

March 1987

A. E. Ext. 87-4

AGRICULTURAL DISTRICT LEGISLATION IN NEW YORK

As Amended Through December 1986

Compiled by
Kenneth V. Gardner

Department of Agricultural Economics
New York State College of Agriculture and Life Sciences
A Statutory College of the State University
Cornell University, Ithaca, New York 14853

It is the policy of Cornell University actively to support equality of educational and employment opportunity. No person shall be denied admission to any educational program or activity or be denied employment on the basis of any legally prohibited discrimination involving, but not limited to, such factors as race, color, creed, religion, national or ethnic origin, sex, age or handicap. The University is committed to the maintenance of affirmative action programs which will assure the continuation of such equality of opportunity.

TABLE OF CONTENTS

	Page
Steps Required to Create a District	4
Summary of Provisions	5
Program Status.	5
Agricultural District Reviews	5
Text of the Law as Amended.	7
Declaration of Legislative Findings and Intent	7
Definitions.	7
Agricultural Districting Advisory Committee.	8
Agricultural Districts; Creation	9
Unique and Irreplaceable Agricultural Land; Creation of Districts.	12
Determination of Agricultural Value	14
Agricultural Districts; Effects.	15
Agricultural Lands Outside of Districts; Agricultural Value Assessments	19
Promulgation of Rules and Regulations.	20
Advisory Council on Agriculture.	20
Public Health Law	22
Appendix A: Real Property Tax Law.	22
Definitions.	22
Special Equalization Rates: State Assessments	22
Special Equalization Rates: Ceilings or Local Assessment Limitations; Alternative Veterans Exemption	23
Special Equalization Rates: Tax Apportionment	23
Certification of Change in Level of Assessment Factors For Certain Exemptions	24

This publication replaces A.E. Ext. 85-26, Agricultural District Legislation in New York as Amended Through November 1985, which was issued in November 1985. It incorporates all the amendments passed to date into the original text of the law.

AGRICULTURAL DISTRICT LEGISLATION

IN NEW YORK

As Amended through December 1986

Compiled by

Kenneth V. Gardner¹

New York's Agricultural District Law was enacted in 1971. It grew out of an intensive five year investigation by the State of agriculture and the problems associated with the industry. The law recognized that viable agricultural lands are one of the State's most important and irreplaceable environmental and economic resources. Urbanization and land speculation put heavy pressure on a finite resource which was rapidly dwindling.

The law was intended to address a number of important issues which were associated with urban development. Conflicting land uses, increased costs for public services, the establishment of ordinances which inhibit farming, sharp increases in real property taxes and speculation on land were among the issues addressed by the law.

The law was amended in every session of the legislature except two, 1977, 1986. Some of the amendments, for example 1980, were of major importance. While there were no amendments to the law in 1986, it should be noted that a Governor's Task Force on Agricultural Use Value Assessments was established in May 1986. The eleven member body was created to review and make recommendations for improvements to the Agricultural Use Value Program, (Section 304-A). The Task Force issued its final report in December 1986². In the report the following recommendations were made:

¹Kenneth V. Gardner is a Senior Extension Associate and Land Use Specialist in the Department of Agricultural Economics, Cornell University, Ithaca, New York.

²Report of the Governor's Task Force on Agricultural Value Assessment, December 1986, Albany, New York.

Recommendations

1. The Declaration of Legislative Findings and Intent of Article 25-AA should be revised to clearly indicate that the benefits and protections continued in the Law apply to all lands which qualify for them. References pertaining to eligibility by virtue of location (i.e., urbanizing areas versus rural areas) should be deleted.
2. The Declaration of Legislative Findings and Intent of Article 25-AA should also be revised to emphasize the importance of enhancing agriculture as an economic enterprise critical to the economic well-being of the State, local communities within the State, and the people of the State of New York.
3. The term "agricultural assessment value" should replace the current definitions of "agricultural value" and should be defined as: The value assigned to eligible agricultural land for assessment purposes, based upon the capitalized value of agricultural production procedure described in this report.
4. All eligible agricultural lands within the state should receive an agricultural assessment value based solely on their soils classification without regional distinctions.
5. The current income capitalization method using economic profiles should be abandoned in favor of a capitalized value of production procedure. This approach will exclusively use data provided by the United States Department of Agriculture for New York State and a legislated capitalization rate.
6. The value of all crops produced in New York for which data are published should be included in the determination of statewide mineral soil agricultural assessment values.
7. The value of all vegetable crops produced in New York for which data are published should be included in the determination of statewide agricultural assessment values for organic soil.
8. The Department of Agriculture and Markets should study the feasibility of using the land classification system for indexing organic soils in a manner similar to mineral soils.
9. Separate add-on-values for orchard and vineyard land should be eliminated and the current new planting exemption provision should be repealed.

