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The Senate of the State of New York



I. Introduction / Letter from the Chairmen

New York State's laws governing tax exemptions for "charitable", "religious", "educational" and other groups have consistently been the subject of discussion by local government officials for decades.

For years, New York State has provided targeted groups with real property tax exemptions to support a broad array of public purposes. Over time, however, the numbers of non profit groups and the cumulative impact of their individual exemptions has steadily increased - triggering serious financial repercussions at the local level.

At this time, nearly one-third of the property value across New York State is exempt from taxation.

In these challenging fiscal times, many property owners, local governments, schools and others are struggling to make ends meet, and thus, State attention is needed to ensure the granting of real property tax exemptions to such groups is serving the public good.

This report offers important insights on the issue of real property exemptions and their real impacts on our local governments and state as a whole. Balancing exemptions with the monetary needs of our public education, police and fire departments, local highway systems and a myriad of other community services basic to our health and well being is a compelling public need.

We can and must seek this balance. Tax exemptions need to be more closely scrutinized. Homeowners and small businesses can't be expected to shoulder the costs of higher property taxes when groups and organizations receive tax exemption status at an epidemic rate.

Our goal is worthwhile - at the least, to correct unfairness; and at the most to prevent the collapse of the real estate tax base. Taxpayer equity is at stake.

Sincerely,

Senator John J. Bonacic
Chairman - NYS Senate Standing
Committee on Housing, Construction
& Community Development

Senator Elizabeth O'C. Little
Chairman - NYS Senate Standing
Committee on Local Government

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II. Executive Summary

A. Background and Major Findings:

The Senate Committee on Housing, Construction, and Community Development, and the Senate Committee on Local Government, have recently concluded six public hearings across New York State to consider the issues of tax exempt lands. The six bills which were the subject of the hearings - S.1123, 1125, 1126, 1127, 1398, and 1415 are attached.

More than 150 people spoke or attended these hearings. Each Member of the Legislature was notified of the hearings and appropriate notices were filed with the Senate and Assembly. In addition, where known, local media were notified and numerous members of the media covered the hearings.

Some or all of the bills were formally endorsed by numerous organizations, including: NYSUT; the Firemen's Association of the State of New York; the New York State School Boards Association; the New York State Association of Realtors; the New York Conference of Mayors and Municipal Officials; the New York State Association of Counties; the Association of Towns of the State of New York; and the New York State Assessors Association.

The major findings of the hearings can be summarized as follows:

1. **Property tax exemptions are really property tax shifts.** They eliminate the taxes one party would owe and shift the burden to other taxpayers.
2. If the growth of property tax exemptions continues at their current rate, homeowners will be unable to afford the correspondingly higher property taxes. Vital services - teachers, police, firefighters, will have to be reduced.
3. There is limited accountability of tax exempt organizations. This lack of accountability affords abuse by a minority and tars all exempt organizations
4. Local preferences are not given any consideration by most State Laws. Tax exempt organizations are allowed to saturate localities with no recourse. In many instances there is no public benefit to the host community of the exempt group.
5. Many exempt organizations, some owning multi-million dollar tracts of land, exclude the public from their property while forcing taxpaying neighbors to pay for vital public services the exempt organization uses.
6. The burden of privately owned "open space" type properties, while considered beneficial on a Statewide level, is borne strictly on a local level. Moreover, such properties often saturate a locality and are burdensome on emergency services organizations who are called on to assist injured users of the property - without recompense.

B. Discussion:

In the old western movies, it was easy to tell the good guys from the bad - The good guys wore white hats, the bad guys wore black. The concept of requiring not for profit organizations to pay property taxes, on its face, may sound alarming. Some may sound the alarm that such taxation is at a social level, immoral and at a legal level, unconstitutional.

Neither would be correct.

The fact is that each time a property is taken off the tax rolls one of two things must happen:

- 1. Other property owners must pay more in property taxes to make up for the lost revenue; or**
- 2. Vital services - teachers, police, firefighters, healthcare, must be reduced.**

While the actions of government are carefully scrutinized by elected officials and the media - ensuring that funds are spent on public purposes, the actions of nonprofits largely escape public scrutiny. Moreover, while there has been a move in local government of consolidation in order to avoid duplication, non-profits are being created at an alarming rate. In fact, from 1982 until 2000, we have seen a 111% increase in "educational" non-profits - 2,994 to 6,309; a 206% increase in non-profits exempt parcels claiming to benefit the "moral or mental improvement of men, women, or children," - 849 to 2,599; and a 240% increase in organizations claiming to be "charitable" in nature - 1,198 to 4,072.

Today, while some tax exempt organizations continue to help meet critical public purposes, others cater solely to the personal preferences of their members. In short, today, while there are still some white hats, more are shades of grey.

C. Legal Background

Many non-profit organizations offer public services. Given the fact that the Legislature has a compelling public purpose to hold down property taxes, the Legislature should ensure that those who enjoy property tax exemption are providing a critical public service.

How to do that? The State Constitution authorizes the Legislature to define which types of religious, charitable, and educational institutions should enjoy a tax exemption. The Legislature has failed to act. The Legislature, elected by the people, should express the will of the people and define which organizations truly serve a compelling enough purpose so as to authorize a shift of that group's tax burden, onto their neighbors' tax bills.

The Courts, once recognizing the burden that tax exemption imposed on others, had held:

“Taxation is a burden . . . The person or the class which is exempted therefrom is a favored one. A statute giving favors at the expense of the public is not to be liberally interpreted. Statutes conferring exemptions from taxation are to be strictly construed.” Buffalo City Cemetery v. City of Buffalo. 46 NY 506, 508-509 (1871)

Today, without any direction to do so, the Courts have wholly reversed themselves. In granting a religious exemption in one Sullivan County case, the Appellate Division noted:

“We note that petitioner does not maintain a church, has no clergy and does not conduct religious services, . . . It is clear from petitioner’s corporate purposes, as set forth above, that petitioner recognizes the existence of God as a higher divine power, and that petitioner embraces, subject to its own interpretation, traditional Christian values . . .” (emphasis added) Foundation for “A COURSE IN MIRACLES”, Inc. V. Theadore, as Chairman of the Town of Fremont Board of Assessors. 172 A.D. 2d 962, 963 (1991).

D. Legislative Action:

It is for the Legislature, not the courts, to define who shall enjoy a freedom from taxation. Providing State definition of what qualifies as an exempt purpose, as the State Constitution authorizes the Legislature to do, will give guidance to local assessors and local officials. Those same assessors and officials are now left with statutes whose meanings, as a result of court decisions, have become a patchwork quilt of confusion and have forced localities to either exempt organizations from taxation or bear the heavy costs of litigation. Statutory expression of legislative purpose will give clarity as to what an exempt purpose is and what it is not.

It is our position that organizations which cater more to personal preferences, should not enjoy a tax exemption unless the locality - who must balance the needs of homeowners with the ability of the tax base to pay, gives deliberate consent to such exemption.

The six bills, which we are jointly sponsoring:

- Provide definitions within the real property tax law for commonly sought categories of exempt properties (including “moral or mental improvement of men, women, or children”; “charitable purpose”; “religious purpose”; “educational purpose”; “hospital purpose”) as well as certain terms used within the real property tax law (including “used exclusively” and “organized or conducted exclusively”);
- Make it a local option to exempt properties from taxation when those properties claim an exemption based on providing for the “moral or mental improvement of men, women, or children”;
- Allow school districts to charge tuition for students who reside on wholly tax exempt property and attend public schools;
- Place the burden of qualifying for tax exemption on the organization claiming the tax exemption by requiring the organization to prove (to the local assessor) that the property is used exclusively for exempt purposes by clear and convincing evidence;

- Prohibit land-banking by requiring that when an exempt organization purchases vacant land, the organization must develop and implement plans to utilize the land within two years of purchase; and
- Provide for State reimbursement to localities with partially exempt private forest-land for lost taxes.

We commend these bills to the attention of the Legislature and believe their enactment would (1) eliminate abuses within the real property tax system and ensure that legitimate non profit organizations continue to thrive; (2) give broader authority to assessors and the courts to eliminate exemptions which do not serve the Legislature's expressed purpose; (3) protect the finite real property tax base thereby making home ownership more affordable; and (4) ensure that needed local services are still available and affordable.

III. Defining the issue

A. Exemptions in New York State

Based on the year 2000 assessment rolls, there are 5.435 million parcels of property in New York State valued at \$1.3 trillion. Of those properties, over 3 million enjoy at least 1 exemption. Roughly, one million parcels enjoy more than one. All told, there are 4.07 million exemptions across New York.

These exemptions equate to over \$441 billion in whole or partially exempt property in New York State. The bottom line - about 1/3 of the value of property in New York State is exempt from real property taxation.

The State classifies exemptions in eight broad categories:

1. Residential property other than multiple dwellings and nonresidential property owned by certain individuals.
2. State government and agencies.
3. Municipal government and agency property, school districts, BOCES districts, and special districts.
4. Property of U.S. or foreign governments, international or interstate agencies, and Indian tribes.
5. Property of private community service organizations (churches and non-profits), social organizations, and professional societies.
6. Industrial, commercial, and public service property.
7. Urban renewal property, public housing, and private subsidized housing (multiple dwellings).
8. Agricultural and forest property.

This report focuses primarily on the fifth category, "Property of private community service organizations (churches and non-profits), social organizations, and professional societies", whose roughly 63,000 exemptions accounted for keeping some \$63 billion in property value off the tax rolls in the year 2000. The average exemption in this category of property is about \$1 million.

The number of not for profits and associated exemptions continue to grow at a significant rate, pressing already cash-strapped schools and local governments - Pressuring taxpayers to shoulder increasing property tax burdens, even as their own resources are strained by a stagnant economy and the ever increasing cost of living. In many cases, property taxes are approaching 50 percent of the mortgage payment of an individual's total home payment - proving to be an impediment to home ownership.

This report seeks to promote greater understanding of the dynamics at work in this arena, and promote effective change.

B. Local Reliance on Real Property Taxes

Schools & local governments depend on real property taxes as a major source of funding for the provision of service to their communities.

The 2000 State Comptroller's Special Report on Municipal Affairs identified close to 11,000 local government units including towns, cities, villages, counties, schools and special districts - all providing a vast array of services to the people of New York .

From libraries to lighting districts - Fire protection and ambulance services – Schools, road and bridge maintenance to the provision of human services – These entities collected over \$26 billion in real property tax dollars to meet the needs of children and families, seniors, businesses, and the many others who rely on their services every day.

Besides being the primary source of operating moneys for local governments, the real property tax serves yet another important role - That of a “match” - a “linkage” to other sources of funding.

In some instances, the use of property tax revenues allows local governments to compete for grants or low interest loans to support special projects (such as “main street” improvements, construction of recreational facilities , etc.). In other instances, these moneys are a required contribution to match federal and/or state contributions in support of various programs.

1. Exemption from Real Property Tax vs. Dependence

The local real property tax base is a finite resource, with real limits, both from a statutory and public tolerance perspective. Still, schools, counties and other local government service providers are also compelled by law to produce “balanced” budgets. This means that even where exemptions exist, other properties must be taxed to make these budgets “whole”. The presence of exemptions simply reduces that amount of the taxable resources in a given community — forcing other property owners to make up the difference.

Plainly stated, exemptions from taxation are not “free” - Tax exemptions are really tax shifts. Anytime you exempt one property from taxation, other taxpayers, including homeowners and small businesses, must pay for the cost of those exemptions with higher property taxes.

There is a real public cost tied to the granting of exemptions. There must be a clearly defined and publicly agreed upon benefit being provided to compensate for the granting of the exemption. Anytime taxes are shifted from one taxpayer to another, there should be a compelling public policy reason - Not simply indulging the personal preference of an individual or a group of people to be tax free.

C. Constitutional and Statutory Provisions in Support of Not for Profit Exemptions.

1. NYS Constitution

Article 16 of the State Constitution provides for the power of the State to tax and exempts religious, charitable, or educational institutions from taxation as defined by the State Legislature. The Constitution also charges the Legislature with the responsibility of defining those terms. To date, the Legislature has not done so.

ARTICLE XVI - Taxation

Section 1. The power of taxation shall never be surrendered, suspended or contracted away, except as to securities issued for public purposes pursuant to law. Any laws which delegate the taxing power shall specify the types of taxes which may be imposed thereunder and provide for their review.

Exemptions from taxation may be granted only by general laws. Exemptions may be altered or repealed except those exempting real or personal property used exclusively for religious, educational or charitable purposes as defined by law and owned by any corporation or association organized or conducted exclusively for one or more of such purposes and not operating for profit.

S 2. The legislature shall provide for the supervision, review and equalization of assessments for purposes of taxation. Assessments shall in no case exceed full value. Nothing in this constitution shall be deemed to prevent the legislature from providing for the assessment, levy and collection of village taxes by the taxing authorities of those subdivisions of the state in which the lands comprising the respective villages are located, nor from providing that the respective counties of the state may loan or advance to any village located in whole or in part within such county the amount of any tax which shall have been levied for village purposes upon any lands located within such county and remaining unpaid.

S 3. Moneys, credits, securities and other intangible personal property within the state not employed in carrying on any business therein by the owner shall be deemed to be located at the domicile of the owner for purposes of taxation, and, if held in trust, shall not be deemed to be located in this state for purposes of taxation because of the trustee being domiciled in this state, provided that if no other state has jurisdiction to subject such property held in trust to death taxation, it may be deemed property having a taxable situs within this state for purposes of death taxation. Intangible personal property shall not be taxed ad valorem nor shall any excise tax be levied solely because of the ownership or possession thereof, except that the income therefrom may be taken into consideration in computing any excise tax measured by income generally. Undistributed profits shall not be taxed.

S 4. Where the state has power to tax corporations incorporated under the laws of the United States there shall be no discrimination in the rates and method of taxation between such corporations and other corporations exercising substantially similar functions and engaged in substantially similar business within the state.

S 5. All salaries, wages and other compensation, except pensions, paid to officers and employees of the state and its subdivisions and agencies shall be subject to taxation.

S 6. Notwithstanding any provision of this or any other article of this constitution to the contrary, the legislature may by law authorize a county, city, town or village, or combination thereof acting together, to undertake the development of public improvements or services, including the acquisition of land, for the purpose of redevelopment of economically unproductive, blighted or deteriorated areas and, in furtherance thereof, to contract indebtedness. Any such indebtedness shall be contracted by any such county, city, town

or village, or combination thereof acting together, without the pledge of its faith and credit, or the faith and credit of the state, for the payment of the principal thereof and the interest thereon, and such indebtedness may be paid without restriction as to the amount or relative amount of annual installments. The amount of any indebtedness contracted under this section may be excluded in ascertaining the power of such county, city, town or village to contract indebtedness within the provisions of this constitution relating thereto. Any county, city, town or village contracting indebtedness pursuant to this section for redevelopment of economically unproductive, blighted or deteriorated area shall pledge to the payment thereof that portion of the taxes raised by it on real state in such area which, in any year, is attributed to the increase in value of taxable real estate resulting from such redevelopment. The legislature may further authorize any county, city, town or village, or combination thereof acting together, to carry out the powers and duties conferred by this section by means of a public corporation created therefor.

2. Real Property Tax Law

The two primary sections of law addressing tax exemptions for non-profit owned real property are Sections 420-a and 420-b of the Real Property Tax Law.

Section 420-a contains mandatory exemptions - meaning local governments have no choice - they must exempt the groups covered in 420-a from taxation - educational, charitable, religious, hospital, and moral or mental improvement of men women or children.

§ 420-a. Nonprofit organizations; mandatory class. 1. (a) Real property owned by a corporation or association organized or conducted exclusively for religious, charitable, hospital, educational, or moral or mental improvement of men, women or children purposes, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or association or by another such corporation or association as hereinafter provided shall be exempt from taxation as provided in this section.

(b) Real property such as specified in paragraph (a) of this subdivision shall not be exempt if any officer, member or employee of the owning corporation or association shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof for any such avowed purposes be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association or for any of its members or employees; or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of such purposes but is leased or otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-b, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight, four hundred thirty or four hundred fifty of this chapter by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred eight of this chapter by a corporation which owns real property exempt from taxation pursuant to such section or if it owned any would be exempt from taxation pursuant to such section, (c) for purposes which are exempt pursuant to section four hundred sixteen of this chapter by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section or (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or

test ordered or directed by civil defense authorities; and provided further that such real property shall be exempt from taxation only so long as it or a portion thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid for such use do not exceed the amount of the carrying, maintenance and depreciation charges of the property or portion thereof, as the case may be.

3. Such real property from which no revenue is derived shall be exempt though not in actual use therefor by reason of the absence of suitable buildings or improvements thereon if (a) the construction of such buildings or improvements is in progress or is in good faith contemplated by such corporation or association or (b) such real property is held by such corporation or association upon condition that the title thereto shall revert in case any building not intended and suitable for one or more such purposes shall be erected upon such premises or some part thereof.

4. Such real property shall be so exempt although it is used as a polling place upon days of registration and election.

5. Such real property owned and actually used for hospital purposes by a free public hospital which depends for maintenance and support upon voluntary charity, shall be so exempt from taxation although a portion thereof is leased or otherwise used for the purposes of income, if such income is necessary for and is actually applied to the maintenance and support of such hospital.

