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Introduced by Sens. YOUNG, FUNKE, ORTT, RANZENHOFER, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, the general municipal law, the real property tax law and the agriculture and markets law, in relation to the establishment of a working farmland property tax credit for owners of agricultural assessment land within agricultural districts

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

1 Section 1. Legislative intent. The legislature hereby finds, deter-
2 mines and declares that the New York agriculture industry has a substan-
3 tial impact on the overall economic health and well-being of the state.
4 The state constitution provides that the policy of the state shall be to
5 encourage the development and improvement of its agricultural lands for
6 the production of food and other agricultural products. The activities
7 of farmers and the protection of viable farmland provide many environ-
8 mental benefits to society, such as open space, scenic vistas, wetlands
9 that aid in water purification, plants that purify air, and food, water
10 and habitat for people, domestic animals and wildlife. Therefore, it is
11 in the public interest to encourage the maintenance of existing farmland
12 and agricultural lands for farming purposes, thereby helping to ensure
13 the continued economic viability of farm operations.

14 § 2. Section 210-B of the tax law is amended by adding a new subdivi-
15 sion 11-a to read as follows:

16 11-a. Working farmland property tax credit. (a) General. In the case
17 of a taxpayer that owns agricultural assessment land which is eligible
18 for the working farmland property tax credit established pursuant to
19 article eighteen-D of the general municipal law and an agricultural
20 district established pursuant to article twenty-five-AA of the agricul-
21 ture and markets law, and the taxpayer has executed a covenant to
22 restrict the use of such land pursuant to section nine hundred seventy-

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

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1 two-g of the general municipal law, there shall be allowed a credit for
2 the school district, town and county property taxes paid during the
3 taxable year on such land; provided, however, that the amount of the
4 credit shall be limited to the taxes paid on the agricultural assessment
5 value of such land as calculated by the assessor pursuant to section
6 three hundred five or three hundred six of the agriculture and markets
7 law. In the event that agricultural assessment land is removed from an
8 agricultural district pursuant to article twenty-five-AA of the agricul-
9 ture and markets law, a taxpayer that owns such land shall continue to
10 be eligible for the credit provided by this subdivision for the remain-
11 der of the term of the eight year covenant.

12 (b) School district property taxes. For purposes of this subdivision,
13 the term "school district property taxes" means all property taxes,
14 special ad valorem levies and special assessments, exclusive of penal-
15 ties and interest, levied for school district purposes on the agricul-
16 tural assessment land owned by the taxpayer.

17 (c) Town and county property taxes. For purposes of this subdivision,
18 the term "town and county property taxes" means all property taxes,
19 special ad valorem levies and special assessments, exclusive of penal-
20 ties and interest, levied for town and county purposes on the agricul-
21 tural assessment land owned by the taxpayer.

22 (d) Agricultural assessment land. The term "agricultural assessment
23 land" means land which receives or is eligible to receive an agricul-
24 tural assessment for the taxable year pursuant to section three hundred
25 five or three hundred six of the agriculture and markets law. Agricul-
26 tural assessment land also includes land set aside or retired under a
27 federal supply management or soil conservation program.

28 (e) Nonqualified use of agricultural assessment land. (1) No credit in
29 conversion year. In the event that agricultural assessment land, or any
30 portion of such land, is converted to nonqualified use, credit under
31 this subdivision shall not be allowed with respect to such property for
32 the taxable year of conversion (the conversion year).

33 (2) Credit recapture. If the conversion of agricultural assessment
34 land, or any portion of such land, to nonqualified use occurs during the
35 period of the eight taxable years following the taxable year for which
36 the credit under this subdivision was last claimed with respect to such
37 property, the credits allowed with respect to such property for the
38 taxable years prior to the conversion year, multiplied by two hundred
39 percent, must be added back in the conversion year.

40 (3) Exception to recapture. Subparagraph two of this paragraph shall
41 not apply to the conversion of land where the conversion is by reason of
42 involuntary conversion, within the meaning of section one thousand thir-
43 ty-three of the internal revenue code.

44 (4) Conversion to nonqualified use. For purposes of this paragraph,
45 conversion to nonqualified use shall mean that such land is converted to
46 a use which would disqualify such land for an agricultural assessment
47 under section three hundred five or three hundred six of the agriculture
48 and markets law.

