
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)