STATE OF NEW YORK

7754

2023-2024 Regular Sessions

IN ASSEMBLY

June 6, 2023

Introduced by M. of A. THIELE, SHIMSKY -- read once and referred to the Committee on Local Governments

AN ACT to amend the village law, in relation to the incorporation of villages

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

Section 1. Subdivision 1 of section 2-200 of the village law is amended to read as follows:

1. A territory containing a population of at least [~~five hundred~~] **two thousand** persons who are regular inhabitants thereof, as hereinafter defined, may be incorporated as a village under this chapter provided such territory does not include a part of a city or village and further provided the limits of such territory:

a. do not contain more than five square miles; or

b. are coterminous with the entire boundaries of a school, fire, fire protection, fire alarm, town special or town improvement district; or

c. are coterminous with parts of the boundaries of more than one school, fire, fire protection, fire alarm, town special or town improvement district, all of which are wholly contained within such limits and within one town; or

d. are coterminous with the entire boundaries of a town.

§ 2. Section 2-202 of the village law, subparagraph 2 of paragraph f of subdivision 1 as amended by chapter 181 of the laws of 2004, is amended to read as follows:

§ 2-202 Petition for incorporation. 1. A proceeding for the incorporation of such territory as a village shall commence with a petition. The requirements for such petition are as follows:

a. Petitioners. [~~Either one or both of the following two groups of persons may petition for such incorporation:~~

~~(1) At~~] **Signatures from at** least twenty [~~per cent~~] **percent** of the residents of such territory qualified to vote for town officers in a

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

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town in which all or part of such territory is located **shall be required in order to commence a proceeding for the incorporation of such territory as a village**.

[~~(2) The owners of more than fifty percent in assessed valuation of the real property in such territory assessed upon the last completed assessment roll of the town in which such territory is located. However, if such territory is located in more than one town it shall be required in computing such percentage to equalize the assessed valuations for each town; furthermore, in such case, the petition must be signed by the owners of more than fifty percent in full valuation of the real property in each part of each town in such territory and computed separately for each such part, and assessed upon the last completed assessment rolls of the towns in which any part of such territory is located. Full valuation shall be determined by applying the appropriate equalization rate to such assessed valuations. If real property in such territory is owned by tenants in common, joint tenants or tenants by the entirety, each such tenant, as a signer of such petition shall, for the purpose of ascertaining the percentage of the assessed valuation upon which the petition is based, be considered as the owner of an interest in such real property equal to the result reached by dividing the assessed valuation by the number of owners thereof and shall be credited to that extent with part of the total assessed valuation thereof. In the event such real property is part of a parcel of land partially situated within such territory, the town assessor or assessors shall, for the purposes of this section make an apportionment of the assessed value of such part as is in such territory. In such a case, only the apportioned value attributed to such part shall be considered.~~]

b. Contents of petition. The petition shall contain the following information:

(1) An allegation of the basis on which the petition is signed.

(2) The name of the proposed village.

(3) An allegation that such territory contains a population of at least [~~five hundred~~] **two thousand** regular inhabitants.

(4) The manner in which the area requirements of section 2-200 of this article are satisfied.

(5) A designation of at least one but no more than three persons, giving full names and addresses, on whom and at which addresses all papers required to be served in connection with the proceeding for incorporation, shall be served. A majority of such designees must reside in such territory.

(6) Each page of the petition and all exhibits and certifications shall be securely fastened together.

c. Exhibits and certifications. Each copy of the petition shall have attached thereto prior to the signature pages:

(1) A description of such territory sufficient to identify the location and extent of such territory with common certainty and which shall be in one of the following forms or a combination thereof: (a) a metes and bounds description; (b) a description made with reference to existing streets and navigable waters or a combination of same; or (c) a map showing existing streets and navigable waters or a combination of same forming boundaries or metes and bounds or the entire boundaries of one or more districts of an entire town.

(2) A list of the names and address of the regular inhabitants of such territory.

d. [~~If the petition is alleged to be signed by the owners of more than fifty per cent in assessed or full valuation, as the case may be, of the~~

~~real property in such territory, there shall be attached to the petition following the signatures of the petitioners an affidavit or affidavits certifying as follows:~~

~~(1) If such territory is located entirely in one town, a certification by an assessor thereof certifying to the total assessed valuation of such territory and the correct total amount thereof owned by the signers of the petition, or~~

~~(2) If such territory is located in more than one town, separate certifications by an assessor of each town certifying to the total full valuation of that portion of such territory located in such town and the correct total amount of full valuation of real property in such territory and town owned by the signers of the petition, as specified in subparagraph two of paragraph a of subdivision one of this section.~~

~~e.~~] Execution of petition. (1) The signatures to a petition shall be subscribed on a separate page or pages following the exhibits.

