

STATE OF NEW YORK

S. 6231--B

A. 7845--B

2019-2020 Regular Sessions

SENATE - ASSEMBLY

May 24, 2019

IN SENATE -- Introduced by Sens. LAVALLE, BROOKS, KAMINSKY -- 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 -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. THIELE, LUPARDO, JONES, WILLIAMS, COOK, CARROLL, 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, PEOPLES-STOKES -- 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 -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- 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

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

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1 agricultural lands for the production of food and other agricultural
2 products.

3 Section 247 of the general municipal law authorizes any county, city,
4 town or village to acquire interests or rights in real property for the
5 preservation of open spaces and areas as a public purpose. Open space or
6 open area is defined as any space or area characterized by: (1) natural
7 scenic beauty; or (2) whose existing openness, natural condition, or
8 present state of use, if retained, would enhance the present or poten-
9 tial value of abutting or surrounding urban development, or would main-
10 tain or enhance the conservation of natural or scenic resources.
11 Natural resources include but are not limited to agricultural lands
12 defined as open lands actually used in bona fide agricultural
13 production.

14 The provisions of section 247 of the general municipal law relating to
15 open space or area and the actual use of such lands in bona fide agri-
16 cultural production have recently been the subject of a legal controver-
17 sy with regard to the validity of local regulations that permit agricul-
18 tural uses, buildings, or structures on agricultural lands protected
19 pursuant to that section. The appellate division of the state supreme
20 court declared the local regulations to be valid.

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

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

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

50 § 2. Where interests or rights in real property for the preservation
51 of agricultural lands have been acquired for the preservation of open
52 spaces and areas pursuant to section 247 of the general municipal law,
53 permits may be granted by the county, city, town or village acquiring
54 said interests or rights to allow uses, buildings, and structures that
55 are accessory to the use of the land for bona fide agricultural

1 production, unless such use is expressly prohibited or limited by the
2 instrument of conveyance executed pursuant to this section.

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

7 § 4. This act shall take effect immediately.