

# STATE OF NEW YORK

S. 6231--A

A. 7845--A

2019-2020 Regular Sessions

## SENATE - ASSEMBLY

May 24, 2019

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. THIELE, LUPARDO, GOTTFRIED, JONES, WILLIAMS, COOK, CARROLL, RAIA, LAVINE, TAGUE, BLAKE, GLICK, SEAWRIGHT, BARRON, D'URSO, CROUCH, STIRPE, CAHILL, ABINANTI, WOERNER, FAHY, STECK, ARROYO, WEPRIN, BRABENEC, MONTESANO, McDONOUGH, PALUMBO, SOLAGES, L. ROSENTHAL, COLTON, SANTABARBARA, HUNTER, PAULIN, QUART, STERN, BARNWELL, PERRY, ROZIC, MAGNARELLI, OTIS, SIMOTAS, HEVESI, ZEBROWSKI, BARRETT, WALLACE, EPSTEIN, NIOU, JAFFEE, DINOWITZ, RICHARDSON, DE LA ROSA, RYAN, ORTIZ, RODRIGUEZ, TAYLOR, DeSTEFANO, GRIFFIN, MOSLEY, SCHMITT, MANKTELOW -- Multi-Sponsored by -- M. of A. BRONSON, BUCHWALD, BYRNE, CYMBROWITZ, GALEF, LENTOL, M. L. MILLER, SAYEGH, SIMON -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to certain agricultural lands

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

1 Section 1. Legislative findings and intent. The legislature hereby  
2 finds that article XIV, section 4 of the state constitution provides  
3 that it shall be the policy of the state to conserve and protect its  
4 natural resources and scenic beauty and encourage the development of its  
5 agricultural lands for the production of food and other agricultural  
6 products.

7 Section 247 of the general municipal law authorizes any county, city,  
8 town or village to acquire interests or rights in real property for the  
9 preservation of open spaces and areas as a public purpose. Open space or  
10 open area is defined as any space or area characterized by: (1) natural

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

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1 scenic beauty; or (2) whose existing openness, natural condition, or  
2 present state of use, if retained, would enhance the present or poten-  
3 tial value of abutting or surrounding urban development, or would main-  
4 tain or enhance the conservation of natural or scenic resources.  
5 Natural resources include but are not limited to agricultural lands  
6 defined as open lands actually used in bona fide agricultural  
7 production.

8 The provisions of section 247 of the general municipal law relating to  
9 open space or area and the actual use of such lands in bona fide agri-  
10 cultural production have recently been the subject of a legal controver-  
11 sy with regard to the validity of local regulations that permit agricul-  
12 tural uses, buildings, or structures on agricultural lands protected  
13 pursuant to that section.

14 In the case of Long Island Pine Barrens Society, Inc. v. Suffolk Coun-  
15 ty Legislature, 159 A.D.3d 805 (2d Dep't 2018), lv. denied, 32 N.Y.3d  
16 910 (2018), the plaintiffs alleged that where public funds have been  
17 used to acquire interests or rights in agricultural lands, such lands  
18 must remain open and undeveloped. It was further alleged that once such  
19 interests or rights are acquired on such lands by a municipality, they  
20 must remain unchanged and no further development may occur. Finally, it  
21 was claimed that certain uses, as well as the erection of agricultural  
22 structures, such as barns, fencing, and irrigation systems constituted  
23 an illegal alienation of the government's interest in agricultural lands  
24 or a waste of public property. The appellate division of the state  
25 supreme court rejected these claims and declared the local regulations  
26 to be valid. Leave to appeal was denied by the state court of appeals.

27 The legislature reaffirms that interests or rights acquired in agri-  
28 cultural lands pursuant to section 247 of the general municipal law do  
29 not prohibit or preclude the right to use agricultural lands for uses,  
30 buildings and structures that are accessory to bona fide agricultural  
31 production. The legislature further affirms that municipalities possess  
32 the legal authority to permit and regulate such uses, buildings, and  
33 structures on agricultural lands protected pursuant to this section.  
34 Such uses, buildings or structures permitted pursuant to local regu-  
35 lation do not constitute a waste of public property, nor do they consti-  
36 tute an alienation of any interests or rights in real property. Such  
37 uses, buildings or structures are consistent with the preservation of  
38 open space and areas pursuant to section 247 of the general municipal  
39 law.

40 This legislation further reaffirms the state's interest in the devel-  
41 opment of its agricultural lands for the production of food and agricul-  
42 tural products as set forth in the state constitution. It is the further  
43 intent of the legislature to reaffirm its commitment to protecting,  
44 conserving and encouraging the development and improvement of the  
45 state's agricultural lands. Agricultural lands in New York state are in  
46 jeopardy of being lost for agricultural purposes due to deleterious side  
47 effects resulting from the extension of nonagricultural development into  
48 farm areas.

49 The socio-economic vitality of agriculture in this state is essential  
50 to the economic stability and growth of many local communities and the  
51 state as a whole. Without the ability to engage in bona fide agricul-  
52 tural production, which includes the right to engage in uses and the  
53 right to erect buildings and structures accessory to agricultural  
54 production, more agricultural lands will be lost and farming as a vital  
55 component of the state's economy will be further threatened.

1     § 2. Where interests or rights in real property for the preservation  
2 of agricultural lands have been acquired for the preservation of open  
3 spaces and areas pursuant to section 247 of the general municipal law,  
4 permits may be granted by the county, city, town or village acquiring  
5 said interests or rights to allow uses, buildings, and structures that  
6 are accessory to the use of the land for bona fide agricultural  
7 production, unless such use is expressly prohibited or limited by the  
8 instrument of conveyance executed pursuant to this section.

9     § 3. The provisions of this law shall be applicable to all interests  
10 or rights in real property currently owned or hereafter acquired for the  
11 preservation of agricultural lands pursuant to section 247 of the gener-  
12 al municipal law.

13     § 4. This act shall take effect immediately.