6. Such real property outside a city owned by a free public library or held in trust by an educational corporation for free library purposes shall be so exempt from taxation although a portion thereof is leased or otherwise used for purposes of income, if such income is necessary for and is actually applied to the maintenance and support of such library.

7. Real property which was, on the first day of January, nineteen hundred eighty-three owned for more than one hundred years by a corporation organized exclusively for purposes specified in subdivision one of this section under a grant or devise and a special charter granted by the legislature of the state of New York subject to conditions which raise doubt as to the power of such corporation to convey fee title to the property shall, if the property is used exclusively for educational purposes by an educational corporation which owns real property exempt from taxation, or whose real property if it owned any would be exempt from taxation, as lessee for a term of not less than twenty-five years and if such lease were in effect on the first day of January, nineteen hundred eighty-three and requires the lessee to pay all taxes levied against the property, be exempt from taxation to the same extent and subject to the same conditions and exceptions as property owned and used for educational purposes by a corporation organized exclusively for educational purposes, regardless of whether the moneys paid to the lessor by the lessee are limited to the amount of the carrying, maintenance and depreciation charges of the property.

8. Real property exempt from taxation pursuant to this section shall also be exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this chapter.

9. In addition to the exemption provided in this section, any stadium facility owned by a corporation organized exclusively for educational purposes which is constructed in whole or in substantial part with state funds shall be exempt from taxation notwithstanding its use by the state, by a municipal corporation for a public use, or by or for not-for-profit organizations.

10. Real property, which on the first day of January, nineteen hundred ninety was exempt from real property taxation pursuant to this section by reason of the ownership and use of such property by a corporation organized exclusively for educational purposes, and which the fee title to such property is conveyed prior to June thirtieth, nineteen hundred ninety-one to a governmental entity, shall be exempt from taxation; provided that (a) as a condition of such conveyance such property is leased, for a term or terms exceeding one hundred years, to an educational corporation whose real property, when used for educational purposes, is exempt from taxation, and (b) such property shall continue to be used by such corporation exclusively for educational

purposes subject to the same conditions and exceptions as property owned and used for educational purposes by a corporation organized exclusively for such purposes.

11. An exemption may be granted pursuant to this section upon application by the owner on a form prescribed by the state board or any comparable form, which application may be filed with the assessor of the appropriate county, city, town or village on or before the applicable taxable status date. Where the assessor receives no such application, the assessor may nevertheless grant the exemption provided the assessor personally inspects the property and certifies in writing that it satisfies all of the requirements for exemption set forth in this section. Where property is not granted an exemption pursuant to this section, the owner may seek judicial review pursuant to article seven of this chapter or article seventy-eight of the civil practice law and rules.

12. Notwithstanding any provision of this chapter or any other law to the contrary, real property, the fee title to which was acquired on March twenty-third, nineteen hundred ninety-four pursuant to a mortgage foreclosure sale conducted by the federal deposit insurance corporation, by a corporation or association organized exclusively for educational purposes, and which was used exclusively by such corporation or association for carrying out thereupon educational purposes during the period beginning on the date the fee title was acquired by such corporation or association and ending on June thirtieth, nineteen hundred ninety-five, shall be exempt from taxation for such period as provided in this section. The city of New York may negotiate and execute with the owner of real property in the city of New York qualifying for exemption under this subdivision, an agreement for the payment of unpaid real property taxes and interest thereon that accrued on such property prior to the date on which the fee title to such property was acquired by such owner. Notwithstanding any provision of this chapter or the administrative code of the city of New York or any other law to the contrary, such agreement may require that payment of such taxes and interest thereon be made in quarterly installments over a period not to exceed thirty years.

** 13. Notwithstanding any provision of this chapter or any other law to the contrary, real property, the fee title to which was acquired on March twenty-third, nineteen hundred ninety-four pursuant to a mortgage foreclosure sale conducted by the federal deposit insurance corporation by a corporation or association organized exclusively for educational purposes, and which has been used exclusively by such corporation or association for carrying out thereupon educational purposes since the date on which the fee title was acquired by such corporation or association, and is currently being used for such purposes, shall be exempt from taxation as provided in this section and the city of New York may cancel and annul any unpaid real property taxes that accrued on such real property prior to the date on which the fee title to such property was acquired by such owner together with any interest accruing on such unpaid real property taxes.*

** NB There are 2 sub 13's*

** 13. Notwithstanding any provision of this chapter or any other law to the contrary, real property in block 1272 in the borough of Brooklyn, the fee title to which was acquired in 1997 or 1998 in order to establish a museum and center for children by a not-for-profit corporation or association organized exclusively for charitable purposes, and which has been used exclusively by such corporation or association for carrying out thereupon charitable purposes since the date on which the fee title was acquired by such corporation or association, shall be exempt from taxation as provided in this section and the city of New York may cancel and annul any unpaid real property taxes that accrued on such real property prior to the date on which the fee title to such property was acquired by such owner together with any interest accruing such unpaid real property taxes.*

** NB There are 2 sub 13's*

Section 420-b provides optional classes of exempt property - meaning the entity is exempt unless the locality adopts a local law or resolution taxing them. The types of properties include: library, bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society, patriotic or historical purposes, for the development of good sportsmanship for persons

under the age of eighteen years through the conduct of supervised athletic games, for the enforcement of laws relating to children or animals.

§ 420-b. Nonprofit organizations; permissive class. 1. (a) Real property owned by a corporation or association which is organized exclusively for bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society, library, patriotic or historical purposes, for the development of good sportsmanship for persons under the age of eighteen years through the conduct of supervised athletic games, for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or association, or by another such corporation or association as hereinafter provided, shall be exempt from taxation; provided, however, that such property shall be taxable by any municipal corporation within which it is located if the governing board of such municipal corporation, after public hearing, adopts a local law, ordinance or resolution so providing. None of the following subdivisions of this section providing that certain properties shall be exempt under circumstances or conditions set forth in such subdivisions shall exempt such property from taxation by a municipal corporation whose governing board has adopted a local law, ordinance or resolution providing that such property shall be taxable pursuant to this subdivision.

(b) No local law, ordinance or resolution adopted pursuant to this subdivision shall provide for the taxation of any particular property or owner. Any such local law, ordinance or resolution shall apply alike to all property owned by any corporation or association organized for one or more of the purposes specified in such local law, ordinance or resolution, and used for carrying out thereupon one or more of such purposes. Any purpose so specified in the local law, ordinance or resolution must be one of the purposes listed in paragraph (a) of this subdivision, but the purposes so specified in the local law, ordinance or resolution need not include all the purposes listed in said paragraph. Any local law, ordinance or resolution adopted pursuant to this subdivision may be amended or repealed.

(c) Real property such as specified in paragraph (a) of this subdivision shall not be exempt if any officer, member or employee of the owning corporation or association shall receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof for any such avowed purposes be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association or for any of its members or employees; or if it be not in good faith organized exclusively for one or more of such purposes.

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of the purposes listed in subdivision one of this section, but is (a) leased or (b) otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-a, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight, four hundred thirty or four hundred fifty of this article by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred eight of this chapter by a corporation which owns real property exempt from taxation pursuant to such section, (c) for purposes which are exempt pursuant to section four hundred sixteen of this chapter by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section or (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or test ordered or directed by civil defense authorities; and provided further that such real property shall be exempt from taxation only so long as it or a portion thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid for such use do not exceed the amount of carrying, maintenance and depreciation charges of the property or portion thereof, as the case may be.

3. Such real property from which no revenue is derived shall be exempt though not in actual use therefor by reason of the absence of suitable buildings or improvements thereon if (a) the construction of such buildings or improvements is in progress or is in good faith contemplated by such corporation or association or (b) such real property is held by such corporation or association upon condition that the title thereto shall revert in case any building not intended and suitable for one or more of such purposes shall be erected upon such premises or some part thereof.

4. Such real property shall be so exempt although it is used as a polling place upon days of registration and election.

5. Such real property outside a city owned by a free public library or held in trust by an educational corporation for free library purposes shall be so exempt from taxation although a portion thereof is leased or otherwise used for purposes of income, if such income is necessary for and is actually applied to the maintenance and support of such library.

6. Real property exempt pursuant to this section from taxation by all municipal corporations within which it is located shall also be exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this chapter. Real property which is taxable by one or more, but not all, of the municipal corporations within which it is located, pursuant to subdivision one of this section shall also be exempt from such levies and assessments to same extent except that: such real property taxable by a town shall be subject to any such levies and assessments which are imposed to defray the costs of improvements or services furnished by the town or by a special district established pursuant to the town law; such real property taxable by a county shall be subject to any such levies and assessments which are imposed to defray the costs of improvements or services furnished by the county or by a special district established pursuant to the county law; and such real property taxable by a city shall be subject to any such levies and assessments which are imposed to defray the cost of improvements or service furnished by the city.

7. An exemption may be granted pursuant to this section only upon application made by the owner of the property on a form prescribed by the state board. The application shall be filed with the assessor of the appropriate county, city, town or village on or before the taxable status date of such county, city, town or village.

D. Checks & Balances - The Role of Local Assessors

1. Developing the Assessment Roll - Basis for Real Property Taxation

Assessors are elected or appointed local officials who estimate the value of real property within individual communities across the state. They are responsible for developing and maintaining an inventory of real property which physically describes and assigns a value to each parcel of real property (including any improvements thereon), which reflects current market value. This information is then aggregated to serve as the basis for developing the local assessment roll which is then used by a given taxing jurisdiction (county, city, school district, etc .) to levy taxes.

The roll shows the assigned values of individual properties, along with any exemptions attributable to each property and its attendant structures. This assessed value of real property, minus the value of any applicable exemption represents the taxable assessment of the property - A key ingredient in the computation of real property tax bills.

Every year, the tentative assessment roll is made available for public inspection. After the Board of Assessment Review (a municipally appointed group of local residents) has acted on challenges to specific assessments and ordered any changes, the tentative assessment roll is made final, and provided to each taxing jurisdiction for their use in levying taxes.

2. Responding to Requests for Real Property Tax Exemptions

Applications for exemptions must be initially filed with the assessor who makes a determination on the exemption request. In the case of requests for non-profit exemptions under Section 420-a of the Real Property Tax Law, the owner of the property must, at least according to a plain reading of the statute, be a corporation or association organized or conducted exclusively for one or more of the following purposes: educational; charitable; religious; hospital; or moral or mental improvement of men women or children.

The owner must file either (a) a properly completed application form prescribed by the State Office of Real Property Services which addresses the nature of the organization and describes the intended use of the property or (b) any comparable application form. If neither type of form is filed, the assessor may nevertheless grant the exemption, provided he or she personally inspects the property and certifies in writing that it satisfies all of the requirements for exemption.

Through reference to statute and through guidance from the Office of Real Property Services, the assessor is directed to consider a number of factors when reviewing the request. Two key considerations include ensuring that:

- a. No officer, member, or employee of the owning organization may receive or be entitled to receive any pecuniary profit from the operations of the organization, except reasonable compensation for services in carrying out one or more of the purposes of the organization.
- b. The property must be (again, at least according to the statute) used exclusively for one or more of the specified exempt purpose.

The water gets muddy quickly, however. Here are examples of some exceptions to the rule of exclusive use as highlighted by the NYS Office of Real Property Services in their assessor resource manuals. Much of this stems from the intervention of the courts (See Section E of this report - below):

- ✓ Lease or Use of Property for Other Purposes: If any portion of the property is leased or otherwise used for the above purposes, for civil defense purposes, or for the purposes exempt under certain other statutes, the exemption still applies. These statutes include:

RPTL §408 (school district or BOCES)
RPTL §416 (United Nations)
RPTL §420-a (nonprofit organization - mandatory class)
RPTL §420-b (nonprofit organization - permissive class)
RPTL §422 (not-for-profit housing company)
RPTL §424 (institute of arts and sciences)
RPTL §426 (opera house)
RPTL §428 (fraternal organization)
RPTL §430 (interdenominational center)
RPTL §450 (agricultural society)

However, if the payments made for the privilege of such use exceed the carrying, maintenance, and depreciation charges of the portion of the property used, that portion is taxable for all purposes.

Other special rules which allow continued exemption include the following:

- ✓ **Unimproved, Unused Property**: Unimproved and unused property from which no revenue is derived is exempt if (1) the property is unused because of the absence of suitable buildings or other improvements, provided that the construction of such improvements is contemplated in good faith or (2) the property is held by the owner on the condition that title to the property will revert to the previous owner if a building not intended or suitable for one or more of the exempt purposes specified in RPTL §420-a is erected.
- ✓ **Hospital Purposes**: Property owned and actually used for hospital purposes by a free public hospital that depends for support on voluntary charity is exempt even if a portion of the property is leased or otherwise used for income-producing purposes, provided that such income is necessary for and is actually applied to the maintenance and support of that hospital.
- ✓ **Library Purposes**: Property owned outside a city by a free public library or held in trust by an educational corporation for free public library purposes is exempt even if a portion of the property is leased or otherwise used for income-producing purposes, provided that such income is necessary for and is actually applied to the maintenance and support of that library.
- ✓ **Special-Charter Corporations Unable to Sell Property**: This exception applies to property that (1) had been owned for more than 100 years as of 1/1/83 by a corporation organized exclusively for the purposes exempt under RPTL §420-a and (2) was acquired under a grant or devise and a special charter from the New York State Legislature subject to conditions that may restrict the corporation's power to sell the property.

Such property is exempt if (1) it is used exclusively for educational purposes, (2) it is leased for these purposes by an educational corporation whose own property would be exempt from taxation, (3) the lease is for a term of not less than 25 years, and (4) the lease (in effect as of 1/1/83) requires the lessee to pay all taxes levied against the property.

This type of property is entitled to exemption even if the rental paid by the lessee exceeds the carrying, maintenance, and depreciation charges of the property.

- ✓ **Certain Property Used for Educational Purposes**: Exemption may be granted to property (a) which was exempt on January 1, 1990 because of its ownership and use by an educational organization, (b) the title of which was conveyed to a governmental entity prior to June 30, 1991, (c) which, as a condition of conveyance, is leased, for a term or terms exceeding 100 years, to an educational corporation whose property is exempt when it is used for educational purposes, and (d) which continues to be used exclusively for educational purposes subject to the same conditions as property owned by educational organizations.
- ✓ **Stadiums**: A stadium that (1) is owned by a corporation organized exclusively for educational purposes and (2) was constructed wholly or substantially with state funds is exempt even if it is used by the state, by a municipal corporation for a public use, or by or for a not-for-profit organization.

E. Intervention of the Court System

From the establishment of the exemption statutes at the turn of the 18th century, the courts have played an influential role in interpreting the spirit and intent of the Legislature's constitutional & statutory language.

1. Strict Construction

From the point of inception to earlier to mid-19th century, strict construction to the statutes was the rule of the land. It was during this period that the Court of Appeals assumed the posture that:

Taxation is a burden. It is a common burden , for the common good. The person or the class which is exempted therefrom is a favored one. A statute giving favors at the expense of the public is not to be liberally interpreted. Statutes conferring exemptions from taxation are to be strictly construed.

2. Drifting away from Strict Construction

a. “Incidental Use”

Around the mid 1800’s , scholars perceived a change - a relaxation of the stance of strict construction. It was at this time that the courts developed a view that allowed an exemption to be granted where property was “...*devoted to no other use than is necessary or incidental to the use and purposes of the institution.*”

A further embellishment is evidenced in a 1901 Appellate Division case (Blackburn v. Barton) which stated the following... “*In determining whether property is used for the purposes of an institution of this kind so as to be exempt from taxation, it must be made to appear that the use is necessary or fairly incidental to the maintenance of the institution for the carrying out of the purposes for which it was organized. It is not necessary that every particle of real estate should be devoted to the location of buildings and the laying out of the grounds of the institution...*”

“Exclusively” as “Principal” or “Primary”.

While Section 420-A of the Real Property Tax Law requires property to be “exclusively” used for an exempt purpose, the courts have translated that doctrine of exclusivity to granting exemptions when the “principal” or “primary” use of the property is for an exempt purpose.

Through judicial application of the doctrine of “incidental use”, along with its corollaries and term substitutions, the courts have effectively expanded the array of activities which nonprofit groups may engage in & continue to benefit from exemptions including but not limited to ;

Operating & furnishing housing to their personnel and members;
Holding (for an undefined period of time) unimproved or otherwise vacant land;
Growing crops, etc. to feed individuals residing on the exempt lands;
Offering recreational / camping opportunities for their members;
Restaurants / dining facilities... And more.

C. Judicial “Definition” of Exempt Groups

The courts have also taken an active role in defining various categories of exemption, including what may constitute a “religious” or “educational” institution. A continued, expansive tendency in deciding what

constitutes such organizations has further complicated the issue of who may qualify, and opened the door to the granting of even more exemptions.

The following offer some insight as to how court decisions have liberalized interpretation of the constitution and the statutes.

1. Judicial substitution of the term “principal” or “primary” for “exclusively”.

In the matter of **Yeshivath Shearith Hapletah v. Assessor of Town of Fallsburg, 79 NY2d 244(1992)**, the requirement that a corporation or association be organized or conducted "exclusively" for certain, designated charitable purposes, and its land used exclusively for such purposes, has been interpreted as meaning "principal" or "primary".