49 (f) In no event shall the credit provided in this subdivision be
50 allowed in an amount which will reduce the tax payable to less than the
51 higher of the amounts prescribed in paragraphs (b) and (c) of subdivi-
52 sion one of this section. If, however, the amount of credit allowable
53 under this subdivision for any taxable year reduces the tax to such
54 amount, any amount of credit not deductible in such taxable year may be
55 carried over to the following year or years and may be deducted from
56 the taxpayer's tax for such year or years. Provided, however, in lieu of

1 carrying over the unused portion of such credit, the taxpayer may elect
2 to treat such unused portion as an overpayment of tax to be credited or
3 refunded in accordance with the provisions of section one thousand
4 eighty-six of this chapter except that no interest shall be paid on such
5 overpayment.

6 (g) A taxpayer shall reduce credits claimed under this subdivision by
7 any credits claimed under subdivision eleven of this section for the
8 taxable year.

9 § 3. Section 606 of the tax law is amended by adding a new subsection
10 (n-3) to read as follows:

11 (n-3) Working farmland property tax credit. (1) General. In the case
12 of a taxpayer that owns agricultural assessment land which is located in
13 an agricultural district established pursuant to article twenty-five-AA
14 of the agriculture and markets law, and the taxpayer has executed a
15 covenant to restrict the use of such land pursuant to section nine
16 hundred seventy-two-g of the general municipal law, there shall be
17 allowed a credit for the school district, town and county property taxes
18 paid during the taxable year on such land; provided, however, that the
19 amount of the credit shall be limited to the taxes paid on the agricul-
20 tural assessment value of such land as calculated by the assessor pursu-
21 ant to section three hundred five or three hundred six of the agricul-
22 ture and markets law. Such credit shall be allowed against the taxes
23 imposed by this article for the taxable year reduced by the credits
24 permitted by this article. If the credit exceeds the tax as so reduced,
25 the taxpayer may receive, and the comptroller, subject to a certificate
26 of the commissioner, shall pay as an overpayment, without interest, the
27 amount of such excess. In the event that agricultural assessment land is
28 removed from an agricultural district, a taxpayer that owns such land
29 shall continue to be eligible for the credit provided by this subdivi-
30 sion for the remainder of the term of the eight year covenant.

31 (2) School district property taxes. For purposes of this subsection,
32 the term "school district property taxes" means all property taxes,
33 special ad valorem levies and special assessments, exclusive of penal-
34 ties and interest, levied for school district purposes on the agricul-
35 tural assessment land owned by the taxpayer.

36 (3) Town and county property taxes. For purposes of this subsection,
37 the term "town and county property taxes" means all property taxes,
38 special ad valorem levies and special assessments, exclusive of penal-
39 ties and interest, levied for town and county purposes on the agricul-
40 tural assessment land owned by the taxpayer.

41 (4) Agricultural assessment land. The term "agricultural assessment
42 land" means land which receives or is eligible to receive an agricul-
43 tural assessment for the taxable year pursuant to section three hundred
44 five or three hundred six of the agriculture and markets law. Agricul-
45 tural assessment land also includes land set aside or retired under a
46 federal supply management or soil conservation program.

47 (5) Nonqualified use of agricultural assessment land. (A) No credit in
48 conversion year. In the event that agricultural assessment land, or any
49 portion of such land, is converted to nonqualified use, credit under
50 this subsection shall not be allowed with respect to such land for the
51 taxable year of conversion (the conversion year).

52 (B) Credit recapture. If the conversion of agricultural assessment
53 land, or any portion of such land, to nonqualified use occurs during the
54 period of the eight taxable years following the taxable year for which
55 the credit under this subsection was last claimed with respect to such
56 land, the credits allowed with respect to such land for the taxable

1 years prior to the conversion year, multiplied by two hundred percent,
2 must be added back in the conversion year.

3 (C) Exception to recapture. Subparagraph (B) of this paragraph shall
4 not apply to the conversion of land where the conversion is by reason of
5 involuntary conversion, within the meaning of section one thousand thir-
6 ty-three of the internal revenue code.

7 (D) Conversion to nonqualified use. For purposes of this paragraph,
8 conversion to nonqualified use shall mean that such land is converted to
9 a use which would disqualify such property for an agricultural assess-
10 ment under section three hundred five or three hundred six of the agri-
11 culture and markets law.

