

# STATE OF NEW YORK

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2607

2019-2020 Regular Sessions

## IN SENATE

January 28, 2019

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Introduced by Sen. AKSHAR -- 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 Assembly, 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.