

STATE OF NEW YORK

7088--A

2021-2022 Regular Sessions

IN ASSEMBLY

April 21, 2021

Introduced by M. of A. KELLES -- read once and referred to the Committee on Real Property Taxation -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to establishing a conservation easement agreement exemption in a town having a certain population

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

1 Section 1. The real property tax law is amended by adding a new
2 section 491-b to read as follows:

3 § 491-b. Conservation easement agreement exemption; certain towns. 1.
4 Applicability. (a) In a town having a population of not less than three
5 thousand two hundred fifty and not more than three thousand four hundred
6 fifty, that is located in a county having a population of not less than
7 one hundred thousand and not more than one hundred five thousand, based
8 upon and recorded by the two thousand ten federal census, is hereby
9 authorized to adopt a local law to provide that, real property whose
10 interests or rights have been acquired for the purpose of the preserva-
11 tion of an open space or an open area, as authorized in section two
12 hundred forty-seven of the general municipal law, may be partially
13 exempt from local real property taxation, provided that the owner or
14 owners of such real property enter into a conservation easement agree-
15 ment with the municipality in accordance with the procedures specified
16 in subdivision three of this section. A county having a population of
17 not less than one hundred thousand and not more than one hundred five
18 thousand based upon and recorded in the two thousand ten federal census
19 may, by local law, and any fire district, water district, or school
20 district, all or part of which is located in a town having a population
21 of not less than three thousand two hundred fifty and not more than
22 three thousand four hundred fifty that is located in a county having a
23 population of not less than one hundred thousand and not more than one
24 hundred five thousand based upon and recorded by the two thousand ten

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

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1 federal census, may, by resolution, exempt such property from its taxa-
2 tion in the same manner and to the same extent as such town has done.

3 (b) A town having a population of not less than three thousand two
4 hundred fifty and not more than three thousand four hundred fifty, that
5 is located in a county having a population of not less than one hundred
6 thousand and not more than one hundred five thousand, based upon and
7 recorded by the two thousand ten federal census, may, by a vote of the
8 town board, opt out of this exemption at any time.

9 2. Definitions. For the purpose of this section, the following terms
10 shall have the following meanings:

11 (a) "open space" or "open area" means any space or area characterized
12 by natural scenic beauty or whose existing openness, natural condition
13 or present state of use, if retained, would enhance the present or
14 potential value of abutting or surrounding urban development or would
15 maintain or enhance the conservation of natural or scenic resources. For
16 the purposes of this definition, "natural or scenic resources" shall
17 include, but not be limited to, agricultural lands defined as open lands
18 actually used in bona fide agricultural production.

19 (b) "conservation board" means a conservation advisory council or any
20 other board appointed by the town board for the purpose of advising on
21 the acquisition of conservation easements.

22 3. Procedures for obtaining a conservation easement agreement. (a) Any
23 owner or owners of land may submit a proposal to the town board of a
24 town having a population of not less than three thousand two hundred
25 fifty and not more than three thousand four hundred fifty that is
26 located in a county having a population of not less than one hundred
27 thousand and not more than one hundred five thousand, based upon and
28 recorded by the two thousand ten federal census, for the granting of
29 interest or rights in real property for the preservation of open space
30 or areas. Such proposal shall be submitted in such a manner and form as
31 may be prescribed by the conservation board of such town.

32 (b) Upon receipt of such proposal, the town board shall convey the
33 proposal to the conservation board of such town. Such conservation board
34 shall investigate the area to determine if the proposal would be of
35 benefit to the people of the town and may negotiate the terms and condi-
36 tions of the offer. If the conservation board determines that it is in
37 the public interest to accept such proposal, it shall recommend to the
38 town board that it hold a public hearing for the purpose of determining
39 whether or not the town should accept such proposal.

40 (c) The town board shall, within thirty days of receipt of such advi-
41 sory opinion, hold a public hearing concerning such proposal at a place
42 within the town. At least ten days notice of the time and place of such
43 hearing shall be published in a paper of general circulation in such
44 town, and a written notice of such proposal shall be given to all adja-
45 cent property owners and to any municipality whose boundaries are within
46 five hundred feet of the boundaries of said proposed area, and to the
47 school district in which it is located.

48 (d) The town board, after receiving the reports of the conservation
49 board of a town having a population of not less than three thousand two
50 hundred fifty and not more than three thousand four hundred fifty that
51 is located in a county having a population of not less than one hundred
52 thousand and not more than one hundred five thousand, based upon and
53 recorded by the two thousand ten federal census, and after such public
54 hearing, may adopt the proposal or any modification thereof it deems
55 appropriate or may reject it in its entirety.

1 (e) If such proposal is adopted by the town board, it shall be
2 executed by the owner or owners in written form and in a form suitable
3 for recording in the county clerk's office.

4 (f) Such agreement may not be canceled by either party. However, the
5 owner or owners thereof may petition the town board for cancellation
6 upon good cause shown, and such cancellation may be granted only upon
7 payment of the penalties provided in this section.

8 4. Computation. (a) An exemption granted pursuant to this section
9 shall commence as of the effective date of the conservation easement
10 agreement, and shall terminate upon the expiration or termination of
11 such conservation easement agreement.

12 (b) The following table shall illustrate the computation of the
13 exemption:

14 Commitment Percentage of Exemption

15 15 to 29 years 50%

16 30 to 49 years 75%

17 50 to 75 years 85%

18 Perpetual 90%

19 Such exemption shall be granted only upon application by the owner or
20 owners of such real property on a form prescribed by the commissioner.
21 Such application shall be filed with the assessor of the town on or
22 before the taxable status date of such town.

23 (c) If satisfied that the applicant is entitled to an exemption pursu-
24 ant to this section, the assessor shall approve the application and such
25 real property shall thereafter be exempt from taxation and special ad
26 valorem levies as provided in this section commencing with the assess-
27 ment roll prepared on the basis of the taxable status date. The
28 assessed value of any exemption granted pursuant to this section shall
29 be entered by the assessor on the assessment roll with the taxable prop-
30 erty, with the amount of the exemption shown in a separate column.

31 (d) Whenever a conservation easement encumbers only a portion of a
32 parcel, the assessor shall henceforth enter that portion of the parcel
33 encumbered by such easement as a separate parcel on all subsequent
34 assessment rolls.

35 5. Penalties for offenses. If there is a violation of the terms and
36 conditions of the conservation easement agreement or if such conserva-
37 tion easement agreement is canceled by the town board upon petition,
38 then the owner or owners of such property must pay to the town the
39 following amounts:

40 (a) All taxes abated pursuant to the conservation easement agreement,
41 as limited by the remainder of this section, including, if applicable,
42 those taxes imposed by the county, town, fire districts, water
43 districts, school districts and all special improvement districts and
44 other taxing units to which the property is subject. Repayment of the
45 aforementioned abated taxes shall be up to five times the taxes saved in
46 the last year in which the land benefited from a conservation easement
47 agreement exemption, plus interest of six percent per year compounded
48 annually for each year in which an exemption was granted, not exceeding
49 five years.

50 (b) Payments shall be added by or on behalf of each taxing jurisdic-
51 tion to the taxes levied on the assessment roll prepared on the basis of
52 the first taxable status date after there is a violation of the terms
53 and conditions of the conservation easement or such conservation ease-
54 ment agreement is canceled.

55 § 2. This act shall take effect immediately.