12 (6) A taxpayer shall reduce credits claimed under this subsection by
13 any credits claimed under subsection (n) of this section for the taxable
14 year.

15 § 4. The general municipal law is amended by adding a new article 18-D
16 to read as follows:

17 ARTICLE 18-D

18 WORKING FARMLAND PROPERTY TAX CREDIT

19 Section 972. Short title.

20 972-a. Statement of legislative findings and declaration.

21 972-b. Definitions.

22 972-c. Eligibility criteria for working farmland property tax
23 credit.

24 972-d. Eligibility criteria for approval of county agricultural
25 and farmland protection plans.

26 972-e. Powers and duties of the commissioner.

27 972-f. Application for eligibility for designation as eligible
28 for the working farmland property tax credit.

29 972-g. Review of working farmland designation.

30 972-h. Restriction of lands to agricultural uses.

31 972-i. Annual report.

32 § 972. Short title. This article shall be known and may be cited as
33 the "working farmland property tax credit act".

34 § 972-a. Statement of legislative findings and declaration. It is
35 hereby found and declared that the conservation and protection of agri-
36 cultural lands, and the promotion of agriculture as a vital local
37 resource is of statewide concern. It is the public policy of the state
38 to conserve, protect and encourage the development and improvement of
39 its agricultural land for production of food and other agricultural
40 products. It is also the declared policy of the state to conserve and
41 protect agricultural lands as valued natural and ecological resources
42 which provide needed open spaces for clean air sheds, as well as for
43 aesthetic purposes. In order to accomplish these goals in the context of
44 local planning and land use decision-making, it is declared to be in the
45 interest of the state to establish authority at the township level to
46 designate the town as eligible for the working farmland property tax
47 credit to provide incentives and otherwise assist landowners and towns
48 to mutually achieve these goals.

49 § 972-b. Definitions. As used in this article, the following words and
50 terms shall have the following meanings unless the context shall indi-
51 cate another or different meaning or intent:

52 (a) "Applicant" shall mean the county submitting an application in the
53 manner authorized by this article for designation of an area as eligible
54 for the working farmland property tax credit.

55 (b) "Commissioner" shall mean the commissioner of agriculture and
56 markets.

1 (c) "Working farmland property tax credit" shall mean a county within
2 the state that has been designated as eligible for a working farmland
3 property tax credit pursuant to this article.

4 (d) "County agricultural and farmland protection plan" shall mean a
5 plan that has been adopted by a county legislative body pursuant to
6 section three hundred twenty-four of the agriculture and markets law.

7 (e) "Agricultural and farmland protection board" shall mean a county
8 agricultural and farmland protection board established pursuant to
9 section three hundred two of the agriculture and markets law.

10 (f) "Agricultural assessment land" shall mean land which receives or
11 is eligible to receive an agricultural assessment for the taxable year
12 pursuant to section three hundred five or three hundred six of the
13 agriculture and markets law. Agricultural assessment land also includes
14 land set aside or retired under a federal supply management or soil
15 conservation program.

16 § 972-c. Eligibility criteria for working farmland property tax cred-
17 it. For designation as eligible for the working farmland property tax
18 credit, a county shall adopt a county agricultural and farmland
19 protection plan pursuant to section three hundred twenty-four of the
20 agriculture and markets law or its equivalent as determined by the
21 commissioner.

22 § 972-d. Eligibility criteria for approval of county agricultural and
23 farmland protection plans. County agricultural and farmland protection
24 plans adopted by a county legislative body pursuant to this article
25 shall comply with section three hundred twenty-four of the agriculture
26 and markets law and shall include but not be limited to:

27 (a) the location of any land or areas proposed to be protected;
28 (b) an analysis of the following factors concerning any areas and
29 lands proposed to be protected:

30 (i) value to the agricultural economy of the county;
31 (ii) open space value;
32 (iii) consequences of possible conversion; and
33 (iv) level of conversion pressure on the lands or areas proposed to be
34 protected;

35 (c) an evaluation of the effect of county programs and policies on the
36 viability of farm operations and the availability of land for agricul-
37 tural production;

38 (d) a description of the activities, programs and strategies intended
39 to be used by the county to promote continued agricultural use.

