



Senate

General Assembly

File No. 247

January Session, 2013

Substitute Senate Bill No. 817

Senate, March 28, 2013

The Committee on Planning and Development reported through SEN. CASSANO, S. of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT ESTABLISHING A PROPERTY TAX PROGRAM TO ENCOURAGE THE PRESERVATION OF HISTORIC AGRICULTURAL STRUCTURES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage and applicable to assessment*
2 *years commencing on and after October 1, 2013*) (a) As used in this section:

3 (1) "Municipality" means any city, town, borough, district or
4 association with municipal powers;

5 (2) "Historic agricultural structure" means a barn listed on the
6 National Register of Historic Places, 16 USC 470a, as amended from
7 time to time, or on the state register of historic places, as defined in
8 section 10-410 of the general statutes, or a stone wall or other structure,
9 including the land necessary for the function of the barn, stone wall or
10 structure, currently or formerly used for agricultural purposes and at
11 least seventy-five years old;

12 (3) "Discretionary preservation easement" means a preservation
13 easement over an historic agricultural structure, including the land
14 necessary for the function of such structure, conveyed to a
15 municipality for a term of ten years;

16 (4) "Easement agreement" means the document conveying the
17 discretionary preservation easement;

18 (5) "Legislative body" means the legislative body of a municipality
19 or, where the legislative body is a town meeting, the board of
20 selectmen or town council;

21 (6) "Property tax payment amount" means the amount of property
22 tax due for an historic agricultural structure subject to a discretionary
23 preservation easement as established by the legislative body. Such
24 amount shall be between twenty-five per cent and seventy-five per
25 cent of the amount of property tax that would be due for such historic
26 agricultural structure if such structure was not subject to such
27 discretionary preservation easement, and shall be calculated based on
28 the assessed value of the historic agricultural structure in the
29 assessment year in which the legislative body approves the application
30 for a discretionary preservation easement. Such amount shall be fixed
31 for the term of the easement; and

32 (7) "Early release penalty" means ten per cent of the amount of
33 property tax that would be due for such historic agricultural structure
34 if such structure was not subject to a discretionary preservation
35 easement, calculated based on the assessed value of the historic
36 agricultural structure in the assessment year in which such penalty is
37 levied.

38 (b) Any municipality may, by ordinance, adopt the discretionary
39 preservation easement program described in this section. A
40 discretionary preservation easement shall only be accepted if an
41 historic agricultural structure (1) provides scenic enjoyment to the
42 general public from a public road; (2) is historically important on a
43 local, regional, state or national level, either independently or as part

44 of an historic district established under section 7-147a of the general
45 statutes or by special act; or (3) has physical or aesthetic features that
46 contribute to the historic or cultural integrity of a property listed on or
47 eligible for listing on the National Register of Historic Places, 16 USC
48 470a, as amended from time to time, or on the state register of historic
49 places, as defined in section 10-410 of the general statutes. Any
50 municipality adopting the provisions of this section may establish (A)
51 additional eligibility criteria for accepting a discretionary preservation
52 easement, and (B) for a renewal of a discretionary preservation
53 easement, a formula by which to calculate the assessment of any
54 improvements made to the historic agricultural structure during the
55 term of the previous easement.

56 (c) (1) For assessment years commencing on and after October 1,
57 2013, any owner of an historic agricultural structure located in a
58 municipality that has adopted the provisions of this section may, not
59 later than July first, apply to convey to the municipality a discretionary
60 preservation easement over such structure. Such application shall be
61 made on a form prescribed by the legislative body and shall contain a
62 certification by the owner that, during the term of any discretionary
63 preservation easement accepted by the legislative body, the owner
64 shall maintain the historic agricultural structure in keeping with its
65 historic integrity and character. The legislative body shall conduct a
66 public hearing on the application not later than thirty days after the
67 date on which the application is filed and shall render its decision not
68 later than sixty days after the date on which such application is filed.