- **Description of the not for profit** - The organization operates a summer religious education program on a thirty-one acre parcel of land it owns in the Town of Fallsburg. The property is used primarily during the summer months.
- **Exempt property in question** - "...The Woodbourne facility is comprised of a main building containing a kitchen and communal dining room for all participants, a ritual bath, recreational facilities, classrooms, synagogues and a variety of housing facilities including a multi-unit dormitory building, sixty-four bungalows and six trailers. Ten acres of the thirty-one acre parcel are largely wooded, used primarily by the students for hiking. ... One of the trailers is provided to the caretaker who, in exchange for housing for himself and his family, maintains the Woodbourne facility during the summer months and provides year-round security. The religious instruction programs at Woodbourne are provided to members of the yeshivah only; they are not open to the general public..." (language taken from Court Decision, emphasis added).

It was determined to be fully tax exempt in a declaratory judgment proceeding and was removed from the tax rolls in 1982. However, the property was returned to the tax rolls for 1987 and 1988. Petitioner applied for an exemption pursuant to Real Property Tax Law 420-a (1)(a) for the tax years 1987 and 1988. The assessor granted the application only in part, however, determining that sixty-four bungalow units, six house trailers and ten acres of land were taxable. The assessor concluded that because these bungalows, trailers and the ten acres of wooded land were not used exclusively for religious purposes, they were not entitled to tax exemption and were fully taxable. Petitioner commenced these Article 7 proceedings (see, Real Property Tax Law Art 7), challenging respondent's determinations which were consolidated for trial by stipulation.

- **Decision** - In this case, the essence of the Court's ruling was to hold that since the primary use of the real property was for a "religious" purpose and that the exemption should extend to the entire property, including the housing and woodland (hiking) components. Here the Court stated,

"... Real Property Tax Law 420-a(1)(a) provides that real property owned by a corporation or association organized or conducted exclusively for religious purposes, if used exclusively for such purposes, shall be exempt from taxation (RPTL 420- a[1][a])[n 1]. The term "exclusively", in this context, has been broadly defined to connote "principal" or "primary" such that purposes and uses merely "auxiliary or incidental to the main and exempt purpose and use will not defeat the exemption"... Although exemption statutes are to be strictly construed against the taxpayer, the interpretation of those statutes "should not be so narrow as to defeat [their] settled purpose, that of

encouraging, fostering and protecting religious and educational institutions" ... The test of entitlement to tax exemption under the "used exclusively" clause of the statute is whether the particular use is "reasonably incidental to the primary or major purpose of the facility" ... Put differently, the determination of "whether the property is used exclusively for statutory purposes depends upon whether its primary use is in furtherance of permitted purposes"...

- **Effect of decision:** Rather than allow the exemption to apply to the portion of the property that was "exclusively" used for the religious purpose, the Courts have burdened taxpayers with exemptions that encompass incidental uses.

2. "Classless Society" equals tax exemption.

In *Hutterian Brethren in New York, Inc. now Known as Bruderhof Communities in N.Y., Inc. V. Town of Hunter*, 695 N.Y.S.2d 500, the Appellate Division yet again expanded the ability of an organization to gain tax exemption by allowing exemption by virtue of individuals living in a "classless society."

- **Description of the organization:** The Bruderhof's purposes include "further[ing] the faith and mission of Jesus Christ . . . and to spread this truth and way of life whose character is community . . . In such a way that the members form a spiritual unity. . ." The organization's members work in a factory and sell their goods manufactured at that factory to the public (competing with other private sector corporation). The organization, or its subsidiary or affiliate corporations also own private jet airliners which they use to charter individuals in and around (again, competing with other private sector corporations). The members of the organization receive no monetary compensation in terms of U.S. Currency. The members do receive housing, food, clothing, and other personal type goods they may use. The organization has sent its young people to the local public high school and votes in public elections.

- **Exempt property in question:** 479 acres of land within four contiguous parcels in the Town of Hunter, Greene County. Excepting a parcel of approximately 7.6 acres, upon which is located a school and ancillary recreational facilities, the entire property was determined by the Town of Hunter to be taxable. Some 300+- persons reside in buildings upon the premises, including private, condominium/apartment style residences. The property is one of the largest and most valuable in the entire Town of Hunter to be under common ownership.

- **Decision -** In this case, the Appellate Division held that the fact the individuals lived in a "classless society" and work together and share the same religion to be the determinative factors in providing the tax exemption. The Appellate Division rejected the Town's contention that the Bruderhof are like the Petitioners in *Beth-El Ministries, Inc. V. U.S.A.* (1979 WL 1384, U.S. Dist. LEXIS 11894). In that case, the Commissioner of the IRS was allowed to deny tax exempt status to a corporation whose members committed all of their possessions to the community, and those members who were employed outside of the community donated their salaries to the community. The Court in that case upheld the IRS' denial of tax exempt status by saying that the receipt by members of food, clothing, shelter, and "the like" by members was the "inurement to such members of a private benefit." *Hutterian Brethren*, supra. Citing *Beth-El Ministries*, supra.

The Court added that while in the *Beth-El* case, the members " . . . were employed outside the community, receiving salaries which they gave to the community, whereas petitioner's [in the *Bruderhof* case] members are employed at petitioner's factory and receive no salary for their labor".

It is your author's contention that the word "salary" can mean numerous things. We view this case as an example of the State's good intentions of the tax exempt land laws going awry. We argue that "salary" need not be United States Currency (as the Appellate Division apparently requires in order to be considered compensated), but rather payment in the form of housing, food, and society. In short, the Bruderhof case, the most recent of the "major" tax exempt land law cases, clearly demonstrates how the Courts, tied to precedent and the absence of legislative pronouncement have taken tax exempt land laws and turned them into a taxpayers' nightmare.

3. Exempt . . . Subject to your own interpretation.

In the matter of Foundation for "A Course in Miracles", Inc. v. Theodore as Chairman of the Town of Fremont Board of Assessors, the court continued to broaden who qualifies for tax exempt status.

- **Description of the not for profit organization:** The property owner "recognizes the existence of God as a higher divine power" and embraces, "subject to its own interpretation," traditional Christian values. The organization offers two, three, and five-day programs to accommodate those interested in its teachings. It is, according to the Appellate Division, "undisputed that petitioner is not affiliated with any organized religious denomination and does not seek to further any particular recognized religious sect . . . We note that the petitioner does not maintain a church, has no clergy and does not conduct religious services . . .".
- **Exempt property in question:** the property has a five story main building with classrooms and lecture rooms, a dining room and kitchen and housing.
- **Decision -** In this case, the Court held in favor of granting an exemption. The Court said "In the absence of any evidence of insincerity or deception on petitioner's part, we conclude that, on the facts presented in this record, petitioner is a corporation organized exclusively for religious purposes . . ." and entitled to exemption.

Your authors suggest that this case, perhaps more than any other, has tilted the interpretation of Sections 420-a and 420-b of the Real Property Tax Law against taxpayers. The argument that absent "insincerity or deception" shifts the burden of proof to require the assessor of the locality to find insincerity or deception in the formation of an exempt entity. This is another situation where the Legislature, despite having the ability to define the term "religious purposes" in the Constitution, has failed to do so and in such failure has also failed the taxpayers. Your authors can find no better argument for reform than the Court's own words: "We note that petitioner does not maintain a church, has no clergy, and does not conduct religious services . . . yet the property still qualifies for tax exemption."

3. Legislative Silence

The original crafter of the exemption statutes --- the Legislature, has remained largely silent on these issues. By default, the Courts have taken an active role in interpreting the statutes - filling in gaps, defining categories of exemptions. Absent legislative direction, they continue to determine exemption public policy at both the state and local levels - one case at a time.

There is a compelling public need to move away the current, "relaxed" stance in the granting of exemptions, and return to the view originally espoused by the courts and our founding fathers. "... A

statute giving favors at the expense of the public is not to be liberally interpreted. Statutes conferring exemptions from taxation are to be strictly construed.”

Cumulative impacts are at issue here - The culmination of countless court cases - of exemptions liberally construed, without sufficient guidance from the Senate and Assembly. These impacts are real and are felt by local taxpayers who must shoulder the added burden of each new exemption. As the people of Fallsburg (Cited in the first case - Above) and their counterparts all over the state can readily attest: they can afford no more. By extension, the Legislature can no longer afford to remain subordinate to the Courts in this compelling matter of public policy.

Now is the time to protect those who do not enjoy the “favored” status of tax exemption. Now is the time for the Legislature to make the clear statement that - Taxpayers rights should be liberally construed and those claiming freedom from taxation should be subject to the highest scrutiny.

F. Not for Profits - Increasing Numbers / Increasing Impacts

The State Constitution and corresponding statutes set forth a process for granting “favored” tax status (real property tax exemptions), never anticipating proliferation of not for profit organizations, nor the saturation of our communities with tax exempt lands. This section briefly highlights both the growth in the number of not-for profit organizations in New York State, along with the changes in the number / financial impact of real property tax exemptions being granted to such groups.

1. Numbers of Not For Profit Corporations

As of March 2003, the Department of State reported that there are over 178,000 active not for profit organizations in New York State. 4,687 were formed last year alone, representing an almost 33% increase in the annual rate of formation since 1982. At present, one in every five corporations in New York State is a not for profit.

2. Number of Exemptions

Although eye-opening, the rapid growth in the number of not for profits is eclipsed by the growth in real property tax exemptions.

As a category, Group E Exemptions - which comprise properties owned by private community service organizations, social organizations, and professional societies increased a stunning 52 % between 1982 and 2000.

The Office of Real Property Services requires local assessors to code exemptions for statewide reporting purposes. The following highlights changes in the number of exemptions granted to certain not-for profit categories since 1982. The table below provides a categorical breakout of those receiving exemptions pursuant to Sections 420-a and 420-b of the NYS Real Property Tax.

Group E - Highlighting of Non-Profit Subcategories

ORPS Code	Non-profit Category	Law Section	# of Exemptions			% Change 1982-2000
			1982	1990	2000	
25110	Religious	420-a	16,189	21,697	23,956	47%
25120	Educational	420-a	2,894	4,878	8,309	111%
25130	Charitable	420-a	1,188	1,872	4,072	240%
25210	Hospital	420-a	1,471	1,977	2,528	72%
25230	Moral/ Mental Improvement	420-a	849	1,381	2,589	206%
25300	Various Uses	420-b	4,252	4,848	8,057	42%
Subtotal - 420a			22,711	31,975	39,384	73%
Total			28,883	38,623	45,421	68%

Some revealing findings...

- ✓ *Overall, the 420-a category exemptions increased by 73% between 1982 and 2000.*
- ✓ *The "Educational" sub category more than doubled - 111% increase.*
- ✓ *The "Moral/Mental" sub- category posted an increase of 206% respectively.*
- ✓ *The "Charitable" category increased by 240%.*

The accelerated increases in not for profits, and the explosive growth in the number of exemptions can only mean one thing - more pressure on local taxpayers to cover the difference.

3. The Cost of Not for Profit Exemptions - A Dollars & Cents Translation

This report speaks of the explosive growth of not for profit exemptions, the critical loss of tax base to local governments and mounting pressures on taxpayers. Attaching real meaning to the issue, however, requires a translation. Here's a look at the fiscal impact of not for profit exemptions in terms of lost revenues.

Looking at changes in the equalized value of exemptions from 1990 to 2000, and applying a recognized statewide average full value real property assessment rate of 3% (combining all tax purposes), we see that:

- ✓ In the year 2000, \$1.5 billion in potential property tax revenue to local governments was shouldered by other taxpayers as a result of non-profit Section 420-a exemptions.

- ✓ An additional \$25 million of potential property tax revenue was shifted to other tax payers each and every year, simply from the annual growth of not for profit exemptions.

Looking at this in another way...

- ✓ If all the lost tax base under Section 420-a was made taxable and that revenue was dedicated to schools, more than 30,000 teachers could be hired.
- ✓ If even the sub-category of “moral or mental improvement of men, women, or children” properties was made taxable (that category of exemption was once local option), enough funds could be generated to create an additional 1,200 teaching jobs.

The bottom line is, not for profit property tax exemptions have real meaning

4. Double Jeopardy - The Uneven Distribution of Exemptions

While across the State, an average of one-third of the value of all real property is exempt from taxation, in many communities across New York, the level of tax exempt lands is over 50% - more than half of the real property tax base is exempt from taxation .

The following table (prepared by the NYS Office of Real Property Services) identifies a number of counties, cities and towns with high percentages of exempt property.

COUNTIES	% EXEMPT.	CITIES	% EXEMPT.	TOWNS	% EXEMPT.
Tompkins	48	Ogdensburg (St. L.)	72.9	Ashford (Cat.)	89.5
St. Lawrence	45.7	Ithaca (Tom.)	71.6	Le Ray (Jef.)	85.8
Jefferson	39.3	Watervliet (Alb.)	55.6	Alfred (All.)	75.6
Cattaraugus	37.8	Troy (Ren.)	54.4	Waddington (St. L.)	72.5
Clinton	36.7	Geneva (Ont.)	53.8	Massena (St. L.)	71.4
Niagara	35.4	Hudson (Col.)	53.4	Lewiston (Nia.)	70.9
Allegany	34.6	Oneonta (Ots.)	50.4	Marcy (One.)	66.9
Oneida	32.9	Peekskill (Wes.)	49.2	Romulus (Sen.)	60
Oswego	30.4	Syracuse (Ono.)	48.9	Eaton (Mad.)	58.7
Rensselaer	29.8	Plattsburgh (Cli.)	48.4	Verona (One.)	57.4

Those areas saturated by real property tax exemptions face unique problems. The uneven impact merely serves to make the difficult task of providing services to already stressed taxpayers an even more difficult proposition.

IV. A Call for Taxpayer Equity

In a Fordham University Law Journal critique of real property tax exemptions, authors Robert L. Beebe, Esq. and Stephen J. Harrison, Esq. made the observation that the real property tax is at once both the most important and controversial component of municipal finance. Over twenty years after this statement was made, the real property tax continues to spark controversy.

Long recognized as the most regressive and subjective of all taxes, the added element of exemptions merely heightens public misgiving over this very visible form of taxation. When exemption benefits are abused or perceived to be in excess of need, public misgiving turns to anger and frustration.

We have reached a point in this state, where our communities - our taxpayers can no longer afford to see exemptions as a runaway train - out of control - The engineer asleep at the switch - Unaware of the dynamics in motion.

The New York State Legislature is that engineer, and must wake up to address the serious "disconnect" that exists between the public policy goals which created the tax exempt land laws and their current effect and interpretation.

A. Reform in Motion - The 2003 Legislative Package

In response to this challenge, Senator John J. Bonacic and Senator Elizabeth O'C. Little have authored legislation intended to overhaul New Yorks' real property exemption statutes. Advancement of these measures will promote greater accountability, while offering an improved balancing of public priorities in the granting of real property tax exemptions across New York State.

Aggressively pursuing passage of the legislation, both Senators have pointed out that one way the state can help local governments and real property taxpayers is to ensure that exemptions from taxation are only granted to groups that serve a compelling public purpose. This legislation is intended to preserve those exemptions which meet fundamental and important public purposes and remove those exemptions which are abusive or cater more to personal preferences than critical public needs. There would be no impact on schools which are accredited, hospitals, churches or charitable organizations which actively and exclusively use the land they own for their exempt purposes.

The reform package consists of the following:

S.1123 - Requires that property owners claiming an exemption shall have to annually prove by clear and convincing evidence they are entitled to the exemption. This places the burden of qualifying for a tax exemption on the organization.

S.1125 - Provides that if students in public schools reside on wholly exempt land, they can be made to pay tuition.

S.1126 - Prohibits land banking by requiring definite plans for the use of vacant land and a demonstration that those plans have commenced within two years of taking title to the property. .

S.1127 - Provides definitions within the Real Property Tax Law for commonly sought categories of exempt properties (including “moral or mental improvement of men, women, or children”; “charitable purpose”; “religious purpose”; “educational purpose”; hospital purpose”) as well as certain terms used within the real property tax law (including “used exclusively” and “organized or conducted exclusively”);

S. 1398 - Makes the taxation of a property for moral or mental improvement of men women or children a local option.

S.1415 - Provides for State reimbursement to localities with partially exempt private forest-land.

1. Early Outreach

At a February press conference announcing the introduction of the measures, the Senators were joined by leaders representing New York State’s local governments and school districts. Those individuals included representatives from the New York State Association of Counties, the New York State Association of Towns, the New York State Conference of Mayors, and the New York State School Boards Association

Acknowledging the highly technical nature of the exemption issue, the Senators also announced their intent to convene joint hearings of the Housing and Local Governments Committees in Albany, Kingston, New York City, Lake Placid, Syracuse and Niagara Falls.

The introduction of the measures prompted enthusiastic responses from key local government and school groups which offered the following:

Robert Gregory, Executive Director of the New York State Association of Counties -

“Mandated real property tax exemptions, consistently expanded by the courts, dilute the limited revenue streams available to Counties to provide essential services to all, resulting in higher property taxes for the majority of taxpayers.”

