

STATE OF NEW YORK

7096

2021-2022 Regular Sessions

IN ASSEMBLY

April 22, 2021

Introduced by M. of A. FAHY -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to conservation easement agreement exemptions in certain towns

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. In a town having a population of not less than thirty-
5 five thousand and not more than thirty-six thousand, that is located in
6 a county having a population of not less than three hundred thousand and
7 not more than three hundred seven thousand, based upon and recorded by
8 the two thousand ten federal census, is hereby authorized to adopt a
9 local law to provide that, real property whose interests or rights have
10 been acquired for the purpose of the preservation of an open space or an
11 open area, as authorized in section two hundred forty-seven of the
12 general municipal law, may be partially exempt from local real property
13 taxation, provided that the owner or owners of such real property enter
14 into a conservation easement agreement with the municipality in accord-
15 ance with the procedures specified in subdivision three of this section.
16 A county having a population of not less than three hundred thousand and
17 not more than three hundred seven thousand based upon and recorded in
18 the two thousand ten federal census may, by local law, and any school
19 district, all or part of which is located in a town having a population
20 of not less than thirty-five thousand and not more than thirty-six thou-
21 sand that is located in a county having a population of not less than
22 three hundred thousand and not more than three hundred seven thousand
23 based upon and recorded by the two thousand ten federal census, may, by
24 resolution, exempt such property from its taxation in the same manner
25 and to the same extent as such town has done.

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

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1 2. Definitions. For the purpose of this section, the following terms
2 shall have the following meanings: "open space" or "open area" means any
3 space or area characterized by natural scenic beauty or whose existing
4 openness, natural condition or present state of use, if retained, would
5 enhance the present or potential value of abutting or surrounding urban
6 development or would maintain or enhance the conservation of natural or
7 scenic resources. For the purposes of this definition, "natural or
8 scenic resources" shall include, but not be limited to, agricultural
9 lands defined as open lands actually used in bona fide agricultural
10 production.

11 3. Procedures for obtaining a conservation easement agreement. (a) Any
12 owner or owners of land may submit a proposal to the town board of a
13 town having a population of not less than thirty-five thousand and not
14 more than thirty-six thousand that is located in a county having a popu-
15 lation of not less than three hundred thousand and not more than three
16 hundred seven thousand, based upon and recorded by the two thousand ten
17 federal census, for the granting of interest or rights in real property
18 for the preservation of open space or areas. Such proposal shall be
19 submitted in such a manner and form as may be prescribed by the conser-
20 vation board of such town.

21 (b) Upon receipt of such proposal, the town board shall convey the
22 proposal to the conservation board of such town. Such conservation board
23 shall investigate the area to determine if the proposal would be of
24 benefit to the people of the town and may negotiate the terms and condi-
25 tions of the offer. If the conservation board determines that it is in
26 the public interest to accept such proposal, it shall recommend to the
27 town board that it hold a public hearing for the purpose of determining
28 whether or not the town should accept such proposal.

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

37 (d) The town board, after receiving the reports of the conservation
38 board of a town having a population of not less than thirty-five thou-
39 sand and not more than thirty-six thousand that is located in a county
40 having a population of not less than three hundred thousand and not more
41 than three hundred seven thousand, based upon and recorded by the two
42 thousand ten federal census, and after such public hearing, may adopt
43 the proposal or any modification thereof it deems appropriate or may
44 reject it in its entirety.

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

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

52 4. Computation. (a) An exemption granted pursuant to this section
53 shall commence as of the effective date of the conservation easement
54 agreement, and shall terminate upon the expiration or termination of
55 such conservation easement agreement.

1 (b) The following table shall illustrate the computation of the
2 exemption:

<u>Commitment</u>	<u>Percentage of Exemption</u>
<u>15 to 29 years</u>	<u>50%</u>
<u>30 to 49 years</u>	<u>75%</u>
<u>50 to 75 years</u>	<u>85%</u>
<u>Perpetual</u>	<u>90%</u>

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8 Such exemption shall be granted only upon application by the owner or
9 owners of such real property on a form prescribed by the commissioner.
10 Such application shall be filed with the assessor of the town on or
11 before the taxable status date of such town.

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

20 (d) Whenever a conservation easement encumbers only a portion of a
21 parcel, the assessor shall henceforth enter that portion of the parcel
22 encumbered by such easement as a separate parcel on all subsequent
23 assessment rolls.

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

29 (a) All taxes abated pursuant to the conservation easement agreement,
30 as limited by the remainder of this section, including, if applicable,
31 those taxes imposed by the county, town, school districts and all
32 special improvement districts and other taxing units to which the prop-
33 erty is subject. Repayment of the aforementioned abated taxes shall be
34 equal to five times the taxes saved in the last year in which the land
35 benefited from a conservation easement agreement exemption, plus inter-
36 est of six percent per year compounded annually for each year in which
37 an exemption was granted, not exceeding five years.

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

43 § 2. This act shall take effect immediately.