69 (2) In making its decision, the legislative body shall consider any
70 eligibility criteria set forth in the ordinance and in subsection (b) of this
71 section and may weigh the public benefit to be obtained against the
72 property tax revenue that will be lost by accepting a discretionary
73 preservation easement. If the legislative body denies an application for
74 a discretionary preservation easement, it shall provide a written
75 explanation of its decision to the owner. There shall be no right of
76 appeal from a decision of the legislative body. If the legislative body
77 approves an application, it shall establish the property tax payment

78 amount for such historic agricultural structure, provided such
79 property tax payment amount shall be effective only upon the
80 execution and recording of an easement agreement that complies with
81 the requirements of subsection (d) of this section. The property tax
82 payment amount shall be established so as to reflect, in the sole
83 discretion of the legislative body, the value of the public benefit
84 received from the discretionary preservation easement. The legislative
85 body shall provide written notice of its decision and the property tax
86 payment amount to the owner and may acquire a discretionary
87 preservation easement by entering into an easement agreement with
88 the owner.

89 (d) A discretionary preservation easement shall be a burden upon
90 the property and shall bind all transferees and assignees of such
91 property, and shall not be assigned, transferred or released by the
92 municipality without the consent of the owner. An easement
93 agreement shall be recorded on the land records at the expense of the
94 owner. Such easement agreement shall include the property tax
95 payment amount and the terms of renewal, if any.

96 (e) (1) The legislative body shall release a discretionary preservation
97 easement upon request of the owner if the legislative body determines
98 that (A) the owner cannot comply with the terms of the easement
99 agreement due to extreme personal hardship, or (B) the historic
100 agricultural structure has been significantly damaged or destroyed by
101 fire, storm or any other unforeseen circumstance not within the control
102 of the owner. Upon release of the easement, the owner shall pay an
103 early release penalty, except that no such penalty shall be imposed if
104 the structure has been significantly damaged or destroyed by fire,
105 storm or any other unforeseen circumstance not within the control of
106 the owner.

107 (2) If, during the term of a discretionary preservation easement, the
108 legislative body determines that the owner has failed to maintain the
109 structure in accordance with the easement agreement, the legislative
110 body may terminate the easement and levy an early release penalty in

111 accordance with this subsection.

112 (f) Upon the expiration of the term of a discretionary preservation
113 easement, the owner may apply for a renewal if the easement
114 agreement does not provide for automatic renewal, and the legislative
115 body shall process such application for a renewal in the same manner
116 as a new application.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to assessment years commencing on and after October 1, 2013</i>	New section

PD Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 14 \$	FY 15 \$
Various Municipalities	Potential Revenue Loss	See Below	See Below

Explanation

The bill allows a municipality to establish property tax easements for certain historic structures. The easement would require a property owner to maintain the historical integrity of the property in exchange for a tax break of between 25% and 75% of taxes owed on a property each year.

Municipalities that choose to do this would experience a levy loss that would vary based on 1) the number of easement agreements entered into, 2) the value of the properties involved, and 3) the size of the tax breaks agreed upon.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sSB 817

AN ACT ESTABLISHING A PROPERTY TAX PROGRAM TO ENCOURAGE THE PRESERVATION OF HISTORIC AGRICULTURAL STRUCTURES.

SUMMARY:

This bill authorizes municipalities to establish, by ordinance, a property tax incentive program to encourage the preservation of certain historic agricultural structures. Under the program, a property owner agrees to convey to a municipality a 10-year preservation easement for the historic structure in exchange for a property tax break of between 25% and 75% of the taxes that would otherwise be due. The easement requires the owner to maintain the structure in keeping with its historic integrity and character.