Edward C. Farrell, Executive Director of the New York State Conference of Mayors and Municipal Officials -

“The taxpayers across New York State pay higher taxes because our tax exempt land laws are among the most generous in the nation. The proposals advanced by Senator Bonacic and Senator Little would help local taxpayers and make home ownership more affordable.”

G. Jeffrey Haber, Executive Director-Treasurer, The Association of Towns of the State of New York -

“These bills are a positive first step towards reversing the troubling trend which has left one-third of the real property tax base exempt in New York. Towns rely on real property taxes for the majority of their revenue, so the exemption problem must be addressed.”

David Little, Director of Governmental Relations for the New York State School Boards Association -

“Everyone, whether they have children in school or not, has an important stake in the quality of education we provide. We all share the responsibility for providing, and paying for good schools. Excessive exemptions unfairly place the financial burden on just one segment of the community.”

B. Building the Case for Reform - Findings from Recent Statewide Public Hearings.

Outreach to a broad cross section of public and private groups across the state was a critical part of the effort, as the Senators sought all important feedback on the proposed legislation.

Running from February through March of this year, the hearings were conducted in Albany, Kingston, New York City, Lake Placid, Syracuse and Niagara Falls. Over 156 persons participated, and overwhelmingly offered support, insight and specific recommendations on the measures.

Key findings were as follows:

1. Property tax exemptions are really property tax shifts. They eliminate the taxes one party would owe and shifts the burden to other taxpayers.
2. If the growth of property tax exemptions continues at the current rate, homeowners will be unable to afford the correspondingly higher property taxes. Vital services - teachers, police, firefighters, will have to be reduced.
3. There is limited accountability of tax exempt organizations. This lack of accountability affords abuse by a minority and tars all exempt organizations.
4. Local preferences are not given any consideration by most State Laws. Tax exempt organizations are allowed to saturate localities with no recourse. In many instances there is no public benefit to the host community of the exempt group.
5. Many exempt organizations, some owning multi-million dollar tracts of land exclude the public from their property while forcing taxpaying neighbors to pay for vital public services the exempt organization uses.

6. The burden of privately owned “open space” type properties, while considered beneficial on a Statewide level, is borne strictly on a local level. Moreover, such properties often saturate a locality and are burdensome on emergency services organizations who are called on to assist injured users of the property - without recompense.
7. Landbanking, where exempt organizations own, but fail to use property, diminishes the real property tax base and hurts the image of all exempt organizations.
8. Amendments to the Legislation are needed. Assessors, attorneys, and local government officials also offered a series of proposed amendments, some of which the Sponsors will be providing for.

The suggested amendments include:

- ✓ S.1123 - Provide standards through ORPS as to what “clear and convincing evidence means.”
- ✓ S.1125 - Ensure that students who reside in taxpayer financed housing are not charged tuition. Clarify that those whose children do reside on tax exempt property can be charged no more than the taxes that would be assessed on the property (were it subject to taxation).
- ✓ S.1127 - Provide significantly clearer definitions in statute to describe exempt organizations and their use of exempt real property.
- ✓ S.1398 - Provide clearer definitions for the types of activities which qualify for an exemption under “moral or mental improvement of men, women, or children.”

V. Conclusion

We know our real property tax resources are finite - That they are inextricably linked to individual taxpayers. With this in mind, we must contend with the reality that:

- The numbers of not for-profits organizations and related real property exemptions are growing at an epidemic pace.
- The granting of an exemption is effectively a tax shift, and while some may benefit from an exemption, others must be counted on to shoulder the additional financial burden - single parents, seniors, veterans, and the middle class who pay higher property taxes as a result of these groups being exempt.
- Tax exempt lands in some communities are making home ownership unaffordable and an obstacle to the American dream.
- Local governments across New York are struggling with high costs and low revenues. Continued erosion of the real property tax base can only serve to place more pressure on them forcing reductions in services, higher taxes, or both.

This report does not call for an elimination of all exemptions. However, it does begin and end with a call for balance - A balance between those with “favored” (exempt) status and the everyday taxpayer. A balance which ensures that exemptions are granted only for those purposes which serve critical public purposes.

Through benign neglect the Legislature has allowed the system to lose its equilibrium - defaulting to the courts to set public policy on an inconsistent, case by case basis. The cumulative impact of these decisions, however well intentioned, has, in the opinion of your authors, taken a nobly intentioned public policy, and made it into an unclear and unbalanced law.

The Legislature must step back into this arena to provide more statutory direction - To promote a broader view which can help balance competing public interests. It is only through such direct action that equilibrium can be restored.

Taxpayer equity is at stake.

Sources

1. "A Law in Search of A Public Policy: A History of New York 's Real Property Tax Exemption for Nonprofit Organizations", Robert L. Beebe and Stephen J. Harrison, The Fordham Urban Law Journal, Volume IX - Number 3, 1981.
2. Job of the Assessor, New York State Office of Real Property Services, Revised - March 2001
3. NYS Constitution
4. NYS Assessor's Manual - Exemption Administration, Part II, NYS Office of Real Property Tax Services
5. Exemptions from Real Property Taxation In New York State - 2000 County City & Town Assessment Rolls, NYS Office of Real Property Tax Services, April 2002
6. 2000 Special Report on Municipal Affairs - NYS Comptroller's Office, August 2002

Legislation

STATE OF NEW YORK

1123

2003-2004 Regular Sessions

IN SENATE

January 28, 2003

Introduced by Sens. BONACIC, LITTLE, DeFRANCISCO, MCGEE, MENDEZ, RATH --
read twice and ordered printed, and when printed to be committed to
the Committee on Local Government

AN ACT to amend the real property tax law, in relation to the exemption
from taxation for non-profit organizations

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

- 1 Section 1. Section 420-a of the real property tax law is amended by
2 adding a subdivision 14 to read as follows:
3 14. In all instances, the burden of annually establishing that the
4 requirements of this section have been satisfied shall be upon the owner
5 of the property and must be proven by clear and convincing evidence.
6 § 2. This act shall take effect on the first of January next succeed-
7 ing the date on which it shall have become a law and shall apply to
8 assessment rolls prepared on the basis of taxable status dates occurring
9 on or after such date.

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

LBD03159-01-3

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S1123

SPONSOR: BONACIC

TITLE OF BILL: An act to amend the real property tax law, in relation to the exemption from taxation for non-profit organizations

PURPOSE: To place the responsibility of annually establishing that a not for profit corporation or association is entitled to real property tax exemptions with such corporation or association.

SUMMARY OF PROVISIONS: Amends section 420-a of the real property tax law by adding a new subdivision 14 to provide that the burden of annually establishing that the requirements of section 420-a have been satisfied shall be upon the owner and must be proven by clear and convincing evidence.

EXISTING LAW: While not for profit corporations or associations must initially seek the granting of an exemption under Section 420-a, they are not required to do so on an annual basis, nor are they regularly compelled to provide convincing evidence that such exemption should apply.

JUSTIFICATION: This proposed measure is one of a series of bills aimed at restructuring the framework for granting real property tax exemptions across the state. Based on year 2000 assessment rolls, there are over five million parcels of property in New York State (valued at a total of 1.3 trillion dollars). Of this number, some three million parcels enjoy at least 1 real property tax exemption. From a taxable status standpoint, about 1/3 of the total value of property in New York State (441 billion dollars) is either wholly or partially exempt from real property taxation.

The lion's share of real property tax exemptions (around 68%) are state mandated, and while the state has provided some reimbursement to relieve local taxing jurisdictions (i.e. through the STAR program), high levels of tax exemptions can present a serious burden to other property owners who must support the cost of school district, municipal and special district operations.

The State must help provide tools which promote greater accountability from those seeking real property exemptions in order to balance public needs and benefits. This specific legislation offers such a tool by seeking to ensure that organizations which seek tax exemption truly meet those public purposes, and that lands receiving relief from real property taxation are being fully used in support of such purposes.

LEGISLATIVE HISTORY: None.

FISCAL IMPLICATIONS: None to the state.

RETRIEVE BILL

LOCAL FISCAL IMPLICATIONS: Undetermined, however, its is anticipated the bill will offer improved local oversight of exemptions, with a salutary effect on school, municipal and special district (i.e. fire protection) tax rolls.

EFFECTIVE DATE: This act would take effect on the first day of January next succeeding the date on which it shall have become a law and would apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

STATE OF NEW YORK

1125

2003-2004 Regular Sessions

IN SENATE

January 28, 2003

Introduced by Sens. BONACIC, LITTLE, MCGEE, RATH -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to defining nonresidents of a district for purposes of admission

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

- 1 Section 1. Subdivision 2 of section 3202 of the education law is
2 amended to read as follows:
3 2. Nonresidents of a district, if otherwise competent, may be admitted
4 into the school or schools of a district or city, upon the consent of
5 the trustees or the board of education, upon terms prescribed by such
6 trustees or board, which may include the payment of tuition. The term
7 "nonresidents of a district" shall include, but not be limited to,
8 persons over five and under twenty-one years of age who are not other-
9 wise described in this section, who do not actually reside in the
10 district or reside on real property in the district which is wholly
11 exempt from real property taxes for school district purposes.
12 § 2. This act shall take effect on the first of September next
13 succeeding the date on which it shall have become a law.

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

LBD00525-01-3

RETRIEVE BILL

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S1125

SPONSOR: BONACIC

TITLE OF BILL: An act to amend the education law, in relation to defining nonresidents of a district for purposes of admission

PURPOSE: Redefines "non-residents of a district" under Education Law section 3202 to include children who reside on real property in the district which is wholly exempt from real property taxation for school district purposes. Those children would be subject to tuition payment in those districts.

SUMMARY OF PROVISIONS: Amends subdivision 2 of section 3202 of the Education Law.

EXISTING LAW: Does not include children who reside on real property in the district which is wholly exempt from real property taxation for school district purposes to be subject to tuition payments.

JUSTIFICATION:

Certain tax exempt organizations have purchased large buildings or old hotels to use as living quarters for their members. The children of those members attend school while the property enjoys a real property tax exemption for school tax purposes. This bill would allow a district to charge tuition for educating those students.

LEGISLATIVE HISTORY: 2001-02-- S.2788 remained in the Senate Education Committee/ A. 5243 remained in the Assembly Education Committee

2000 -- 5.2231 remained in the Senate Education Committee' A.3 955 remained in the Assembly Education Committee

1999 -- 5.2231 reported from the Senate Education Committee to the Senate Rules Committee, where it remained/A.3955 remained in the Assembly Education Committee

1997-98-- S.366 Passed Senate' A.6531 remained in the Assembly Education Committee

1995-96-- S.1303 Passed Senate' A.6131 remained in the Assembly Education Committee

1993-94-- S.4131-A Passed Senate/ A. 10567 remained in the Assembly Education Committee

FISCAL IMPLICATIONS: Increased revenue to some school districts which decide to charge tuition

EFFECTIVE DATE: September 1 next succeeding its date of enactment.

STATE OF NEW YORK

1126

2003-2004 Regular Sessions

IN SENATE

January 28, 2003

Introduced by Sens. BONACIC, LITTLE, DeFRANCISCO, McGEE, MENDEZ, RATH, WRIGHT -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to the exemption from taxation for non-profit organizations and to repeal certain provisions of such law relating thereto

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

- 1 Section 1. Subdivision 3 of section 420-a of the real property tax
- 2 law is REPEALED and a new subdivision 3 is added to read as follows:
- 3 3. Such real property from which no revenue is derived shall be exempt
- 4 though not in actual use therefore by reason of the absence of suitable
- 5 buildings or improvements thereon if the construction of such buildings
- 6 or improvements is in progress or is in good faith contemplated by such
- 7 corporation or association. As used in this subdivision, "in good faith
- 8 contemplated" means concrete and definite plans for utilizing and adapt-
- 9 ing the property for exempt purposes within two years. The plans must be
- 10 proven by clear and convincing evidence and must be the result of writ-
- 11 ings and must demonstrate a reasonable expectancy of being financed;
- 12 provided, however, that construction of suitable buildings or improve-
- 13 ments on such real property must commence with physical work on such
- 14 property within two years from the date title to the property is taken
- 15 in fee or by lease. If no part of the plans offered are executed within
- 16 such time, the property owner who received the benefit of the exemption
- 17 shall pay all property taxes that would have been owed; provided, howev-
- 18 er, that failure to pay does not create any right by any governmental
- 19 unit to commence a proceeding to effectuate the taking of the property
- 20 but does create a cause of action in contract by any governmental unit
- 21 negatively affected.
- 22 § 2. This act shall take effect on the first of January next succeed-
- 23 ing the date on which it shall have become a law and shall apply to
- 24 assessment rolls prepared on the basis of taxable status dates occurring
- 25 on or after such date.

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

LBD03158-02-3

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S1126

SPONSOR: BONACIC

TITLE OF BILL: An act to amend the real property tax law, in relation to the exemption from taxation for non-profit organizations and to repeal certain provisions of such law relating thereto

PURPOSE: To ensure that exempt properties are being used in the manner which supports the specific exemption granted.

SUMMARY OF PROVISIONS: Repeals subdivision 3 of section 420-a of the real property tax law to add a new subdivision 3 to provide that vacant or otherwise unimproved land shall only be deemed tax exempt if concrete and definite plans for utilizing and adapting the property for exempt purposes within two years are proven by clear and convincing evidence.

EXISTING LAW: Existing law does not provide a date certain by which real property not in actual use for its exempt purpose(s) must be developed or otherwise improved to facilitate such activity.

JUSTIFICATION: Landbanking occurs when tax exempt organizations purchase land for contemplated use. The problem is that often times that contemplated use does not occur or takes years to occur. While that land is tied up, taxes are not being paid, and the land is not being put to productive use. This diminishes the overall tax base of a locality. When the tax base of a locality is diminished, the remaining taxpayers burden increases. This makes home ownership less affordable as property taxes grow.

This proposed measure is one of a series of bills aimed at restructuring the framework for granting real property tax exemptions across the state. Based on year 2000 assessment rolls, there are over five million parcels of property in New York State (valued at a total of 1.3 trillion dollars). Of this number, some three million parcels enjoy at least 1 real property tax exemption. From a taxable status standpoint, about 1/3 of the total value of property in New York State (441 billion dollars) is either wholly or partially exempt from real property taxation.

The lion's share of real property tax exemptions (around 68%) are state mandated, and while the state has provided some reimbursement to relieve local taxing jurisdictions (i.e. through the STAR program), high levels of tax exemptions can present a serious burden to other property owners who must support the cost of school district, municipal and special district operations.

It is imperative that the State address and limit exemptions to those organizations and purposes which most broadly benefit the public. This specific legislation promotes this thrust by ensuring that organizations seeking tax exemptions truly meet those public purposes, and that lands receiving relief from real property taxation are being fully used in support of such purposes.

RETRIEVE BILL

LEGISLATIVE HISTORY: None.

FISCAL IMPLICATIONS: None to the state.

LOCAL FISCAL IMPLICATIONS: Undetermined, however, its is anticipated the bill will offer improved local oversight of exemptions, with a salutary effect on school, municipal and special district (i.e. fire protection) tax rolls.

EFFECTIVE DATE: This act would take effect on the first day of January next succeeding the date on which it shall have become a law and would apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

BILL TEXT:

STATE OF NEW YORK

1127

2003-2004 Regular Sessions

IN SENATE

January 28, 2003

Introduced by Sens. BONACIC, LITTLE, DeFRANCISCO, McGEE, RATH -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to the exemption from taxation for non-profit organizations

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

1 Section 1. Subdivision 1 of section 420-a of the real property tax law
2 is amended by adding a new paragraph (c) to read as follows:

3 (c) When used in this section:

4 (i) the phrase "organized or conducted exclusively" shall require that
5 a corporation's or association's organizational documents limit the
6 purposes of such corporation or association to one or more exempt
7 purposes, as set out in paragraph (a) of this subdivision;

8 (ii) the phrase "used exclusively" shall require that a corporation or
9 association use its property only for activities which are in further-
10 ance of one or more of its exempt purposes, as set out in paragraph (a)
11 of this subdivision. Any other use of any portion of such property shall
12 subject that portion to real property taxation;

13 (iii) "religious purposes" shall mean an activity that is fundamental
14 or intrinsic to the practice of a religion. A corporation or association
15 organized or conducted exclusively for a religious purpose shall have
16 its own beliefs, form of worship and form of organization, and shall
17 exercise ecclesiastical control over its members;

18 (iv) "charitable purpose" shall mean an activity done without expecta-
19 tion of profit which actually alleviates the condition of the poor, the
20 disabled, or tends to forward the progress of mankind in relation to the
21 arts or sciences. This term shall not include land used for meditation
22 and shall have a broad public purpose and lack personnel or private
23 considerations. The intended beneficiaries shall not be specified indi-
24 viduals or institutions;

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

LBD03160-03-3

1 (v) "hospital purpose" shall mean an activity of a hospital carried on
2 in compliance with the certification and licensing requirements provided
3 for by law. Such an activity shall include the provisions of services by
4 or under the supervision of a physician for the prevention, diagnosis,
5 or treatment of human disease, pain and injury, deformity, or physical
6 condition but shall not include living accommodations for hospital
7 personnel or their families;

8 (vi) "educational purpose" shall mean an activity intended to further
9 the development of human mental capacities. Any land or structure for
10 which an exemption is claimed for use as an educational purpose shall be
11 a non-profit college or university incorporated by the board of regents
12 of the state university of New York or by the legislation or a school of
13 medicine, dentistry or osteopathy, authorized by the board of regents of
14 the state university of New York to confer degrees and must meet stand-
15 ards of educational quality comparable to those as may be established
16 from time to time by the board of regents of the state university of New
17 York; and

18 (vii) "moral or mental improvement of men, women, or children purpose"
19 shall mean an activity intended to improve the intellectual or physical
20 condition of men, women, or children. The purpose of such an activity
21 shall be the development of the intellect or physical health of people.