10. Agricultural assessment values of farm woodland should be keyed to the agricultural assessment value of one mineral soil group and qualification of such land under the agricultural value assessment program should be limited to 50 acres per parcel.
11. In implementation and administration of the program, the Division of Equalization and Assessment should be sensitive to the need to simplify forms and reduce paperwork.
12. In order to enhance and strengthen the resource protection objectives of Article 25-AA, the penalty for conversion of land within an agricultural district which has received an agricultural value assessment should be increased.
13. The penalty for conversion of committed land located outside of agricultural districts should be calculated in the same way that conversion liability within agricultural districts is calculated. However, "... all land subject to ... commitment" shall remain liable for the penalty in the event of a partial conversion.
14. After two years of operation, a panel comprised of representatives of the State Board of Equalization and Assessment, the Department of Agriculture and Markets, taxing jurisdictions, and the agricultural community should be constituted to review State policy and the administration of this program.

It is anticipated that these recommendations will serve as a basis for proposed action by the 1987 session of the legislature.

Steps Required to Create a District

Forming an agricultural district is a somewhat complicated process. Districts start with local initiative, but must be reviewed and certified by both local and state agencies before they can be legally formed. The following eleven steps summarize the process:

1. Landowners prepare a district proposal and submit it to the county legislative body. A minimum of 500 acres is required. Landowners can recommend the original review period of the district to be either eight, twelve or twenty years.

2. The county legislature appoints (if not previously done) an agricultural districting advisory committee of four farmers, four agribusinessmen, one county legislator, and the chairman of the county soil and water conservation district's board of directors who shall serve ex officio. Subsequent to June 30, 1983 members will be appointed for specified terms of office.

3. The county legislative body will provide public notice that for a period of 30 days public inspection and recommendations of the proposed district will be accepted.

4. The county legislature refers the proposal to the agricultural districting advisory committee and the county planning board for their recommendations.

5. The county legislative body may modify the district proposal in a manner consistent with the recommendations of the agricultural districting advisory committee and the county planning board or its own judgement.

6. The county legislature holds a public hearing on the proposal and subsequently may adopt it as a plan.

7. If the proposal is adopted as a plan, the county legislature submits the plan to the State Commissioner of Agriculture and Markets.

8. The Commissioner of Agriculture and Markets receives reports from the Commissioner of Environmental Conservation and the Secretary of State. State inspectors examine each

proposed district in the field.

9. The Commissioner of Agriculture and Markets may certify the plan or a modification of it as eligible for a district.

10. After certification, the county legislature may hold another public hearing on the plan. If the plan was modified by the Commissioner of Agriculture and Markets, the county legislature is required to hold another public hearing.

11. The county legislature may take final action to approve or disapprove the proposal. If no action is taken within a specified period, the plan automatically becomes effective as a district.

Every eight, twelve or twenty years, depending upon the original review period of the district, each agricultural district must be reviewed. Another public hearing is to be held and the district is to be re-examined at county and state levels. District boundaries can be modified at the time of the reviews. Land can be deleted from or added to the district depending upon the viability of the land for agriculture and non-farm land needs. Adjoining land may become part of the district if the landowners so petition, and the county and state approve. Boundary changes, however, can be made only at these eight, twelve or twenty year reviews, whichever is applicable.

The Commissioner of Agriculture and Markets, after consulting with the Advisory Council on Agriculture, is authorized to create agricultural districts of 2,000 or more acres of land not already in an agricultural district if the land encompassed is predominantly unique and irreplaceable agricultural land. Such districts must have the approval of the heads of three other state agencies, the Commissioner of Environmental Conservation, the Secretary of State and the Director of the Division of the Budget. The Commissioner of Agriculture and Markets shall work closely with local officials, agricultural and other groups when creating such districts. Districts created under Section 304 of the Agricultural District Law may also have specified terms of eight, twelve or twenty years.