The bill sets the eligibility criteria and terms for a property owner to convey and for a municipality to accept a preservation easement for a historic agricultural structure, which the bill defines as (1) barns listed on the national or state Register of Historic Places, (2) stone walls, or (3) other structures, including the land necessary for their function, currently or formerly used for agricultural purposes and that are at least 75 years old. Under the bill, a municipality is a city, town, borough, district, or association with municipal powers (presumably a special taxing district).

The bill penalizes property owners who obtain an early release on the easement or fail to maintain the historic structure. The penalty equals 10% of the amount of property tax that would have been due for the structure if it was not subject to the easement.

EFFECTIVE DATE: Upon passage and applicable to assessment years beginning on or after October 1, 2013.

ELIGIBILITY CRITERIA

To be eligible for the program, an historic agricultural structure must:

1. provide scenic enjoyment to the general public from a public road;
2. be historically important on a local, regional, state, or national level, on its own or as part of an historic district established under state law; or
3. have physical or aesthetic features that contribute to the historic or cultural integrity of a property located on, or eligible for, the national or state Register of Historic Places.

The bill allows municipalities to (1) adopt additional eligibility criteria and (2) specify a formula, for easement renewals, to calculate the assessment of any improvements made to the structure during a previous easement's term.

APPLICATION PROCESS AND PUBLIC HEARING

Beginning with the 2013 assessment year, owners of historic agricultural structures located in a municipality that has passed the required ordinance may apply by July 1 to convey to the municipality a discretionary preservation easement over that historic structure.

The municipality's legislative body (or if the legislative body is a town meeting, its board of selectmen or town council) must prescribe the application form. The application must include a certification by the owner that, during the term of any discretionary preservation easement the legislative body accepts, the owner will maintain the structure in keeping with its historic integrity and character.

The legislative body must hold a public hearing on the application within 30 days after the date on which the application was filed and must render its decision within 60 days after the filing.

APPROVAL

Application Decisions and Notifications

When considering applications, the legislative body (1) must consider the eligibility criteria set under the bill and the municipality's ordinance and (2) may weigh the public benefit of accepting a preservation easement against the property tax revenue that will be lost if one is granted.

If the legislative body denies the application, it must provide the owner with a written explanation of its decision and the owner may not appeal the decision. If the legislative body approves the application, it must establish the property tax payment amount for the structure.

Property Tax Payment Amount

The legislative body must establish a property tax payment amount that (1) is between 25% and 75% of the property tax that would otherwise be due for the structure and (2) reflects, in the legislative body's sole discretion, the value of the public benefit received from the preservation easement. The amount is fixed for the 10-year term of the easement and must be calculated based on the structure's assessed value in the assessment year in which the application is approved.

The legislative body must provide written notice of its decision and the property tax payment amount to the owner and may acquire a preservation easement by entering into an agreement with the owner. The property tax payment amount is effective when the easement agreement is executed and recorded in the land records.

EASEMENT AGREEMENT

The easement the owner conveys to the municipality is a burden on the property and binds all transferees and assignees of the property. It cannot be assigned, transferred, or released by the municipality without the consent of the owner, and it must be recorded on the land records at the owner's expense and include the property tax payment amount and any renewal terms.

When the easement expires, the owner may apply for a renewal if

the easement agreement does not provide for automatic renewal, and the legislative body must process the application for a renewal in the same manner as a new application.

Easement Release and Penalty

The bill requires the legislative body to release the easement at the owner’s request if it determines that the:

1. owner cannot comply with the agreement due to extreme personal hardship or
2. historic agricultural structure has been significantly damaged or destroyed by fire, storm, or any other unforeseen circumstance outside of the owner’s control.

When released due to extreme personal hardship, the owner must pay an early release penalty. The penalty (1) equals 10% of the amount of property tax that would have been due for the structure if it was not subject to the easement and (2) must be based on the assessed value of the structure in the assessment year in which the penalty is levied.

If, during the term of the easement, the legislative body determines that the owner failed to maintain the structure in accordance with the agreement, it may terminate the easement and levy an early release penalty described above.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/13/2013)