22 § 2. Section 420-a of the real property tax law is amended by adding a
23 new subdivision 14 to read as follows:

24 14. Notwithstanding the foregoing provisions of this section, an
25 exemption granted pursuant to this section to real property owned by a
26 corporation or association organized or conducted exclusively for hospi-
27 tal or moral or mental improvement of men, women, or children purposes
28 and used exclusively for carrying out such purposes shall only be grant-
29 ed if the property owner can prove by clear and convincing evidence that
30 each acre is actually used for such purpose at least one hundred twenty
31 days a year.

32 § 3. Subdivision 1 of section 420-b of the real property tax law is
33 amended by adding a new paragraph (d) to read as follows:

34 (d) When used in this section:

35 (i) the phrase "organized exclusively" shall require that a corpo-
36 ration's or association's organizational documents limit the purpose of
37 such corporation or association to one or more exempt purposes, as set
38 out in paragraph (a) of this subdivision. Furthermore, the corporation
39 or association shall not be empowered to engage in activities which in
40 themselves are not in furtherance of one or more such purposes; and

41 (ii) the phrase "used exclusively" shall require that a corporation or
42 association used its property only for activities which are in further-
43 ance of one or more exempt purposes, as set out in paragraph (a) of this
44 subdivision. Any other use of any portion of such property shall subject
45 that portion to real property taxation.

46 § 4. This act shall take effect on the first of January next succeed-
47 ing the date on which it shall have become a law and shall apply to
48 assessment rolls prepared on the basis of taxable status dates occurring
49 on or after such date.

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S1127

SPONSOR: BONACIC

TITLE OF BILL: An act to amend the real property tax law, in relation to the exemption from taxation for non-profit organizations

PURPOSE: To provide for stricter standards in defining the terms used for nonprofit organizations, and for ensuring that exempt properties are being used in the manner which supports the specific exemption granted.

SUMMARY OF PROVISIONS: Amends subdivision 1 of section 420-a of the real property tax law by adding a new paragraph (c) to define the following phrases as related to nonprofit organizations: "organized or conducted exclusively", "used exclusively", "religious purposes", "charitable purpose" "hospital purpose", "educational purpose", and "moral or mental improvement of men, women, or children purpose."

Amends section 420-a of the real property tax law by adding a new subdivision 14 to provide that an exemption will only be granted pursuant to section 420-a to real property owned by a corporation or association organized or conducted exclusively for hospital or moral or mental improvement of men, women or children purposes only if the property owner can prove by clear and convincing evidence that each acre is actually used for such purpose at least one hundred twenty days a year.

Amends subdivision 1 of section 420-b of the real property tax law by adding a new paragraph (d) to define the terms "organized exclusively" and "used exclusively" as related to nonprofit organizations.

EXISTING LAW: Article XVI of the New York State Constitution provides that property used exclusively (emphasis added) for religious, educational, or charitable purposes shall be exempt from taxation. The Constitution, however, leaves to the State Legislature the power of defining the terms "religious", "educational" and "charitable."

Title 2 of Article 4 of the Real Property Tax Law (Section 420-a in particular) speaks of various types of exempt properties, including "religious", "educational" and "charitable". That Section of law exempt those types of properties (as well as others) provided the property is "used exclusively" for carrying out one or more of the exempt purposes. However, for the purposes of the Real Property Tax Law, those terms have not been defined.

JUSTIFICATION: In the absence of Legislative expression, the Courts have wildly and without basis in fact expanded upon the statute. In so doing, the Courts have broadened what qualifies as an exempt purpose beyond reason and have diminished the real property tax base of impacted localities.

For example, the Court of Appeals, in *Mo honk Trust v. Board of Assessors of Town of Gardiner* 47 NY2d 476, 483 (1979) read the term "used exclusively" (emphasis added) to mean "principal" or "primary". That ruling has led to a softening of the statutorily spelled out standard

RETRIEVE BILL

and has diminished the tax base of localities throughout the State.

In the Matter of Nassau County Council Boy Scouts of America v. Board of Assessors of the Town of Rock/and 444 N.Y.S. 2d 755 (1981) is cited as further evidence of the statutory erosion of the real property tax law. In that case, some 3,700 acres was removed from the tax rule even though much of that acreage was rarely, if ever used. The statute is clear - the property must be used for exempt purposes. The respondent in this case argued that the property was in fact in a State of "non-use" in terms of exempt purposes. The Court, citing Mohonk, supra. ignored the fact that much of the property was not in use at all. This legislation seeks to clarify that in order to be exempted, each acre of exempted property must actually be in use a minimum of 120 days a year.

This proposed measure is one of a series of bills aimed at restructuring the framework for granting real property tax exemptions across the state. Based on year 2000 assessment rolls, there are over five million parcels of property in New York State (valued at a total of 1.3 trillion dollars). Of this number, some three million parcels enjoy at least 1 real property tax exemption. From a taxable status standpoint, about 1/3 of the total value of property in New York State (441 billion dollars) is either wholly or partially exempt from real property taxation.

The lion's share of the value of real property tax exemptions (around 68%) are state mandated, and while the state has provided some reimbursement to relieve local taxing jurisdictions (i.e. through the STAR program), high levels of tax exemptions present a serious burden to other property owners who must support the cost of school district, municipal and special district operations.

In addition, a high level of property tax exemptions is deleterious to home ownership efforts. People are being "taxed out" of the ability to share in the American dream of home ownership in some localities because of extreme levels of tax exempt land.

For example, seven of the State's cities and twenty-three of the State's Towns have tax bases that were reduced by at least 50% as a result of tax exempt property in 2000.

It is imperative that the State address and limit exemptions to those organizations and purposes which most broadly benefit the public. This legislation promotes this thrust by ensuring that organizations seeking tax exemptions truly meet those public purposes, and that lands receiving relief from real property taxation are being fully used in support of such purposes.

LEGISLATIVE HISTORY: None.

FISCAL IMPLICATIONS: None to the state.

LOCAL FISCAL IMPLICATIONS: Undetermined, however, its is anticipated the bill will offer improved local oversight of exemptions, with a salutary effect on school, municipal and special district (i.e. fire protection) tax rolls.

EFFECTIVE DATE: This act would take effect on the first day of January next succeeding the date on which it shall have become a law and would apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

STATE OF NEW YORK

1398

2003-2004 Regular Sessions

IN SENATE

January 29, 2003

Introduced by Sens. BONACIC, LITTLE -- read twice and ordered printed,
and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to the discretion
of localities in granting exemptions for certain organizations

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

1 Section 1. Paragraph (a) of subdivision 1 of section 420-a of the real
2 property tax law, as amended by chapter 920 of the laws of 1981, and
3 such section as renumbered by chapter 919 of the laws of 1981, is
4 amended to read as follows:

5 (a) Real property owned by a corporation or association organized or
6 conducted exclusively for religious, charitable, hospital, educational,
7 ~~[or moral or mental improvement of men, women or children purposes.]~~ or
8 for two or more such purposes, and used exclusively for carrying out
9 thereupon one or more of such purposes either by the owning corporation
10 or association or by another such corporation or association as herein-
11 after provided shall be exempt from taxation as provided in this
12 section.

13 § 2. Paragraph (a) of subdivision 1 of section 420-b of the real prop-
14 erty tax law, as added by chapter 919 of the laws of 1981, is amended to
15 read as follows:

16 (a) Real property owned by a corporation or association which is
17 organized exclusively for purposes related to the moral or mental
18 improvement of men, women, or children, or for bible, tract, benevolent,
19 missionary, infirmary, public playground, scientific, literary, bar
20 association, medical society, library, patriotic or historical purposes,
21 for the development of good sportsmanship for persons under the age of
22 eighteen years through the conduct of supervised athletic games, for the
23 enforcement of laws relating to children or animals, or for two or more
24 such purposes, and used exclusively for carrying out thereupon one or
25 more of such purposes either by the owning corporation or association,

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

LBD05475-02-3

RETRIEVE BILL

S. 1398

2

1 or by another such corporation or association as hereinafter provided,
2 shall be exempt from taxation; provided, however, that such property
3 shall be taxable by any municipal corporation within which it is located
4 if the governing board of such municipal corporation, after public hear-
5 ing, adopts a local law, ordinance or resolution so providing. None of
6 the following subdivisions of this section providing that certain prop-
7 erties shall be exempt under circumstances or conditions set forth in
8 such subdivisions shall exempt such property from taxation by a munici-
9 pal corporation whose governing board has adopted a local law, ordinance
10 or resolution providing that such property shall be taxable pursuant to
11 this subdivision.
12 § 3. This act shall take effect immediately.

Memo Text Not Found

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI, sec. 1

- (x) Memo on original bill
() Memo on amended bill

SENATE BILL #: 1398

ASSEMBLY BILL #:

SENATE SPONSOR(S): JOHN J. BONACIC

ASSEMBLY SPONSOR(S):

TITLE: AN ACT to amend the Real Property Tax Law, in relation to the discretion of localities in granting exemptions for certain organizations

PURPOSE: To strengthen the real property tax base in the State of New York and give localities an option regarding the types of properties they wish exempt from taxation.

SUMMARY OF PROVISIONS:

Section 1 removes from Section 420-a of the real property tax law the right of organizations to claim a property tax exemption (as of right) when they claim the exemption because they benefit the "moral or mental improvement of men, women, or children." This type of exemption is placed in Section 420-b of the real property tax law, which provides for a local option of exempting this type of organization from taxation.

EXISTING LAW:

Provides that organizations which claim an exemption from taxation because they benefit the "moral or mental improvement of men, women, or children" are automatically entitled to a real property tax exemption. The State Constitution does not require that category to receive an automatic exemption (as it does, for example, for religious organizations or educational institutions - See Article 16 of the State Constitution).

JUSTIFICATION:

In 1971, the Legislature, upon recommendation of the Joint Legislative Committee to Study and Investigate Real Property Tax Exemptions made the exemption of property claiming an exemption under the "moral or mental improvement of men, women, and children" clause subject to local option. In 1972, the Legislature amended that law to again make that category a

mandatory exempt class. Since that time, the proliferation of organizations claiming exemption under this category has frustrated local officials. Moreover, the Court's have provided an unwarranted and expansive definition of who qualifies for exemption under this category could not be foreseen in 1972. Making this category subject to local option would give local officials the opportunity to determine the future tax base of their jurisdictions.

This proposed measure is one of a series of bills aimed at restructuring the framework for granting real property tax exemptions across the state. Based on year 2000 assessment rolls, there are over five million parcels of property in New York State (valued at a total of 1.3 trillion dollars). Of this number, some three million parcels enjoy at least 1 real property tax exemption. From a taxable status standpoint, about 1/3 of the total value of property in New York State (441 billion dollars) is either wholly or partially exempt from real property taxation.

The lion's share of real property tax exemptions (around 68%) are state mandated, and while the state has provided some reimbursement to relieve local taxing jurisdictions (i.e. through the STAR program), high levels of tax exemptions can present a serious burden to other property owners who must support the cost of school district, municipal and special district operations.

It is imperative that the State address and limit exemptions to those organizations and purposes which most broadly benefit the public. This specific legislation promotes this thrust by ensuring that organizations seeking tax exemptions truly meet those public purposes, and that lands receiving relief from real property taxation are being fully used in support of such purposes.

LEGISLATIVE HISTORY: None.

FISCAL IMPLICATIONS: None to the state.

LOCAL FISCAL IMPLICATIONS: Undetermined, however, its is anticipated the bill will offer improved local oversight of exemptions, with a salutary effect on school, municipal and special district (i.e. fire protection) tax rolls.

EFFECTIVE DATE: This act shall take effect immediately.

STATE OF NEW YORK

1415

2003-2004 Regular Sessions

IN SENATE

February 3, 2003

Introduced by Sens. LITTLE, BONACIC, HOFFMANN, LEIBELL, RATH, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to the assessment of private forest lands and to provide state assistance to municipal corporations in relation thereto

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

- 1 Section 1. Section 480 of the real property tax law is amended by
2 adding a new subdivision 10 to read as follows:
3 10. (a) The chief executive officer of a municipal corporation in
4 which there are privately owned forest lands which are assessed in
5 accordance with the provisions of subdivision three of this section may
6 make application for state assistance as provided in this subdivision.
7 (b) Application for state assistance pursuant to this subdivision
8 shall be made on a form prescribed by the state board and shall contain
9 such information and documentation as may be required by the state board
10 and the state board may promulgate rules and regulations necessary to
11 the implementation of this subdivision.
12 (c) Upon receipt of the application for state assistance, such private
13 forest lands shall be valued by the state board and the cumulative value
14 of all such lands shall be equalized by applying thereto the appropriate
15 state equalization rate or special equalization rate established in
16 accordance with the rules of the state board.
17 (d) If the cumulative value determined and equalized pursuant to para-
18 graph (c) of this subdivision exceeds the taxable assessed valuation of
19 such property on the preceding assessment roll, as required by subdivi-
20 sion three of this section the state board shall compute the amount of
21 state assistance payable to or for the benefit of each municipal corpo-
22 ration by applying to the amount of the excess the appropriate tax rate
23 of the municipal corporation and such amount shall be paid on audit and

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

LBD00535-01-3

1 warrant of the comptroller out of moneys appropriated by the legisla-
2 ture.

3 § 2. Section 480-a of the real property tax law is amended by adding a
4 new subdivision 11 to read as follows:

5 11. (a) The chief executive officer of a municipal corporation in
6 which there are privately owned forest lands which are assessed in
7 accordance with the provisions of this section may make application for
8 state assistance as provided in this subdivision.

9 (b) Application for state assistance pursuant to this subdivision
10 shall be made on a form prescribed by the state board and shall contain
11 such information and documentation as may be required by the state board
12 and the state board may promulgate rules and regulations necessary to
13 the implementation of this subdivision.

14 (c) Upon receipt of the application for state assistance, such private
15 forest lands shall be valued by the state board and the cumulative value
16 of all such lands shall be equalized by applying thereto the appropriate
17 state equalization rate or special equalization rate established in
18 accordance with the rules of the state board.

19 (d) If the cumulative value determined and equalized pursuant to para-
20 graph (c) of this subdivision exceeds the taxable assessed valuation of
21 such property on the preceding assessment roll, as required by this
22 section the state board shall compute the amount of state assistance
23 payable to or for the benefit of each municipal corporation by applying
24 to the amount of the excess the appropriate tax rate of the municipal
25 corporation and such amount shall be paid on audit and warrant of the
26 comptroller out of moneys appropriated by the legislature.

27 § 3. This act shall take effect immediately and shall apply to taxes
28 levied upon assessment rolls prepared on the basis of taxable status
29 dates occurring on or after January 1, 2004.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI, Sec. 1**

Memo on original bill
 Memo on amended bill

SENATE BILL #: S. 1415

ASSEMBLY BILL #: A.

SENATE SPONSOR(S): LITTLE

ASSEMBLY SPONSOR(S):

TITLE: AN ACT to amend the Real Property Tax Law, in relation to the assessment of private forest lands and to provide state assistance to municipal corporations in relation thereto.

PURPOSE: This bill will provide for full state reimbursement to local taxing jurisdictions for any tax revenue losses brought about by certain forest land exemptions.

SUMMARY OF PROVISIONS: Provides that the chief executive officer of a municipal corporation may apply for State aid if the cumulative value of forest lands under sections 480 and 480a of the real property tax law is less than its fully equalized value were section 480 and 480a not applicable.

EXISTING LAW: Sections 480 and 480a of the real property tax law provide for a significant reduction in the amount of taxes paid on forested lands. The law does not, however, provide for full state reimbursement to local taxing jurisdictions as a result of forest land tax exemptions.

JUSTIFICATION: Sections 480 and 480a of the real property tax law grant exemptions to certain forest land which decreases the tax base of many towns and counties in northern New York State. Since the presence of forest lands benefit the state as a whole, it is only fair and equitable that any losses of real property revenues incurred by the local taxing jurisdiction, be reimbursed by the state as a whole.

LEGISLATIVE HISTORY: This legislation has passed the Senate each year from 1992 to 1996. Since that time the bill has remained in either the Senate Local Government or Rules committees.

FISCAL IMPLICATIONS: To be determined.