Summary of Provisions

Whether created by a county legislature or by the Commissioner of Agriculture and Markets, all districts are affected by the provisions of the Agricultural District Law. These provisions are:

Permit Agricultural Value Assessments - Farmers may have the value of their land in excess of its value for farming exempt from taxation if they meet certain qualifying requirements and file an annual application. Land which has received this exemption is subject to a maximum five year roll-back of exempted taxes if converted to a non-farm use. The rollback applies to only the acreage converted.

Limit Ordinances Affecting Agriculture - Local governments may not enact ordinances that would restrict or regulate farm structures or farm practices beyond the requirements of health and safety.

Instruct State Agencies to Encourage Farming - State agencies must modify administrative regulations and procedures to encourage the maintenance of commercial agriculture to the extent compatible with health, safety and any applicable federal regulations.

Modify Eminent Domain Proceedings - The right of public agencies to acquire farmland by eminent domain is modified, though not removed. These agencies are required to give serious consideration to alternative areas before good farmland can be taken for public uses.

Restrict Public Funds for Non-farm Development - The right of public agencies to advance funds for sewer, water and other facilities that would encourage non-farm development is modified.

Limit Special Service Tax Assessments on Farmland - The power of special districts to impose benefit assessments or special ad valorem levies on farmland for sewer, water, lighting, non-farm drainage, solid waste disposal, or other landfill operations is limited.

The Agricultural District Law also provides individual farmers who are not in a district the opportunity to receive an agricultural value assessment by filing an agricultural

commitment. They must, in writing, commit their land to farming for eight years and each year must recommit it in a manner prescribed by the State Board of Equalization and Assessment. If any land in a commitment is converted to a non-farm use while the commitment is still in effect, it is subject to a large tax penalty equal to two times the taxes determined in the year following the conversion or breach of commitment. The penalty is levied on the total acreage in the commitment.

In the case of a conversion out of farming, under either a commitment or an agricultural district, the penalty or the roll-back payment is levied on the owner(s) as of the next taxable status date following the conversion. The owner(s) may be the person(s) who originally requested the agricultural value assessment or he may be a subsequent owner(s).

Program Status

As of October 1985, there were over 500 agricultural districts formed or certified within the state. The total area encompassed was about 7.2 million acres. In addition, there were individual commitments outside of districts allowing for agricultural value assessments on several thousand acres. No state initiated agricultural districts of 2,000 acres of "unique and irreplaceable" land area have been formed.

Agricultural District Reviews

The agricultural district legislation provides for the review of agricultural districts eight, twelve or twenty years after their creation and each eight, twelve or twenty years thereafter, depending upon the original period.

All of the completed reviews have resulted in districts being recertified for another eight-year period. Some districts have been modified by having acreage removed; others have had new additional acreage added; and a substantial number of districts have been consolidated with other existing districts. After taking into account deletions, additions, and consolidation of lands at the time of review, the acreage increased from approximately 7.2 million to the present total of about 8 million acres.

Text of the Law as Amended²

Agriculture and Markets Law

ARTICLE 25-AA-AGRICULTURAL DISTRICTS

- Sec.
 300. Declaration of legislative findings and intent.
 301. Definitions.
 302. Agricultural districting advisory committee.
 303. Agricultural districts; creation.
 304. Unique and irreplaceable agricultural land; creation of districts.
 304-a. Determination of agricultural value.
 305. Agricultural districts; effects.
 306. Agricultural lands outside of districts; agricultural value assessments.
 307. Promulgation of rules and regulations.
 309. Advisory council on agriculture.

Sec. 300. Declaration of legislative findings and intent

It is declared policy of the state to conserve and protect and to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the declared policy of the state to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds, as well as for aesthetic purposes. The constitution of the state of New York directs the legislature to provide for the protection of agricultural lands. Agriculture in many parts of the state is under urban pressure from expanding metropolitan areas. This urban pressure takes the form of scattered development in wide belts around urban areas, and brings conflicting land uses into juxtaposition, creates high costs for public services, and stimulates land speculation. When this scattered development extends into good farm areas, ordinances inhibiting farming tend to follow, farm taxes rise, and hopes for speculative gains discourage investments in farm improvements. Many of the agricultural lands in New York state are in jeopardy of being lost for any agricultural purposes. Certain of these lands constitute unique and

irreplaceable land resources of statewide importance. It is the purpose of this article to provide a means by which agricultural land may be protected and enhanced as a viable segment of the state's economy and as an economic and environmental resource of major importance.