40 § 972-e. Powers and duties of the commissioner. The commissioner
41 shall:

42 (a) Promulgate regulations governing the criteria of eligibility for
43 working farmland property tax credit designation and the application
44 process;

45 (b) Receive and review applications for designation of counties as
46 eligible for the working farmland property tax credit;

47 (c) Review the status of any county previously designated as eligible
48 for the working farmland property tax credit; and

49 (d) File notice of the designation or revocation of eligibility of a
50 county for the working farmland property tax credit with the applicant,
51 the department of taxation and finance and the commissioner of taxation
52 and finance.

53 § 972-f. Application for eligibility for designation as eligible for
54 the working farmland property tax credit. (a) A county legislative body
55 may adopt a resolution authorizing the town to prepare and submit an
56 application to the commissioner for designation of the county as eligi-

1 ble for the working farmland property tax credit; and the adoption of
2 such resolution by the county shall be a prerequisite to the submission
3 of an application for such designation. Such resolution shall include a
4 description of such area including the tax map identification numbers
5 for all parcels that would be eligible for the working farmland property
6 tax credit.

7 (b) Each application shall:

8 (i) be prepared in a manner and form prescribed by regulations promul-
9 gated by the commissioner, and shall include written confirmation by the
10 county legislative body verifying that the information contained in the
11 application is accurate and complete to the best of his or her know-
12 ledge;

13 (ii) include evidence of the adoption of a county agricultural and
14 farmland protection plan or its equivalent, which has been prepared in a
15 manner and form prescribed by regulations promulgated by the commis-
16 sioner, by the governing body of the county which is applying for desig-
17 nation as eligible for the working farmland property tax credit;

18 (iii) include a tax map or other map of the county which sets forth
19 the tax map numbers of all parcels of land that would be eligible for
20 the working farmland property tax credit; and

21 (iv) include a copy of the report of the county agricultural and farm-
22 land protection board.

23 (c) Within ninety days after receipt of written notice from the
24 commissioner that an application for designation as eligible for the
25 working farmland property tax credit has been approved, the county
26 legislative body shall commence the process to adopt a comprehensive
27 plan, or amend an existing comprehensive plan, pursuant to section two
28 hundred thirty-nine-d of this chapter, to include the county agricul-
29 tural and farmland protection plan which has been adopted by the county
30 agricultural and farmland protection board and approved by the commis-
31 sioner pursuant to this section. The working farmland property tax cred-
32 it shall not be effective unless the county's comprehensive plan, or
33 amendment of such plan, includes such agricultural and farmland
34 protection plan. The working farmland property tax credit shall be
35 effective for the tax year immediately upon the adoption of the county's
36 comprehensive plan, or amendment of such plan, which includes the agri-
37 cultural and farmland protection plan.

38 (d) Within thirty days after the effective date of the working farm-
39 land property tax credit, the county clerk shall record a copy of the
40 tax map or other map of the parcels that would be eligible for the work-
41 ing farmland property tax credit as approved by the commissioner pursu-
42 ant to this article.

43 § 972-g. Review of working farmland designation. (a) The county legis-
44 lative body may, by resolution, submit to the commissioner once every
45 eight years a request to review an existing working farmland desig-
46 nation. The resolution shall include the reasons and justification for
47 the proposed review along with the tax map or other map of the eligible
48 parcels. The commissioner shall review the designation subject to the
49 following provisions:

50 (i) The commissioner shall determine whether a change in circumstances
51 has occurred since the designation of eligibility which makes the county
52 no longer eligible.

53 (ii) Any designation of a county as eligible for the working farmland
54 property tax credit shall remain in effect for a minimum of three years
55 from the effective date of the designation.

1 (b) Any request by a county legislative body to remove the county as
2 eligible for the working farmland property tax credit must include proof
3 that the county provided public notice of such proposed removal,
4 provided individual notice in writing to persons, as listed on the most
5 recent assessment rolls, whose land is the subject of the proposed
6 removal and held a public hearing at least thirty days prior to the
7 request to the commissioner.