EFFECTIVE DATE: This act shall take effect immediately and shall apply to taxes levied upon assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 2004

Press Clips

TIMES HERALD-RECORD
SUNDAY

**SPECIAL
RECORD REPORT**

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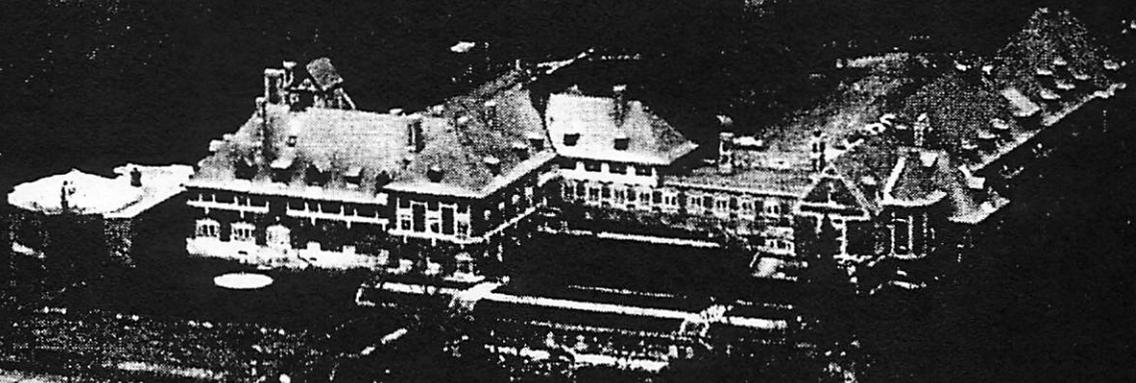
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Times Herald-Record/TOM BUSHEY

The state's broke, you're scraping by,
but you're paying your neighbor's taxes.
A huge chunk of our region is tax-exempt.

**Meet the man who says
the free ride's over**

PAGES 2-5

Volume 47, Number 270

TIMES HERALD-RECORD

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Lotteries

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Midday drawings

Daily: 762

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Evening drawings

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Win 4: 9288

Take 5: 13, 18, 20, 27, 30

Lotto: 14, 16, 25, 26, 27, 35 (48)

Pick 10: 2, 13, 14, 15, 23, 25, 26, 27, 29, 32, 39, 43, 48, 54, 59, 60, 67, 70, 73, 79

NEW JERSEY

Midday drawings

Pick 3: 252

Pick 4: 3542

Evening drawings

Pick 3: 623

Pick 4: 5176

Jersey Cash 5: 1, 9, 15, 16, 27

Lotzee: 40, 43, 70, 71

PENNSYLVANIA

Daily: 357

Big 4: 5425

Cash 5: 16, 20, 22, 26, 39

CONNECTICUT

Play 3: 101

Play 4: 7947

Cash 5: 5, 17, 26, 27, 28

Powerball: 5, 11, 13, 22, 36 (31)

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INSIDE TODAY

Boutique PEEK

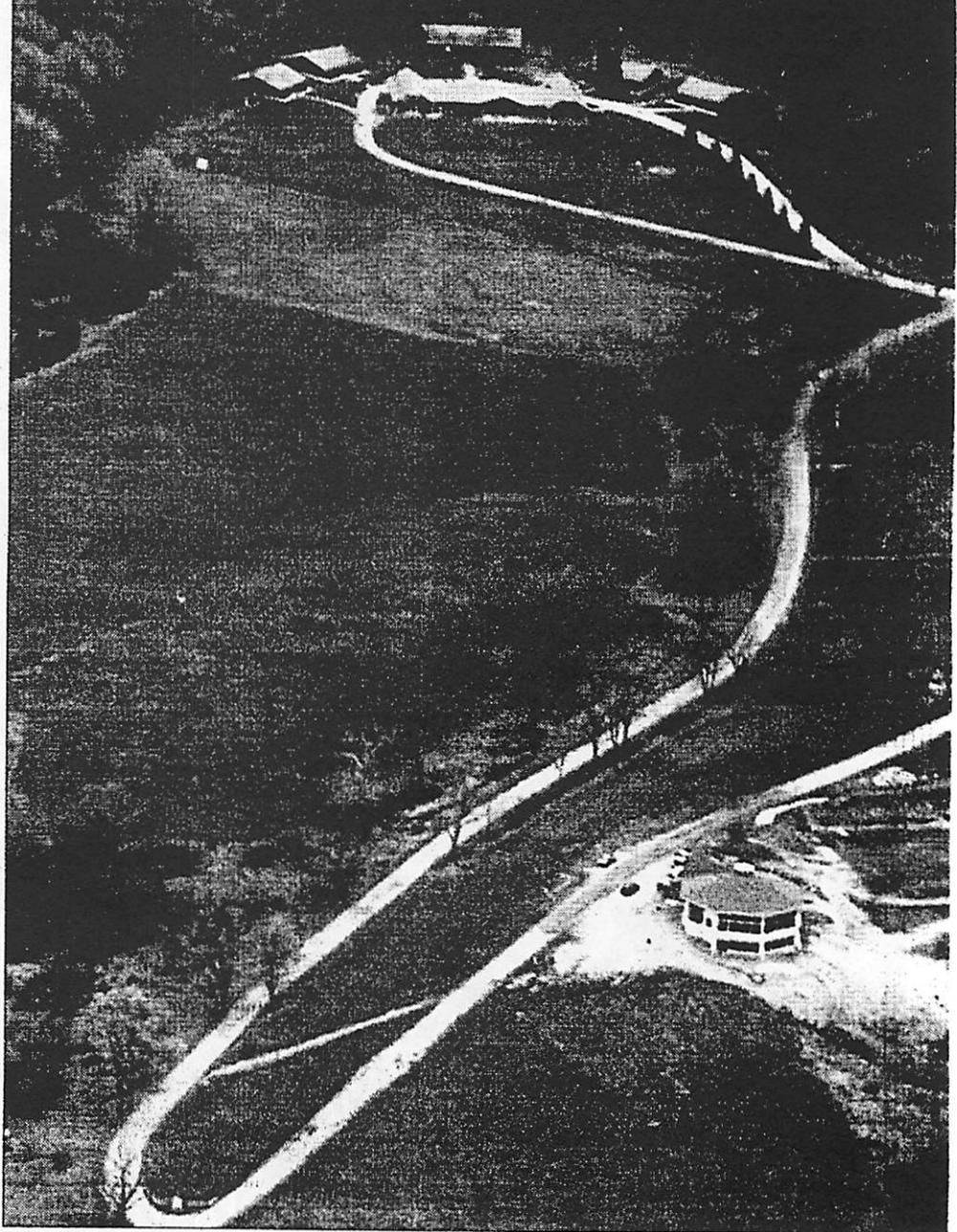


Take a jaunt with Fashion Plate Cait in trendy Beacon

PAGE 43

You pay: Tax-exempt properties

Land of the



The state's broke. School districts talk double-digit tax increases. Counties and towns cry poverty. The mailbox may not be big enough to hold those tax bills, but here's a little trick: Give them to your neighbor.

It's not as silly as it sounds. Hundreds of not-for-profit organizations across the mid-Hudson do it every year. The laws say they don't have to pay property taxes. But the taxes don't disappear. They shift to the residents and busi-

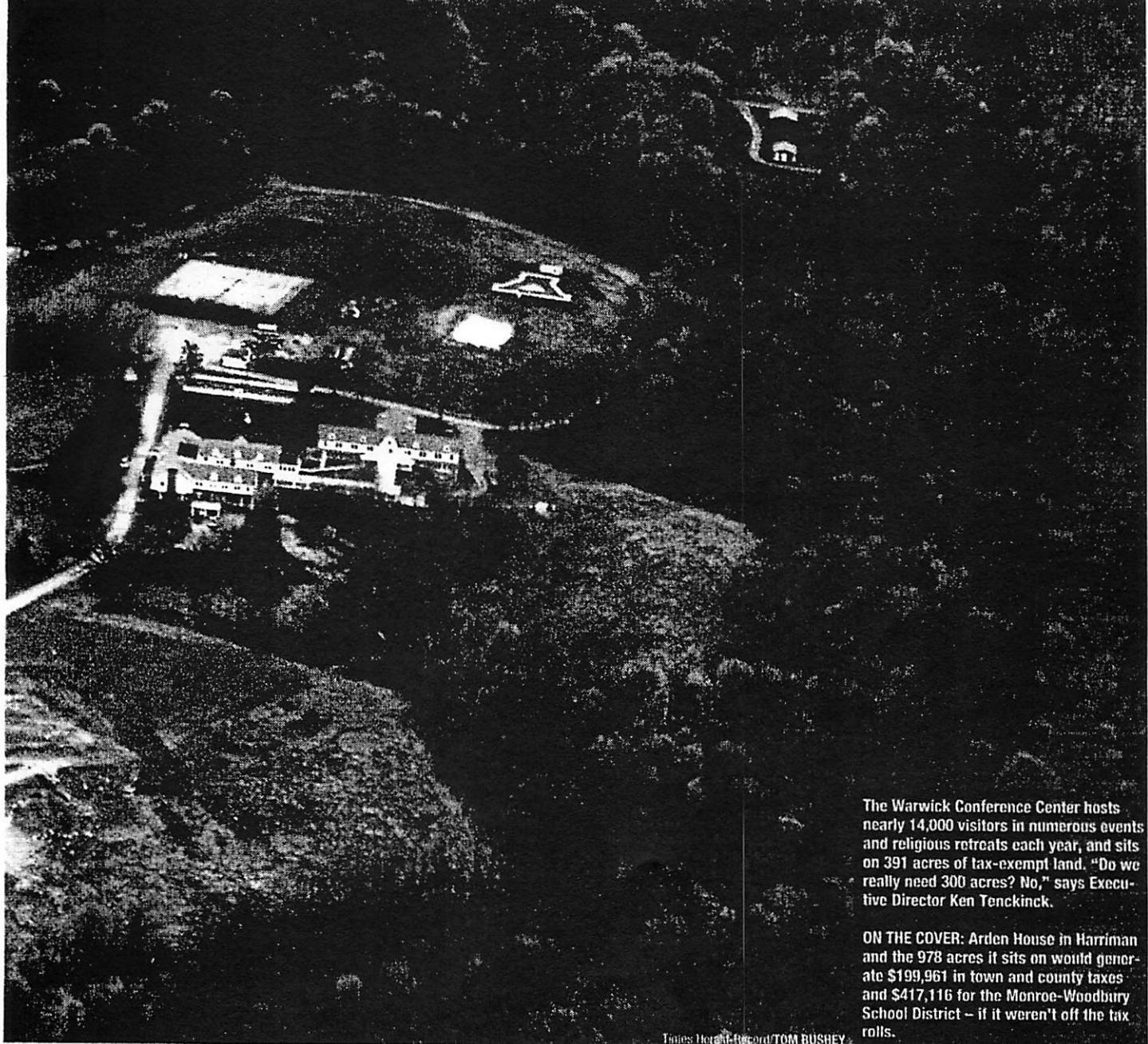
nesses left on the tax rolls.

Add in the tax exemptions for STAR, veterans, government land and the rest, and almost one-third of land in the state is fully or partially exempt from taxes. In the mid-Hudson, nearly 16 percent

By Paul Brooks
Times Herald-Record
pbrooks@th-record.com

You pay: Tax-exempt properties

TAX-FREE



The Warwick Conference Center hosts nearly 14,000 visitors in numerous events and religious retreats each year, and sits on 391 acres of tax-exempt land. "Do we really need 300 acres? No," says Executive Director Ken Tenckinck.

ON THE COVER: Arden House in Harriman and the 978 acres it sits on would generate \$199,961 in town and county taxes and \$417,116 for the Monroe-Woodbury School District - if it weren't off the tax rolls.

Times Herald-Record/TOM BUSHEY

of all the property is tax exempt to one degree or another, although several towns have 40 percent or more exempt (See chart on page 5).

Which not-for-profits are getting a free ride? Here is a taste:

► Bankrolled by a rich New York City socialite, a not-for-profit laid out \$2 million in 1998 to buy a piece of heaven in the Catskills. The woman sank \$5 million into renovating the conference center on the property.

An Italian guru was supposed to

promote wellness and alternative healing. He left. So did she, and her Asclepius Foundation never paid a dime in property taxes.

The foundation is dissolving, but first it gave away the whole place. The new owner: Tibet House, the brainchild of actor Richard Gere and Robert A.F. Thurman, father of actress Uma Thurman. Tibet House, too, is a not-for-profit.

► The Bruderhof religious communities in Monroe, Chester, Esopus and Greene County want to be good neighbors.

Editorial

The free ride has to stop. See page 63

They pay taxes on their corporate jet business and other commercial enterprises - but not on their religious communities. And they don't see the need to pay school taxes even though they send children to public high school. That's a savings of roughly \$2 million if they send 200 kids out

of their 1,500 members to local high schools.

► The Warwick Conference Center hosts nearly 14,000 visitors in numerous events and religious retreats each year.

They stare out the windows at 391 acres of pristine nature, unburdened by property taxes. "Do we really need 300 acres? No," Executive Director Ken Tenckinck said, though he stressed that selling the land for housing would swell the schools.

► Railroad magnate Edward

Harriman, as legend has it, was good enough to move into Tuxed in the early 1900s - too "new money." So he bought a mountain over looking the town and built the biggest house he could on top of Arden House.

The music room has a huge fire place, with tapestries on the wall and gargoyles grinning down from above. The wooden walls lining some of the dining rooms are really canvases painted to look like wood.

See TAX-EXEMPT page 4

You pay: *Tax-exempt properties*

Tax exempt: The

Continued from page 3

The price tag on the huge home and surrounding 978 acres is nearly \$21 million.

All told, the property would generate \$199,961 in town and county taxes and \$417,116 for the Monroe-Woodbury School District – if weren't off the tax rolls. Harriman gave it to Columbia University, which graciously pays Woodbury and Tuxedo about \$75,000 for town services.

General Manager Richard Kopcz says the surrounding land provides a good learning environment.

"It's very important that students are not distracted by outside influences, so they can concentrate on what they're learning," Kopcz said.

► The New York City-based Buddhist Society of Wonderful Enlightenment bought a 197-acre farm in the Town of Crawford in January 2002.

There is nothing on the property other than an old barn and a farmhouse, where some society members live. The society has not built anything new on the property or informed the town of its intentions for the property. All mail has to be sent to the society's city address.

► The Boy Scouts love that tax-free Sullivan County land. In Tusten, the Manhattan-based New York Council owns 8,000 acres.

Two New Jersey Scouting groups hold two of the largest exemptions in the town of Forestburgh, which has just 833 permanent residents and is mostly vacant land. Another Scout outfit sells timber from its tax-free land and keeps the profits.

"There is nothing wrong with the Boy Scouts, but to have thousands of acres taken off the rolls ... What they are doing is land-banking," said Ira Cohen, attorney for Sullivan County. "This is a classic example of why we need the law reversed."

Enter state Sens. John Bonacic and Elizabeth Little.

Bonacic and Little have introduced six pieces of legislation targeted at tax exemptions. The goal is to tighten what they see as loopholes and abuses of the system.

"I hit a nerve," said Bonacic, a Republican and Conservative from Mount Hope. "I didn't expect it. There were horror stories from all over the state."

The stories came out at six public hearings Bonacic and Little held across the state over the past several weeks. Twenty-six people drove through a driving snowstorm one Thursday night in March to testify at the hearing held in Kingston. Curt Schoeberl, assessor for the Town of Shawangunk in Ulster County, was one of them.

"It's reached the point where we have to say, 'You are nice people, but we can't afford to have you come in because you want to come in for free,'" Schoeberl said.

The not-for-profits see Bonacic's proposals differently. The Bruderhof say it's dangerous encroachment on groups like theirs. The Catholic Conference of New York says it will hurt charities when the people they help need them more than ever. Environmentalists like Glenn Hoagland of the Mohonk Preserve point out how they protect land from threats and preserve natural resources.

"It's frankly a cheap shot that's really going to do nothing to ease the property tax situation," said Warwick Conference Center's Tenckinck. "So you make the Boy Scouts pay taxes. That means the cost of Scout camp is going to go up. You're taking it out of one pocket and putting it in another. I wish legislators would concentrate on more significant issues."

Bonacic worries about more not-for-profits, with all their cash. "I've got a runaway train," he said. "Where will it be in five years or 10 years if they keep coming in and buying up land?"

This story was written by Paul Brooks. It was reported by staff writers Brooks, Victor Whitman, Mike Randall, Brendan Scott and Maureen Mitra.

Proposed changes

Sen. John Bonacic has introduced legislation to change the laws allowing tax exemptions for various not-for-profit organizations. The proposals would:

► Tighten definitions of not-for-profit organizations.