Added L. 1971, C. 479, Sec. 1: Section 2 of L. 1971, C. 479, provided that this section be effective 90 days after June 17, 1971.

Sec. 301. Definitions

1. Viable agricultural land. Land highly suitable for agricultural production and which will continue to be economically feasible for such use if real estate taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of urban and related non-agricultural development.

2. Unique and irreplaceable agricultural land. Land which is uniquely suited for the production of high value crops, including, but not limited to fruits, vegetables and horticultural specialties.

3. Land used in agricultural production. Not less than ten acres of land used in the preceding two years for the production for sale of crops, livestock and livestock products of an average gross sales value of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:

a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural value assessment;

b. Land of not less than ten acres used for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales requirement, where such land was used in such production for the preceding two years and currently is being so used under a rental arrangement of five or more years in conjunction with land which qualifies for an agricultural value assessment;

c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural value assessment.

4. Crops, livestock and livestock products include but are not limited to the following:

a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes, dry beans.

b. Fruits, including apples, peaches, grapes, cherries, berries.

c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, and onions.

d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs, furs.

f. Woodland products, including logs, lumber, posts, firewood, and maple syrup, if such products are produced on property otherwise used for agricultural production. For purposes of computing total agricultural production under sections three hundred five and three hundred six of this article, the sale of woodland products may be included up to a maximum annual amount of two thousand dollars.

5. Agricultural value. The market value of land for agricultural production purposes if no other use were possible.

6. Oil or gas exploration, development or extraction activities. The installation and use of fixtures and equipment which are necessary for the exploration, development or extraction of oil or natural gas, including access roads, drilling apparatus, pumping facilities and pipelines.

As amended L. 1972, C. 712, Sec. 1; L. 1978, C. 241, Sec. 1; L. 1979, C. 266, Sec. 1; L. 1980, C. 79, Sec. 3; L. 1983, C. 866, Sec. 1.

Sec. 302. Agricultural districting advisory committee

1. (a) A county legislative body may establish an agricultural districting advisory committee which shall consist of four active farmers and four agribusinessmen residing within the county, the chairman of the county soil and water conservation district's board of directors and a member of the county legislative body, who shall serve as the chairman of the committee. Such a committee shall be established in the event no such committee exists at the time of receipt by the county legislative body of a petition for the creation of an agricultural district pursuant to subdivision one of section three hundred three. The members of such committee shall be appointed by the chairman of the county legislative body except for the chairman of the county soil and water conservation district's board of directors who shall serve ex officio. The members shall serve without salary, but the county legislative body may entitle each such member to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

(b) After the committee has been established, the chairman of the county legislative body shall appoint to it one active farmer and one local agribusinessman for a term of one year each, one active farmer and one local agribusinessman for a term of two years each, one active farmer and one local agribusinessman for a term of three years each, and one active farmer and one local agribusinessman for a term of four years each. Thereafter, the appointment of each active farmer or local agribusinessman shall be for a term of four years. Appointment of a member of the county legislative body shall be for a term coterminous with his term of office. The appointment of the chairman of the county soil and water conservation district's board of directors shall be for a term coterminous with his designation as chairman of the county soil and water conservation district's board of directors. Any member of the committee may be reappointed for a succeeding term on such committee without limitations as to the number of terms the member may serve.

(c) Any farmer or local agribusinessman, who on the effective date of this paragraph is a member of an agricultural districting advisory committee, shall serve until the last day of June.

nineteen hundred eighty-three, upon which date the chairman of the county legislative body shall appoint persons to fill the positions of such persons in accordance with the provisions of paragraph (b) of this subdivision. Farmers and local agribusinessmen who must vacate their positions on such committee because of the provisions of this paragraph may be reappointed to their position, for a term specified in paragraph (b) of this subdivision.

(d) Members of the county legislative body who on the effective date of this paragraph are members of such committee shall continue to serve thereon until the end of their terms of office, after which time the chairman of such legislative body may reappoint such members or appoint new members to such committee.

(e) The advisory committee shall advise the county legislative body and work with the county planning board in relation to the proposed establishment, modification, and termination of any agricultural district. The committee shall render expert advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within any proposed or established area and the relation of farming in such area to the county as a whole.