(2) Prefatory statement. Each signature page shall be prefaced by a statement of the basis on which the petition is signed and of the petitioners' familiarity with the contents and purpose thereof and the boundaries of the territory sought to be incorporated.

(3) Additional information. Following each signature there shall be set forth, not necessarily by the signer, the signer's address consisting of street name and number, if any, and town[~~; and, if the petition is based on the ownership of more than fifty per cent in assessed or full valuation, as the case may be, of the real property located in such territory, the amount of assessed valuation of real property owned by the signer as credited to him in accordance with subparagraph two of paragraph a of subdivision one of this section~~].

(4) Authentication. There shall be set forth at the bottom of each page of signatures an authenticating affidavit of a witness to the signing thereof which shall be in substantially the following form:

STATE OF NEW YORK
COUNTY OF ss.:

..... being duly sworn,
(name of witness)
says:
I reside at ..... in the
(street name and number)
..... of .....
(town, city or village) (name of municipality)
..... in the State of New York:
I know each of the persons whose names are subscribed to the above sheet
having ..... signatures; and each of them
(number)
subscribed the same in my presence.

.....
(signature of witness)

Sworn to before me
This ..... day of ....., ...
(day) (month) (year)

.....
(official title of officer)

[~~f.~~] e. Filing and deposit. (1) Filing. The original petition shall be filed with a supervisor of the town in which all or the greatest part of such territory is located. Duplicate originals, photocopies or other similar reproductions of the original petition shall be filed with a supervisor of each other town in which any portion of such territory is located.

(2) Deposit. At the time of filing of the petition there shall be deposited with each supervisor with whom the original or a copy of the original is filed, the sum of six thousand dollars to pay the cost of posting, publishing and serving required notices, stenographic services and services of inspectors of election in the event incorporation is not effected.

§ 3. Subdivision 1 of section 2-206 of the village law, paragraph b as amended by chapter 167 of the laws of 1985 and paragraph e as amended by chapter 561 of the laws of 1975, is amended to read as follows:

1. The supervisor, or supervisors if a joint hearing, with whom the petition or copies thereof, were filed, shall meet at the time and place specified in such notice and shall hear objections which may be presented as to the legal sufficiency of the petition for incorporation based upon any of the following grounds:

a. That a person signing such petition was not qualified therefor;

b. [~~If it is alleged that the petition is submitted on the basis that the persons signing such petition constitute~~] That the petition does not contain the signatures of at least twenty [~~per cent~~] percent of the residents in such territory qualified to vote for officers of a town in which all or part of such territory is located[~~, that such allegation is false~~];

c. [~~If it is alleged that the petition is submitted on the basis that the persons signing such petition are the owners of more than fifty percent in assessed valuation of the real property in such territory or in full valuation of the real property in each part of each town in such territory and computed separately for each such part, as the case may be, assessed upon the last completed assessment roll or rolls of the town or towns in which all or part of such territory is located, that such allegation is false;~~

~~d.~~] That such territory is part of a city or village;

[~~e.~~] d. That if such territory is less than an entire town, it contains more than five square miles and the limits of such territory are not coterminous with the entire boundaries of one school, fire, fire protection, fire alarm, town special or town improvement district and the limits of such territory are not coterminous with parts of the boundaries of more than one school, fire, fire protection, fire alarm, town special or town improvement district, all of which are wholly contained within such limits and within one town;

[~~f.~~] e. That such territory does not contain a population of at least [~~five hundred~~] two thousand regular inhabitants;

[~~g.~~] f. That the petition in any other specified respect does not conform to the requirements of this article; or

g. That a study has not been conducted on the fiscal, service, and taxation interests of the population which would constitute the residents of such village and the population which constitutes the residents of such town in which such village would be established.

§ 4. The village law is amended by adding a new section 2-260 to read as follows:

§ 2-260 Fiscal study reporting. 1. A fiscal study required pursuant to paragraph g of subdivision one of section 2-206 of this article shall be completed prior to any village incorporation election takes place.

2. Such fiscal study referenced in subdivision one of this section shall be submitted to the department of state and shall be posted by the department of state on the public facing portion of its website; provided however, that approval of a village incorporation petition shall not be deemed effective until the study has been completed and publicly posted for a minimum of ninety days.

§ 5. This act shall take effect immediately; provided however, that for village incorporation petitions that have collected signatures prior to the effective date of this act, nothing in this act shall deem such petition signatures invalid; and provided further, that the provisions of this act shall apply to all such existing village incorporation petitions, including, without limitation, the new requirements pursuant to section 2-260 of the village law; and provided further, that such existing village incorporation petitions shall be required to add additional signatures, if necessary, to meet the new population threshold established by section 2-200 of the village law.