempt under the Internal Revenue Code and which provides  
10 recreational opportunity for individuals regardless of ability to pay.  
11 Recreational opportunities can be either indoors or outdoors and may  
12 include overnight opportunities primarily for persons under the age of  
13 twenty-one years;

14 (I) "Medical purposes" shall mean real property otherwise owned by an  
15 organization which is tax exempt under the Internal Revenue Code and  
16 which is not a hospital as defined by this section but which qualifies  
17 as a hospital as defined in article twenty-eight of the public health  
18 law. Notwithstanding any provision of this subdivision to the contrary,  
19 property exempted for medical purposes need not meet any minimum usage  
20 requirement in terms of the number of days each acre is actively and  
21 actually used;

22 (J) "Home care services" shall mean real property otherwise owned by  
23 an organization which is tax exempt under the Internal Revenue Code and  
24 is a home care services agency as defined in article thirty-six of the  
25 public health law, notwithstanding any provision of this subdivision to  
26 the contrary, property exempted for home care services purposes need not  
27 meet any minimum usage requirement in terms of the number of days each  
28 acre is actively and actually used;

29 (K) "Residential health care facility" shall mean real property other-  
30 wise owned by an organization which is tax exempt as a residential  
31 health care facility as defined in article twenty-eight of the public  
32 health law. Notwithstanding any provision of this subdivision to the  
33 contrary, property exempted for residential health care facility  
34 purposes need not meet any minimum usage requirement in terms of the  
35 number of days each acre is actively and actually used;

36 (L) "Other medical purposes" shall mean real property which otherwise  
37 is owned by an organization which is tax exempt under the Internal  
38 Revenue Code and is used to provide medical services to those in need.  
39 Notwithstanding any provision of this subdivision to the contrary, prop-  
40 erty exempted for other medical purposes need not meet any minimum usage  
41 requirement in terms of the number of days each acre is actively and  
42 actually used;

43 (M) "Primarily charitable purposes" shall mean an activity done on  
44 real property owned by an organization which is tax exempt under the  
45 Internal Revenue Code and which actually and primarily alleviates the  
46 condition of poor or physically or mentally disabled humans. The  
47 intended beneficiaries shall not be specified individuals and the  
48 services provided by an organization claiming charitable exemption shall  
49 be open to the public based on economic or physical criteria; and

50 (N) "Other moral or mental improvement" shall mean real property owned  
51 by an organization which is tax exempt under the 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 § 2. Subdivision 1 of section 420-b of the real property tax law is  
55 amended by adding a new paragraph (d) to read as follows:

56 (d) When used in this section:



1 (i) "organized exclusively" shall require that a corporation's or  
2 association's organizational documents limit the purpose of such corpo-  
3 ration or association to one or more exempt purposes, as set out in  
4 paragraph (a) of this subdivision. Furthermore, the corporation or asso-  
5 ciation shall not be empowered to engage in activities which in them-  
6 selves are not in furtherance of one or more such purposes; and

7 (ii) "used exclusively" shall require that a corporation or associ-  
8 ation use its property only for exempt purposes. Uses which may be help-  
9 ful to the exempt organization but would not, if done on land owned by  
10 an otherwise taxable entity, qualify for tax exemption shall subject the  
11 portion of the property so used to real property taxation. Such phrase  
12 shall be strictly construed and shall be intended to limit exemptions to  
13 property and improvements utilized solely for exempt purposes. Where an  
14 exempt organization utilizes its land for other purposes, including but  
15 not limited to, the sale of products made on the land commercially or  
16 the sale of timber, or otherwise leases the land for commercial  
17 purposes, or allows the placement or construction of improvements on the  
18 land for commercial purposes, that portion of such property and any  
19 improvements thereon if such improvements are not utilized for wholly  
20 exempt purposes shall be subject to real property taxation.

21 § 3. The real property tax law is amended by adding a new section  
22 420-d to read as follows:

23 § 420-d. State aid payments for properties exempted from taxation. 1.  
24 Definitions. (a) For the purpose of this section, the phrase "taxing  
25 district" shall include schools, counties, cities, towns, villages, as  
26 well as lawfully formed districts which provide services, including, but  
27 not limited to fire protection districts, ambulance districts, as well  
28 as other lawfully formed districts which do not receive payments from an  
29 affected property owner.

30 (b) For the purposes of this section, the phrase "affected property  
31 owner" shall mean an organization which is exempt from taxation pursuant  
32 to the internal revenue code and which owns property described in clause  
33 (B) of subparagraph (iv) of paragraph (c) of subdivision one of section  
34 four hundred twenty-a of this title.

35 2. State aid payments. A taxing district in which property is situated  
36 which property is owned by an affected property owner shall, subject to  
37 the provisions of this section, be entitled to receive up to one hundred  
38 percent of the taxes which would have been paid on such property had  
39 such property not been owned by an affected property owner.

40 3. Application. (a) The chief executive officer of a taxing district  
41 in which there is property owned by an affected property owner may make  
42 application for state assistance pursuant to this section. Such applica-  
43 tion shall be on a form developed by the commissioner. Upon receipt of  
44 the application for state assistance, such property shall be valued by  
45 the commissioner and the cumulative value of all such lands shall be  
46 equalized by applying thereto the appropriate state equalization rate or  
47 special equalization rate established in accordance with the rules of  
48 the commissioner.

49 (b) Subject to an acceptable application, the commissioner shall  
50 compute the amount of state assistance payable to or for the benefit of  
51 each taxing district by multiplying the value of the assessed property  
52 by the tax rate per thousand for each taxing district who makes applica-  
53 tion pursuant to the provisions herein. Such amount shall then be paid  
54 to the taxing district upon the audit and warrant of the state comp-  
55 troller out of moneys appropriated by the legislature. In the event that  
56 the total moneys payable pursuant to this section shall exceed the

1 amount appropriated by the legislature in any state fiscal year, the  
2 payments to taxing district shall be reduced proportionately for each  
3 taxing district which has timely made application pursuant to this  
4 section.

5 4. Rules. The commissioner is authorized to develop rules and regu-  
6 lations or guidelines for the implementation of this section.

7 § 4. This act shall take effect on the first of January next succeed-  
8 ing the date on which it shall have become a law and shall apply to  
9 assessment rolls prepared on the basis of taxable status dates occurring  
10 on or after such date.