(f) An agricultural districting advisory committee may request the commissioner of agriculture and markets to review any state agency rules and regulations which the committee identifies as affecting the agricultural activities within an existing or proposed district. Upon receipt of any such request, the commissioner of agriculture and markets shall, if the necessary funds are available, submit in writing to the committee

(i) notice of changes in such rules and regulations which he deems necessary and is undertaking,

(ii) a copy of correspondence with another agency if such rules and regulations are outside his jurisdiction, including such rules and regulations being reviewed, and his recommendations for modification, or

(iii) his reasons for determining that existing rules and regulations be continued without modification.

2. Upon the request of one or more owners of land used in agricultural production the committee may review the land classification for such land established by the department of agriculture and markets, consulting with the district soil and water conservation office, and the county cooperative extension service office. After such review, the committee may recommend revisions to the classification of specific land areas based on local soil, land and climatic conditions to the department of agriculture and markets.

Added L. 1971, C. 479, Sec. 2, as amended L. 1972, C. 700, Sec. 1; L. 1980, C. 79, Sec. 4; L. 1982, C. 520, Sec. 1; L. 1983, C. 146, Sec. 1.

Sec. 303. Agricultural districts: creation

1. Any owner or owners of land may submit a proposal to the county legislative body for the creation of an agricultural district within such county, provided that such owner or owners own at least five hundred acres or at least ten percent of the land proposed to be included in the district, whichever is greater. Such proposal shall be submitted in such manner and form as may be prescribed by the commissioner of agriculture and markets, shall include a description of the proposed district, including the boundaries thereof, and may recommend an appropriate review period of either eight, twelve or twenty years.

2. Upon the receipt of such a proposal, the county legislative body:

a. shall thereupon provide notice of such proposal by publishing a notice in a newspaper having general circulation within the proposed district and by posting such notice in five conspicuous places within the proposed district. The notice shall contain the following information:

(1) a statement that a proposal for an agricultural district has been filed with the county legislature pursuant to this article;

(2) a statement that the proposal will be on file open to public inspection in the county clerk's office;

(3) a statement that any municipality whose territory encompasses the proposed district or any landowner who owns at least ten percent of the land proposed to

be included within the proposed modification of the proposed district may propose a modification of the proposed district in such form and manner as may be prescribed by the commissioner of agriculture and markets:

(4) a statement that the proposed modification must be filed with the county clerk and the clerk of the county legislature within thirty days after the publication of such notice;

(5) a statement that at the termination of the thirty day period, the proposal and proposed modifications will be submitted to the county planning board and county agricultural advisory committee, and that thereafter a public hearing will be held on the proposal, proposed modifications and recommendations of the board and committee.

b. shall receive any proposals for modifications of such proposal which may be submitted by such landowners or municipalities within thirty days after the publication of such notice;

c. shall, upon the termination of such thirty day period, refer such proposal and proposed modifications to the county planning board, which shall, within forty-five days, report to the county legislative body the potential effect of such proposal and proposed modifications upon the county's planning policies and objectives;

d. shall simultaneously, upon the termination of such thirty day period, refer such proposal and proposed modifications to the agricultural districting advisory committee, which shall, within forty-five days report to the county legislative body its recommendations concerning the proposal and proposed modifications, and;

e. shall hold a public hearing in the following manner:

(1) The hearing shall be held at a place within the proposed district or otherwise readily accessible to the proposed district;

(2) The notice shall contain the following information:

(a) a statement of the time, date and place of the public hearing;

(b) a description of the proposed district, any proposed additions and

any recommendations of the planning board or advisory committee;

(c) a statement that the public hearing will be held concerning:

(i) the original proposal;

(ii) any written amendments proposed during the thirty day review period;

(iii) any recommendations proposed by the agricultural districting advisory committee and/or the county planning board.

(3) The notice shall be published in a newspaper having a general circulation within the proposed district and shall be given in writing to those municipalities whose territory encompasses the proposed district and any proposed modifications, owners of real property within such a proposed district or any proposed modifications who are listed on the most recent assessment roll, the commissioner of agriculture and markets, the commissioner of environmental conservation, the secretary of state and the advisory council on agriculture.

3. The following factors shall be considered by the county planning board, the agricultural districting advisory committee, and at any public hearing:

i. the viability of active farming within the proposed district and in areas adjacent thereto;

ii. the presence of any viable farm lands within the proposed district and adjacent thereto that are not now in active farming;

iii. the nature and extent of land uses other than active farming within the proposed district and adjacent thereto;

iv. county developmental patterns and needs; and

v. any other matter which may be relevant.