8 (c) Prior to submission to the commissioner of the resolution to
9 remove the county as eligible for the working farmland property tax
10 credit, the county agricultural and farmland protection board shall,
11 within forty-five days report to the county legislative body its recom-
12 mendations concerning the proposed removal of eligibility. The county
13 legislative body shall provide a copy of the report, or, in the event
14 that no report is provided by the county agricultural and farmland
15 protection board, a statement of the facts and circumstances concerning
16 the county legislative body's referral to the county agricultural and
17 farmland protection board, to the commissioner.

18 (d) Upon the removal of eligibility for the working farmland property
19 tax credit as provided in this section, the commissioner shall file
20 notice of such action as required by section nine hundred seventy-two-e
21 of this article.

22 (e) Within thirty days after receipt of written notice from the
23 commissioner that a request for removal of the working farmland property
24 tax credit has been approved, the county clerk shall record such notice
25 relating to the parcels so affected.

26 § 972-h. Restriction of lands to agricultural uses. (a) Any county
27 which is eligible for the working farmland property tax credit pursuant
28 to this article shall utilize a covenant or deed restriction with the
29 landowner to limit the use of agricultural assessment land for the
30 purpose of preserving such land subject to the conditions set forth in
31 the covenant and in this article. The owner of such land shall furnish
32 the county with such information as the county shall require in order to
33 enable it to determine the eligibility of the land involved.

34 (b) If such a covenant is made with any landowner, the county shall
35 offer such a covenant under similar terms to every other owner of agri-
36 cultural assessment land located in an agricultural district in the
37 county.

38 (c) Every covenant shall provide for the exclusion of uses other than
39 agricultural, and other than those compatible with agricultural uses,
40 for the duration of the covenant and be binding upon, and inure to the
41 benefit of, all successors in interest of the owner.

42 (d) Each covenant shall be for a term of eight years and shall auto-
43 matically be renewed each year unless the landowner files notice with
44 the county clerk.

45 (e) No later than twenty days after a county enters into a covenant
46 with a landowner pursuant to this section, the county clerk shall record
47 the covenant, which shall describe the land subject thereto, including
48 the tax map identification number or numbers for such land, together
49 with a reference to the map showing the location of the agricultural
50 district in which the property lies. From and after the time of such
51 recordation such covenant shall impart such notice thereof to all
52 persons as is afforded by the recording laws of this state.

53 (f) The county may bring any action in court necessary to enforce any
54 covenant, including, but not limited to, an action to enforce the coven-
55 ant by injunction.

1 § 972-i. Annual report. Each county which becomes eligible for the
2 working farmland property tax credit established pursuant to this arti-
3 cle shall every eight years file with the commissioner and the commis-
4 sioner of taxation and finance a report concerning the status of eligi-
5 ble agricultural land. The report shall include the tax map
6 identification numbers for all parcels in the county for which a land-
7 owner has filed a non-agricultural development covenant pursuant to this
8 article and the total number of acres in the county which are subject to
9 such a non-agricultural development covenant. In the event that any of
10 these parcels of land have been converted to a use which would disquali-
11 fy such land for an agricultural assessment under section three hundred
12 five or three hundred six of the agriculture and markets law, the report
13 shall identify such parcels.

14 § 5. Paragraph (a) of subdivision 1 of section 922 of the real proper-
15 ty tax law is amended by adding a new subparagraph (xv) to read as
16 follows:

17 (xv) a statement as to whether the parcel is eligible for a working
18 farmland property tax credit created pursuant to article eighteen-D of
19 the general municipal law.

20 § 6. Subdivision 1 of section 302 of the agriculture and markets law
21 is amended by adding a new paragraph (f) to read as follows:

22 (f) The county agricultural and farmland protection board shall advise
23 the county legislative body in relation to the proposed establishment or
24 review of any working farmland property tax credit established pursuant
25 to article eighteen-D of the general municipal law. The board shall
26 render expert advice relating to the desirability of such action,
27 including advice as to the nature of farming and farm resources within
28 the county and the extent to which it is consistent with the county
29 agricultural and farmland protection plan that may have been adopted
30 pursuant to section three hundred twenty-four of the agriculture and
31 markets law.

32 § 7. This act shall take effect on the one hundred eightieth day after
33 it shall have become a law and shall apply to taxable years beginning on
34 or after the effective date of this act. Provided that any rule or
35 regulation necessary for the timely implementation of the provisions of
36 this act on its effective date may be promulgated on or before such
37 effective date.