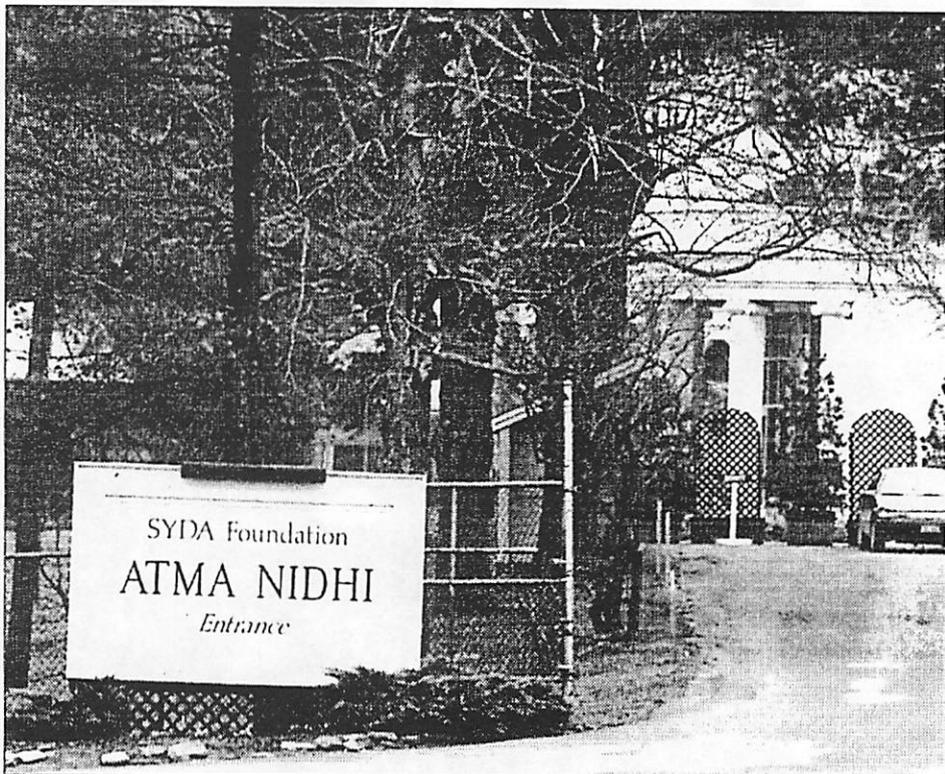
► Allow municipalities to decide whether they will grant the tax exemption to organizations like the YMCA and Boy Scouts.

► Tax lands not used exclusively for the purpose of the group – e.g., worship in case of a church. The local assessor will review the exemption every year to see if the use still qualifies.

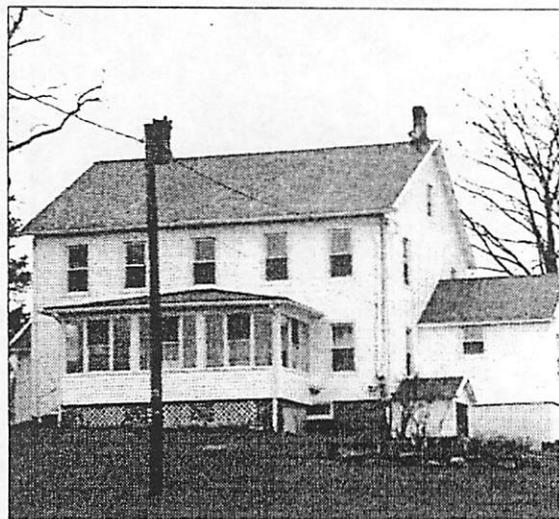
► Require property to be used a minimum of four months a year.

► Give not-for-profits two years after buying vacant land to develop and implement plans for using the land.

► Allow school districts to charge tuition for students who live on wholly tax-exempt property.



ABOVE: The SYDA Foundation is the largest tax exempt property in the Town of Fallsburg. According to the 2002 assessment, the organization has 28 properties representing \$19,189,200 off the rolls. The organization's largest holdings are the former Brickman, Gilbert and Windsor hotels in South Fallsburg. SYDA, which came to Sullivan in the early 1980s, follows the teachings of Siddha Yoga as taught by Swami Muktananda, an offshoot of the Hindu religion.



RIGHT: The New York City-based Buddhist Society of Wonderful Enlightenment bought a 197-acre farm in the Town of Crawford in January 2002. There is nothing on the property other than an old barn and a farmhouse, where some society members live. The society has not built anything new on the property or informed the town of its intentions for the property.

Quotable

"As long as there is a law, we felt we were entitled ... There wasn't any guilt because we were contributing. A lot of religious organizations get away with murder."

– Ken Wapnick, Foundation for a Course in Miracles

"[Activities at the SYDA Foundation] were no different than what they did at the Concord, except the Concord had better entertainment."

– Former Fallsburg Assessor Tom Frey, on lawsuit against SYDA, whose land is now valued at nearly \$19 million. The town lost

"It took them a while to get to know us and like us."
– Antonia Lindsey, a public relations spokeswoman for SYDA

"The officers ... of many of these organizations are often irritated by any requests for information ... and expect the local residential property owners to foot their share of the tax burden."

– Barbara Galloway, Marletown assessor, on the sale of two estates, complete with mansions, to two not-for-profits

"Some say [land] is required for meditation. You don't need hundreds of acres to meditate, in my estimation."

– Ray Rice, Esopus supervisor

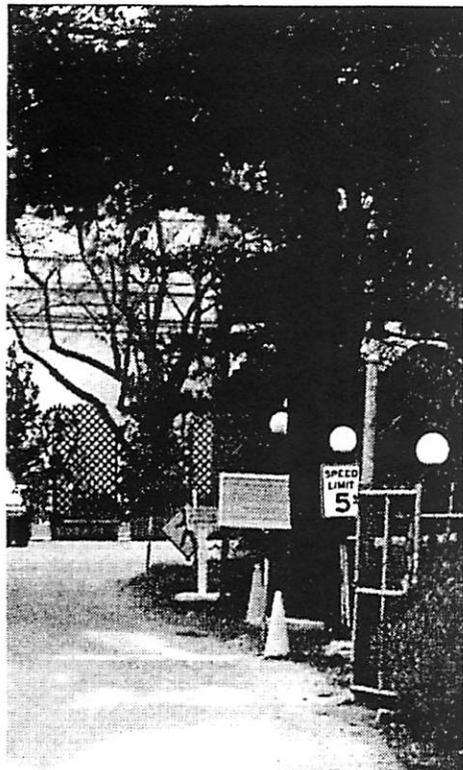
"The people who look up at the Shawangunk Ridge don't have to own it to enjoy it."

– Curt Schoeberl, Shawangunk assessor

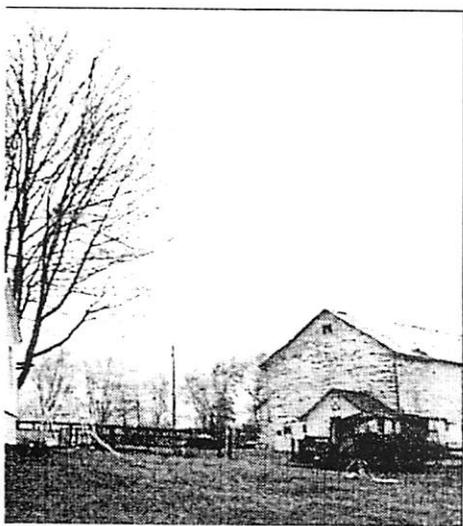
"This is not the first time that this has been attempted and the circumstances haven't changed."

– Warwick Assessor Richard Hubner, on Sen. Bonacic's proposed changes in tax exempt laws

great inequality



Times Herald-Record photos/TOM BUSHEY



"We are concerned that [the proposed bills give] the impression it has been religion that is destroying the local tax base by its expansion of such exempt holdings. The growth ... is ... with government-owned properties and with the constant increase of specialized exemptions by the Legislature."

— Catholic Conference of New York

"New York State is one of most generous states in the union toward tax exempts. That is not why we are here, but as long as that is the law, we will take advantage of what the law provides. ... On the other hand, if the new laws pass and affected us, we would pay."

— Kirby Flodin, facilities manager at Jehovah's Witness Watchtower facility in Shawangunk, the largest not-for profit in the area, with nearly \$120 million in land

By the numbers

Municipality on 2002 tax roll	Number of tax-exempt properties	Total market value of all properties	Total market value of tax exemptions*	Percentage of total market value that is tax-exempt
Sullivan County				
Bethel	2,173	\$454,731,967	\$61,095,470	13.4%
Callicoon	1,472	211,134,904	30,924,948	14.6
Cochecton	722	121,868,235	14,740,422	12.1
Delaware	1,170	188,707,140	33,904,506	18
Fallsburgh	3,024	764,330,563	307,852,092	40.3
Forestburgh	511	127,837,520	15,336,511	12
Fremont	719	162,338,946	26,893,096	16.6
Highland	946	235,184,284	34,100,852	14.5
Liberty	2,837	529,847,984	111,707,384	21.1
Lumberland	891	207,993,160	27,238,846	13.1
Mamakating	3,573	696,606,467	69,254,497	9.9
Naversink	1,274	526,154,582	63,324,923	12
Rockland	1,777	281,337,378	45,343,775	16.1
Thompson	3,517	1,167,194,492	211,192,302	18.1
Tusten	777	139,688,734	28,492,979	20.4
Orange County				
Middletown	2,430	\$942,475,895	30,940,985	3.28%
Newburgh	4,205	825,714,392	226,510,624	27.43
Port Jervis	1,268	241,371,173	26,583,432	11
Blooming Grove	1,102	1,275,207,548	152,262,250	11.9
Chester	1,412	845,743,073	80,863,036	9.5
Cornwall	4,932	930,244,587	137,640,963	14.79
Crawford	1,219	531,677,027	28,557,872	5.37
Duerpark	1,180	332,859,025	32,758,350	9.84
Goshon	212	988,665,494	471,009,988	47.6
Greenville	1,488	266,122,717	8,326,650	3.12
Hamptonburgh	152	455,186,153	45,021,417	9.8
Highlands	1,652	512,611,361	210,609,078	41.08
Minisink	405	218,369,240	11,177,915	5.1
Monroe	1,363	1,741,781,247	363,147,704	20.8
Montgomery	8,174	1,322,036,151	186,665,084	14.11
Mount Hope	313	288,296,666	70,178,989	24.3
New Windsor	8,449	1,647,768,000	537,633,053	32.62
Newburgh	9,925	3,400,113,947	489,426,877	14.39
Tuxedo	457	973,767,363	112,348,355	11.5
Wallkill	1,862	642,822,622	42,372,818	6.59
Warwick	4,427	2,522,330,998	539,200,658	21.3
Wawayanda	1,068	399,512,725	53,184,686	13.3
Woodbury	1,068	995,990,996	270,236,739	27.1
Ulster County				
Denning	310	124,846,950	21,473,527	17.1%
Esopus	3,012	570,485,334	110,944,931	19.4
Gardiner	1,899	506,588,538	37,769,300	7.5
Hardenburgh	150	122,126,028	9,471,348	7.8
Hurley	2,906	460,275,504	31,714,913	6.9
Kingston (City)	5,953	1,357,460,035	487,844,354	35.9
Kingston (Town)	312	55,708,814	4,545,463	8.2
Lloyd	3,092	626,332,133	85,746,740	13.7
Marbletown	2,604	696,191,121	70,246,419	11.4
Marlborough	3,015	500,179,389	67,251,351	13.5
New Paltz	3,224	821,625,556	246,339,583	30
Olive	1,809	52,259,554	6,248,410	20
Plattekill	2,092	382,397,950	28,625,855	7.5
Rochester	3,513	485,820,626	52,582,727	10.8
Rosendale	2,191	338,988,141	31,695,524	9.4
Saugerties	6,811	967,227,794	135,744,336	14
Shandaken	1,391	334,661,850	25,268,630	7.6
Shawangunk	3,775	784,169,316	200,993,490	25.6
Ulster	3,978	988,671,704	162,727,065	16.5
Wawarsing	3,681	788,102,553	14,940,815	18.2
Woodstock	2,456	852,115,740	59,227,751	7

* Includes STAR, veterans, government, not-for-profit and all other exemptions. State Sen. John Bonacic's proposed tax exemption revisions focus only on the wholly exempt properties: religious, educational, charitable and "moral improvement" not-for-profit organizations.

State Sen. John Bonacic on tax exemptions:



John Bonacic

Q: Who are you after?

A: We are after the abuses. ... We are after the cons that have learned the system and are circumventing the system to get tax-free investments.

Q: Are you attacking God and religion?

A: No. As a practical matter, 99 percent (of church properties) are not going to be touched.

Q: How might churches be affected?

A: If the church uses a home as a rental, they are in the real-estate business. That should be taxed. If they use a cell tower on the church steeple, that should be taxed. If they have a manufacturing plant, that should be taxed.

Q: Have the courts helped?

A: In 30 years the courts have interpreted what is charitable, what is education, what is "moral betterment." It is anything you want to be. Anyone can come in and file a 503 (not-for-profit status) and your hands are tied.

Q: What exemptions does the legislation NOT touch?

A: STAR and local exemptions (veterans, disabled, etc.)

Q: How much do all the exemptions add up to statewide?

A: \$62.4 billion

Q: Who are the "moral betterment" organizations and how would legislation affect them?

A: They are the YMCA. The Scouts. Your community would decide whether they are entitled to the exemption.

Q: What is land-banking?

A: Say the Scouts have 1,000 acres and they use 400 of it. Six hundred of it you can't access. It's just land-banking. I want to tax it

Q: What is this two-year time limit about?

A: I say I am going to build a conference center and I don't build anything — ever. If you don't start construction within two years you lose the tax-exempt status on that land.

Q: Does the legislation affect summer camps? Does it have a minimum time of use?

A: It's four months. Anyone that has a camp (open) for just two months is going to have to pay.

Q: Will the legislation hurt efforts to preserve open space?

A: If you can pay a couple of million dollars to buy some land, you can have some PILOT (payments in lieu of taxes) programs with towns. ... (But) I don't want polarization. ... I am looking for a way of not hurting the open space people that are legitimate, compared with the marginals that are coming in and land-banking.

Q: Can you get this legislation passed?

A: I am always goal-oriented. I don't start things to lose.

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EDITORIAL

N.Y.: Put the brakes on the free rides

"New York state is one of most generous states in the union toward tax exempts. That is not why we are here, but as long as that is the law, we will take advantage of what the law provides."

- Kirby Flodin, facilities manager at Jehovah's Witness Watchtower facility in Shawangunk, the largest not-for profit in the area with nearly \$120 million in land.

And that's why it's time for New York state to become a bit more stingy on who gets a tax break, because as the law stands now, the "haves" are getting a free ride while the "have-nots" are paying the tab.

And that's why we support the efforts by state Sen. John Bonacic and Sen. Elizabeth Little, who have introduced legislation to tighten what they perceive as loopholes and abuse of the tax system in New York.

Counties, cities, towns and villages in the mid-Hudson and Catskills are losing millions of dollars from not-for-profit organizations. On average, nearly 16 percent of all the property in these municipalities is tax exempt in some fashion (not-for-profit, STAR, veterans, government). In some of our towns (Fallsburg, Goshen and Highlands) more than 40 percent of the property is off the rolls.

The problem for municipalities is the lack of a definitive definition for not-for-profit organizations, as well as an inability to tax property owned by these organizations, but not directly used for not-for-profit purposes.

Religious groups, the Boy Scouts of America and

YMCA, for example, can purchase property not used exclusively for the purpose of the group - or use a site for just two months of the year - and still receive a full tax exemption.

An investigation by the Times Herald-Record found some real examples:

► The Boy Scouts of America's New York City council, based in Manhattan, owns 8,000 acres in the Sullivan County Town of Tusten. A few miles away in the Sullivan Town of Forestburgh, two New Jersey-based Boy Scout troops not only own tax-exempt property, but sell timber from the tax-free land and keep the profits.

► The Buddhist Society of Wonderful Enlightenment bought a 197-acre farm in the Town of Crawford in Orange County. The group has its mail sent to

its New York City address. It has not built anything new on the property. And it pays no taxes on it.

"In 30 years the courts have interpreted what is charitable, what is education, what is 'moral betterment.' It is anything you want it to be. Anyone can come in and file a 503 (not-for-profit-status) and your hands are tied," Bonacic says.

He spent weeks touring the three counties, hearing from property owners upset that their taxes rise every year, while at the same time an increasing number of organizations move down the road, claim an exemption and live tax-free.

Bonacic says it's time for a change to the tax-exempt system in this state and we couldn't agree more. The free rides must end soon, because more of us just can't afford to get behind the wheel.



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Monday, April 21, 2003

Property tax cited as least favorite

Gannett News Service

It's scant consolation just after you paid your income tax, but there's something Americans dislike more than the federal income tax: local property tax.

Thirty-eight percent of adults identify the property tax as the worst tax vs. 21 percent who cite the federal income tax, according to a Gallup Poll. Smaller proportions cite the Social Security tax and state sales and income taxes as the worst, or "least fair."

The poll reflects a sharp change from 1994, the last time Gallup asked the question. Then, income and property taxes were neck-and-neck for the public designation as worst tax. For most of the 1980s, the decade after enactment of California's property tax-limiting Proposition 13 in 1978, the federal income tax polled as the worst.

Larry Naake, executive director of the National Association of Counties, said local governments have increased property taxes as federal and state governments have required more without providing additional aid. Homeland security is the latest.

"Property taxes have been going up around the country, and maybe this is a cumulative reaction to that," Naake said of the poll.

The average property tax burden was \$885 per person in 2000, double the 1985 figure, according to the most recent numbers from the Census Bureau.

Deficits are high

Financial pressure on local governments seems unlikely to lessen anytime soon. The federal government is facing an estimated \$400 billion budget deficit this year. Meanwhile, states are attempting to close a cumulative \$80 billion shortfall next year.

Property tax is particularly loathsome to Easterners -- 49 percent

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identified it as the worst tax vs. 26 percent of those in the West.