In judging viability, any relevant agricultural viability maps prepared by the commissioner of agriculture and markets shall be considered, as well as soil, climate, topography, other natural factors, markets for farm products, the extent and nature of farm improvements, the present status of farming, anticipated trends in agricultural economic conditions and technology, and such other factors as may be relevant.

4. The county legislative body, after receiving the reports of the county planning board and the agricultural districting advisory committee, and after such public hearing, may adopt as a plan the proposal or any modification of the proposal it deems appropriate, and shall adopt as part of the plan an appropriate review period of either eight, twelve or twenty years. The plan as adopted shall, to the extent feasible, include adjacent viable farm lands, and exclude, to the extent feasible, nonviable farm land and non-farm land. The county legislative body shall act to adopt or reject the proposal, or any modification of it, no later than one hundred eighty days from the date the proposal was submitted to this body. Upon the adoption of a plan, the county legislative body shall submit it to the commissioner of agriculture and markets. The commissioner may, upon application by the county legislative body and for good cause shown, extend the period for adoption and submission once for an additional thirty days. Where he does so, the county legislative body may extend the period for the report from the county planning board and/or the period for the report from the agricultural districting advisory committee.

5. The commissioner of agriculture and markets shall have sixty days after receipt of the plan within which to certify to the county legislative body whether the proposal, or a modification of the proposal, is eligible for districting, whether the area to be districted consists predominantly of viable agricultural land, and whether the plan of the proposed district is feasible, and will serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state. The commissioner of agriculture and markets shall submit copies of such plan to the commissioner of environmental conservation and to the secretary of state, who shall have thirty days within which to report their respective determinations to the commissioner of agriculture and markets. A copy of such plan shall also be provided to the advisory council on agriculture. The commissioner of agriculture and markets shall not certify the plan as eligible for districting unless,

(a) the commissioner of environmental conservation has determined that the area to be districted is consistent

with state environmental plans, policies and objectives, and

(b) the secretary of state, has determined that the districting of the area is consistent with state comprehensive plans, policies and objectives.

6. Within sixty days after the certification of the commissioner of agriculture and markets that the proposed area is eligible for districting, and that districting would be consistent with state environmental plans, policies and objectives, the county legislative body may hold a public hearing on the plan, except that it shall hold a public hearing if the plan was modified by the commissioner of agriculture and markets or was modified by the county legislative body after they held the public hearing required by paragraph e of subdivision two of this section and such modification was not considered at the original hearing. Notice of any such hearing shall be in a newspaper having general circulation in the area of the proposed district and individual notice, in writing, to those municipalities whose territories encompass the proposed district modifications, the persons owning land directly affected by the proposed district modifications, the commissioner of agriculture and markets, the commissioner of environmental conservation, the secretary of state and the advisory council on agriculture. The proposed district, if certified without modification by the commissioner of agriculture and markets, shall become effective thirty days after the termination of such public hearing or, if there is no public hearing, ninety days after such certification unless its creation is disapproved by the county legislative body within such period. Provided, however, that if, on a date within the thirty days after the termination of such public hearing or, if there is no public hearing, within the ninety days after such certification, the county legislative body approves creation of the district, such district shall become effective on such date. Provided, further, that notwithstanding any other provision of this subdivision, if the commissioner of agriculture and markets modified the proposal, the district shall not become effective unless the county legislative body approves the modified district; such approval must be given on a date within the thirty days after the termination of the public hearing; and the district, if approved, shall become effective on such date. Before approving

or disapproving any proposal modified by the commissioner of agriculture and markets, the county legislative body may request reports on such modified proposal, from the county planning board and the agricultural districting advisory committee.

7. Upon the creation of an agricultural district, the description thereof shall be filed by the county legislative body with the county clerk and the commissioner of agriculture and markets.

