STATE OF NEW YORK

S. 3711 A. 5504

2019-2020 Regular Sessions

SENATE - ASSEMBLY

February 13, 2019

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to granting an exclusion from transfer taxes for certain farmland and land of conservation value

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

Section 1. This act shall be known and may be cited as the "farmland and open space preservation act of 2019".

§ 2. Section 951-a of the tax law is amended by adding two new subsections (g) and (h) to read to follows:

(g) The term "farm operation" shall have the same meaning as defined in subdivision eleven of section three hundred one of the agriculture and markets law.

(h) The term "conservation easement" shall mean an easement, covenant, restriction, or other interest in real property acquired for the preservation of agricultural lands used in bona fide agricultural production, pursuant to section two hundred forty-seven of the general municipal law.

§ 3. Subsection (a) of section 954 of the tax law, as amended by section 3 of part X of chapter 59 of the laws of 2014, paragraph 3 as amended by section 2 of part BB of chapter 59 of the laws of 2015, is amended to read as follows:

(a) General.-- The New York gross estate of a deceased resident means his or her federal gross estate as defined in the internal revenue code (whether or not a federal estate tax return is required to be filed) modified as follows:

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

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(1) Reduced by the value of real or tangible personal property having an actual situs outside New York state.

(1-a) Reduced by the value of real property situated in the state which, on the date of the decedent's death was land used in support of a farm operation; upon which there was a conservation easement; or upon which there was a covenant restricting the use of the land to agricultural or natural resource conservation purposes.

(2) Increased by the amount determined under section nine hundred fifty-seven of this part (relating to limited powers of appointment created prior to September first, nineteen hundred thirty).

(3) Increased by the amount of any taxable gift under section 2503 of the internal revenue code not otherwise included in the decedent's federal gross estate, made during the three year period ending on the decedent's date of death, but not including any gift made: (A) when the decedent was not a resident of New York state; [~~or~~] (B) before April first, two thousand fourteen; [~~or~~] (C) that is real or tangible personal property having an actual situs outside New York state at the time the gift was made[~~. Provided, however that this paragraph shall not apply to the estate of a decedent dying on or after January first, two thousand nineteen~~]**; (D) or that is real property used in support of a farm operation, subject to a conservation easement, or subject to a restrictive covenant as described in paragraph one-a of this subsection**.

§ 4. The tax law is amended by adding a new section 954-a to read as follows:

§ 954-a. Additional tax if land used in support of a farm operation, subject to a conservation easement, or subject to a restrictive covenant as described in paragraph one-a of subsection (a) of section nine hundred fifty-four of this part is no longer used for such purposes. (a) If, at any time after the decedent's death and before the death of the heir, the heir: (1) disposes of any interest in real property that is used in support of a farm operation, subject to a conservation easement, or subject to a restrictive covenant as described in paragraph one-a of subsection (a) of section nine hundred fifty-four of this part and the person acquiring such interest is not subject to the restrictions on use described in paragraph one-a of subsection (a) of section nine hundred fifty-four of this part, or (2) the heir uses such land in any manner which violates the terms of such restriction, then, there is hereby imposed an additional estate tax.

(b) The amount of the additional tax imposed by this section shall be the amount equal to the excess of what would have been the estate tax liability but for the reduction provided in paragraph one-a of subsection (a) of section nine hundred fifty-four of this part.

§ 5. Section 982 of the tax law is amended by adding a new subsection (a-1) to read as follows:

(a-1) Farmland and conservation land exclusion. An amount equal to the adjusted value attributable to real property used in support of a farm operation, subject to a conservation easement, or subject to a restrictive covenant as described in paragraph one-a of subsection (a) of section nine hundred fifty-four of this article shall be a lien in favor of the state.

§ 6. This act shall take effect immediately.