All income brackets view the property tax as the worst, said Gallup. But among households with incomes of \$75,000-plus, the gap tightens: 36 percent cite the property tax; 27 percent cite the federal income tax.

Dale Eller, a security consultant from Erie, Pa., considers the property tax least fair because it hurts the elderly most and because local officials appear incapable of maintaining fair property assessments, the base on which the tax is levied.

Dwain Willingham, a businessman from Mission, Kan., said the real problem lies with excessive, inefficient government. Picking the worst tax, said Willingham, is like deciding, "Which is worse? Getting sick on bad shrimp or on bad clams?"

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Regional News

Hearing to focus on tax law

By: AIMEE J. FRANK, Correspondent

March 04, 2003

KINGSTON - A hearing on proposed legislation submitted by state Sen. John Bonacic that would revise the property tax law will be held Thursday at the Ulster County Office Building.

A package of seven tax bills is designed to reform state laws governing tax-exempt properties to increase revenue options of local governments and reduce the property tax burden of taxpayers.

"Nearly one-third of the property value across New York state is exempt from taxation," said Bonacic, R-Mount Hope. "Some of those exemptions serve important public functions, but others do nothing more than further personal preferences, while driving the costs homeowners pay in property taxes through the roof."

The hearing will be held from 10 a.m. to noon in the Legislature chamber on the sixth floor of the Ulster County Office Building, 244 Fair St.

Anyone wishing to testify must notify Peter D. Lopez in writing by 5 p.m. today by facsimile at (518) 426-6948.

The total value of the exempt property across the state is around \$441 billion dollars, according to information from Bonacic's office, and an estimated 68 percent of property tax exemptions are state mandated.

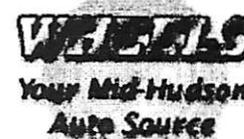
The proposed legislation seeks to increase the property tax revenue available to local governments by codifying definitions used in the property tax law to determine exempt status, and providing local governments with the option to tax certain properties that are currently exempt.

Organizations and associations would be held to stricter standards in determining whether their full holdings would be tax exempt by the requirement that each acre of a property must be used at least 120 days each year for the specific purpose for which a tax exemption was granted.

Non-profit organizations that hold property for more than two years without providing a viable plan for financing and developing the property would lose the tax exemption on the property and, in some cases, be liable for previous years' taxes.

Agencies currently providing "moral or mental improvement of men, women or children" automatically receive tax-exempt status from the state.

Table with categories: News, Sports, Life, Opinion, People & Events, Entertainment, Living Here, Classifieds, Doorways, Wheels, Personals, Subscriptions, About Us, Other, Publications, Sports Wire!, Fun and Games, Consumer Guide, Personal Finance, Lifestyles, USA Weekend



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Under the proposed legislation, these organizations would be shifted to a different tax-exempt class, one that gives localities the option of granting property tax exemptions.

All non-profit organizations and associations would be responsible for establishing annually "clear and convincing evidence" that they continue to be eligible for exemption.

Local officials have expressed support for the concept underlying the package of legislation to be discussed at the hearing.

Esopus town Assessor Daniel Terpening said, "My feeling is that when our founding fathers exempted religious parcels held by churches or schools, I don't think they had in mind the thousands of acres here in Esopus."

"There should be some mechanism, in my opinion that doesn't give blanket exemptions if (the non-profit) is not using the property for purposes that are tax exempt," said Kingston Mayor James Sottile,

According to 2000 assessment information from Bonacic's office, 44 percent of property in Kingston is tax exempt for school tax purposes.

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Reader Opinions

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Name: Robert Scarselli

Date: Mar, 04 2003

This is a step in the right direction. I don't think any non-profit group should be tax exempt. Why should a church own thousands of tax free acres. On the same hand why should groups such as Scenic Hudson etc. own thousands of tax free acres. If these groups have a need to become great landowners they should be assessed for the same taxes as everyone else. I also question the landholdings of other entities such as schools and town governments. For what purpose would they need to hold all this tax free land? Kingston City Schools for example own a great amount of unused real estate in Ulster County. A good example would be the acreage purchased at Meagher School in the early 1960's. This land, bordered by the school, Stanley Street, Shufeldt Street and Clifton Avenue was partially fenced and sat fallow for years. Eventually a very small portion was used for playground equipment. This land should have never been acquired by the school. The land should be sold off and the proceeds used to offset taxes. This is just one very small example. These non profit groups should be financed by their membership. Not by the taxpayers in general.

Number of Opinions: 1

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Campus could be taxed

That could mean the State University at New Paltz would start paying property taxes for its 216-acre campus.

"That would be the only thing that would make a big impact on New Paltz," Town Supervisor Don Wilen said. He said not including the college, only 8 percent of town land is exempt from taxation.

He and others doubt the state is ready to start paying local taxes on land it owns.

"Sometimes if something sounds too good to be true, it is too good to be true," Wilen said.

Fishkill Town Supervisor Joan Pagonis, president of the Dutchess County Supervisors & Mayors Association, said tax exempt properties put a strain on town resources, such as fire and police service.

"Somebody's picking up the bill and it's Joe and Mary Front Porch," Pagonis said. "It's something that should be looked at and something localities have had to struggle with for many years."

IF YOU GO **TAX HEARING**

What: Hearing on changing tax-exempt land laws.

When: 10 a.m. to noon Thursday.

Where: Ulster County Office Building, legislative chambers, 244 Fair St., Kingston.

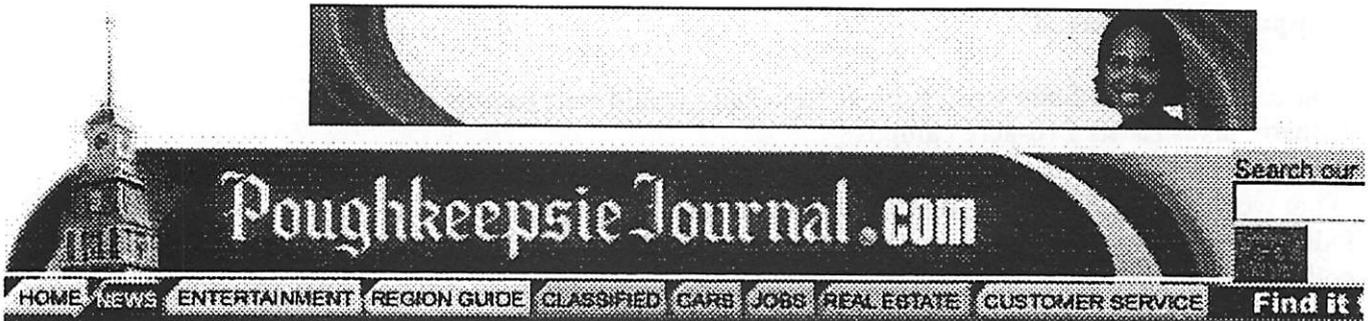
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Monday, March 3, 2003

Bill would tax property not put to exempt use

By Anthony Farmer
Poughkeepsie Journal

KINGSTON -- Tax exemptions on properties across the state are creating an unfair burden on taxpayers, state Sen. John Bonacic, R-Mount Hope, said.

Bonacic, chairman of the Senate's Committee on Housing, Construction and Community Development, and state Sen. Betty Little, R-Queensbury, are co-sponsoring legislation that would change the way land is exempted from property taxes.

While there are many legitimate reasons for exempting property from taxation, Bonacic said, there has been a proliferation of exemptions and it has led to taxpayer inequity.

"I couldn't believe the epidemic proportions of what I consider this runaway problem with tax-exempt land," he said, noting nearly one-third of the property value in the state is exempt from taxation. "It's a shift to homeowners and businesses."

Bonacic will hold a hearing in Kingston Thursday on the plan to reform the state's tax-exempt land laws. Six hearings will be held across the state on the measure.

Exemptions are granted to churches, schools, hospitals and other charitable organizations. Government-owned properties are also exempt from taxation.

The proposed legislation would not require landowners who actively use their property for exempt public purposes to pay taxes. But portions of the property not used for such purposes would be subject to taxation. One of the bills also would put state-owned lands back on the tax rolls.



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NEWS
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February 27, 2003

Bonacic plan cuts back on tax exemptions

By John Milgram
Ottawa News Service
jmottaway@aol.com

Albany – State Sen. John Bonacic's plan to strip some exemptions from various not-for-profit and religious organizations would be a boon for property taxpayers, but borders on infringing upon religious freedoms, according to testimony given yesterday in Albany.

Bonacic, R-Mount Hope, and Sen. Elizabeth "Betty" Little, R-Warren County, are holding a series of statewide hearings on their package of bills meant to redefine property-tax exemptions statewide.

They want religious groups and not-for-profits to pay for land they don't actively use. They want stricter definitions of what makes a group an exempt not-for-profit. And they want children living on tax-free land to pay tuition for public schools.

"I do not believe the founders ever intended property exemptions to be so liberally construed that they encourage taxpayer inequity," said Bonacic. "Those taxes do not disappear into thin air, they are shifted to homeowners and small businesses who pay more."

Government is treading on dangerous ground if it's expected to begin deciding what makes for valid religious purposes, as the proposals do, said leaders from one religious community that could be impacted.

"It's a departure from New York state's traditional commitment to fostering and encouraging benefits religious communities provide localities," said John Huleatt, lawyer for the Bruderhof, a Christian pacifist sect with communities in Ulster, Orange and Greene counties. "It's not that we don't recognize the fiscal crisis, but to breach basic constitutional provisions to alleviate short-term financial burdens is not in the interest of our state or country."

The sect is in the planning process for a 400-acre community in Montgomery.

The state's school boards, towns, mayors and assessors' associations, however, said the proposals fall squarely within their interests. About a third of the state's total \$1.3 trillion property value is exempt from taxes.

Bonacic said state laws are so lax that the North American Man Boy Love Association, which fosters pedophilia, was once able to obtain tax-free status. Also, many groups from other states look to buy in New York because of the way the laws have been written.

Bonacic's bills include additional proposals for the state to pay taxes on all property it owns, and for giving local assessors the power to decide whether certain not-for-

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Tax equity

Freen

John Bonacic and Elizabeth Little will launch a series of state Senate public hearings later this month aimed at reviewing and reforming New York's long-standing laws on property tax exemptions.

Bonacic, R-Mount Hope, and Little, R-Queensbury, point out that nearly a third of property value across the state is exempt from local or school taxes. But while some exemptions serve important public functions — such as schools, hospitals, charities, municipal buildings, religious facilities, parkland and the like — “others do nothing more than further personal preferences while driving the costs homeowners pay in property taxes through the roof,” said Bonacic.

In our region, 25.4 percent of Ulster County property is exempt for school taxation purposes, the tax levy with the greatest impact on homeowners and businesses. School tax exemptions range from 44.4 percent in Kingston, according to the state Office for Real Property Services, to 39.7 percent in New Paltz, 33.4 percent in Shawangunk and 31.2 percent in Esopus, for example.

In Greene County, 19.4 percent of properties are exempt for school tax purpose, led by the town of Catskill, which accounts for about a quarter of the county total.

Dutchess County has the highest school tax exemption rate in the region, 29.6 percent, with \$1.8 billion worth of equalized exemptions in the city and town of Poughkeepsie. At 35.8 percent, the town of Rhinebeck has one of the highest exemption rates in

the area.

In Columbia County, 26.4 percent of properties are tax exempt for school taxes. The city of Hudson's exemption rate is a staggering 60.5 percent.

Bonacic and Little say they are not advocating the removal of tax exemptions for traditionally legitimate groups, such as veterans or senior citizens. But Little, chair of the Committee of Local Government, says “homeowners and small businesses can't be expected to shoulder the costs of higher property taxes when (some) organizations receive tax exemption status unnecessarily.”

Joining the senators at an Albany press conference were representatives from the state Association for Counties, the state Mayor's Conference, the state Association for Towns and the state School Boards Association.

“We are attempting to preserve exemptions which meet fundamental and important public purposes and remove those exemptions which are abusive or cater to more personal preferences than critical public needs,” said Bonacic, chairman of the Committee on Housing, Construction and Community Development.

Every exemption must be made up by a tax-paying entity if services are to be maintained. After years of benign neglect, the state's statutes on tax exemptions will be reviewed in depth to provide more reasonable equity among taxpayers. For New Yorkers, caught in the bind of shrinking revenues and inexorable expenses at every level of government, this initiative comes at the right time.

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Little suggests tax on exempt state land

Published on 2/11/2003

By MAURY THOMPSON
thompson@poststar.com

Moreau town Supervisor Harry Gutheil Jr. vividly recalls telephoning former state Assemblyman Robert D'Andrea in 1998 to complain about the state's plans to purchase about 1,800 acres of private property in the town to expand the Moreau Lake State Park.

At the time, Gutheil was concerned about the loss of local property tax revenues once the state bought the land.

"It was too late," he recalled Monday. "The stone was already cast."

Communities like Moreau would receive a windfall under a property tax reform proposal released Monday by state Sens. Elizabeth Little, R-Queensbury, and John Bonacic, R-New Paltz, that would require the state to pay local property taxes on all state-owned land -- including wildlife preserves, state parks and state recreational lands.

Other measures in a package of seven bills the senators plan to introduce include:

- * Require nonprofit organizations to document annually that their activities meet the criteria for tax-exempt status.
- * Allow municipal boards to review applications for tax-exempt status from organizations that claim to provide "moral or mental improvement of men, women and children."
- * Clarify the definitions of terms such as "religious" purpose, "charitable" purpose and "hospital" purpose in the state's tax code.
- * Require the state to reimburse municipalities and school districts for revenues lost when the state grants property tax exemptions on land engaged in active forestry production.

Little, who is chairwoman of the Senate Local Government Committee, will preside over a series of public hearings around the state on the property tax reform proposal. The series begins Feb. 26 in Albany.

With nearly one-third of property value across the state exempt from taxation, the issue is critical to local governments and school districts, Little said.

"I think the taxpayers are at a saturation point," she said.

Little said she doubts the Legislature will pass sweeping property tax reform measures this year, but she feels it is important to initiate dialogue on the topic.

"I don't think that's going to happen this year, in the current economic climate," she said, referring to the provision that would make state parks subject to taxation. "But that certainly needs to be talked about."

She and Bonacic have not yet calculated how much the state would be liable to pay in taxes on state lands, nor have they suggested how the state would raise the revenues, Little said.

Saratoga County Executive David Wickerham said that while the notion of property tax reform is

commendable, taxing the state on state parks would essentially shift the burden for local services to some other form of tax.

"On the downside," he said, "since the state isn't holding bake sales, they would have to find a way to collect that tax somewhere else."

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Quote of the day

Published on 2/11/2003

"I think the taxpayers are at a saturation point."

ELIZABETH LITTLE

state senator, R-Queensbury, discussing the property tax reform proposal she has co-authored

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Property tax breaks under fire

Albany— Upstate senators say ending exemptions for state, some nonprofits' lands would ease budget crunches

By **JAMES M. ODATO**, Capitol bureau
First published: Tuesday, February 11, 2003

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Two upstate senators are pressing for laws that would infuse municipal treasuries with billions of dollars by ending tax exemptions on all state land and many not-for-profits' properties.

In six bills introduced by Sen. John Bonacic, R-Mount Hope, and one by Sen. Elizabeth Little, R-Queensbury, some of the more than \$441 billion in non-taxed real estate would bolster municipal tax rolls. One third of the property value in New York state isn't taxed.

The bills call for all \$45 billion in state-owned land to be taxed and for the state to reimburse municipalities for lost revenue from exempt private forest lands.

Not-for-profit groups would have to prove they are legitimate and that they are using all their exempt lands for purposes related to their nonprofit status.

Bonacic said about 68 percent of exemptions are state-mandated. He added the state has provided some local tax relief, such as through the STAR program, but still has too much untaxed land.

"The state must help provide tools which promote greater accountability from those seeking real property exemptions in order to balance public needs and benefits," he said.

He and Little were joined at a news conference announcing their legislation by leaders of the Council of Mayors, New York State Association of Counties, New York State School Boards Association, Association of Towns, Adirondack Association of Towns & Villages and New York State Assessors' Association. They agreed the legislation would help municipalities expand tax bases and avoid hefty property tax hikes.

"Tax exemptions need to be more closely scrutinized," said Little. Her bill, to require forest land to be taxed, would add \$3.3 billion to municipal levies.

Bonacic said all lands owned by the state should be subject to taxation for all purposes. Only some state lands are now taxed.

The senator said thousands of acres of state-owned land -- wildlife preserves, state parks,

and state recreational lands, for instance -- are exempt, creating an unfair burden on residents who live near them.

His plan would also require nonprofit owners of vacant or otherwise unimproved land to provide definite plans for using the land. The groups would have to adapt the property for exempt purposes within two years.

Based on year 2000 assessment rolls, there are more than 5 million parcels of property in New York state, valued at \$1.3 trillion dollars, according to Little and Bonacic. Of that number, some 3 million parcels receive at least one property tax exemption.

Bonacic wants to make sure that tax exemptions are only given to groups organized or conducted exclusively for religious, charitable, hospital or educational purposes or for moral or mental improvement of men, women, or children.

Five public hearings on the measures will be conducted, starting Feb. 26 in Albany.

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