8. The county legislative body shall review any district created under this section eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district, or every eight years if the district was adopted prior to August first, nineteen hundred eighty-three, and at the end of every eight, twelve or twenty year period thereafter whichever may apply. In conducting such review, the county legislative body shall ask for the recommendations of the county planning board and the agricultural advisory committee, and shall, at least one hundred twenty days prior to the end of the applicable review period and not more than one hundred eighty days prior to such date, hold a public hearing at a place within the district or otherwise readily accessible to the district upon notice in a newspaper having a general circulation within the district and individual notice, in writing, to those municipalities whose territories encompass the district, the persons owning land within the district, the commissioner of agriculture and markets, the commissioner of environmental conservation, the secretary of state, and the advisory council on agriculture. The county legislative body, after receiving the reports of the county planning board and the agricultural districting advisory committee and after the public hearing, may terminate the district at the end of such eight, twelve or twenty year period whichever may be applicable by filing a notice of termination with the county clerk and the commissioner of agriculture and markets, or may modify the district in the same manner as is provided in subdivisions four, five, six and seven of this section relating to the creation of a district. If the county legislative body does not act, or if a modification of a district is rejected, the district shall

continue as originally constituted, unless the commissioner of agriculture and markets, after consultation with the advisory council on agriculture, terminates such district, by filing a notice thereof with the county clerk, because:

(a) the continuance of the district would not be consistent with state environmental plans, policies, and objectives, or

(b) the area in the district is no longer predominantly viable agricultural land, or

(c) the commissioner of environmental conservation has determined that the continuation of the district would not be consistent with state environmental plans, policies and objectives, or

(d) the secretary of state has determined that the continuance of the district would not be consistent with state comprehensive plans, policies and objectives, except, however, if the commissioner of agriculture and markets certifies to the county legislative body that he will not approve the continuance of the district unless modified, such modified district may be established in the same manner provided in subdivision six of this section.

As amended L. 1972, C. 712, Sec. 2; L. 1973, C. 390, Secs. 1-3; L. 1974, C. 552, Secs. 1,2; L. 1975, C. 464, Sec. 4; L. 1975, C. 718, Sec. 1; L. 1976, C. 671, Sec. 1; L. 1976, C. 672, Sec. 1; L. 1980, C. 79, Sec. 5; L. 1983, C. 804, Sec. 1; L. 1984, C. 326, Sec. 1.

Sec. 304. Unique and irreplaceable agricultural land; creation of districts

1. Four years after the effective date of this act, the commissioner of agriculture and markets, after consulting with the advisory council on agriculture, may create agricultural districts covering any land in units of two thousand or more acres not already districted under section three hundred three, if

(a) the land encompassed in a proposed district is predominantly unique and irreplaceable agricultural land;

(b) the commissioner of environmental conservation has determined that such district would further state environmental plans, policies and objectives;

(c) the secretary of state has determined that such proposed district would be consistent with state comprehensive plans, policies and objectives and

(d) the director of the division of the budget has given approval of the establishment of such area.

2. Prior to creating an agricultural district under this section, the commissioner of agriculture and markets shall work closely, consult and cooperate with local elected officials, planning bodies, agriculture and agribusiness interests, community leaders, and other interested groups. The commissioner shall give primary consideration to local needs and desires, including local zoning and planning regulations as well as regional and local comprehensive land use plans. The commissioner shall file a map of the proposed district in the office of the clerk of any municipality in which the proposed district is to be located, and shall provide a copy thereof to the chief executive officer of any such municipality and the presiding officer of the local governing body, and, upon request, to any other person. The commissioner shall publish a notice of the filing of such proposed map and the availability of copies thereof in a newspaper of general circulation within the area of the proposed district, which notice shall also state that a public hearing will be held to consider the proposed district at a specified time and at a specified place either within the proposed district or easily accessible to the proposed district on a date not less than thirty days after such publication. In addition, the commissioner shall give notice, in writing, of such public hearing to persons owning land within the proposed district. The commissioner shall conduct a public hearing pursuant to such notice, and in addition, any person shall have the opportunity to present written comments on the proposed district within thirty days after the public hearing. After due consideration of such local needs and desires, including such testimony and comments, if any, the commissioner may affirm, modify or withdraw the proposed district. Provided, however, that if the commissioner modifies the proposal to include any land not included in the proposal as it reads when the public hearing was held, the commissioner shall hold another public hearing, on

the same type of published and written notice, and with the same opportunity for presentation of written comments after the hearing. Then the commissioner may affirm, modify or withdraw the proposed district, but he may not modify it to include land not included in the proposal upon which the second hearing was held.

3. Upon such affirmation or modification, a map of the district shall be filed by the commissioner of agriculture and markets with the county clerk of each county in which the district or a portion thereof is located and publication of such filing shall be made in a newspaper of general circulation within the district to be created. The creation of the district shall become effective thirty days after such filing and publication.

4. The commissioner of agriculture and markets shall review any district created under this section, in consultation with the advisory council on agriculture, the commissioner of environmental conservation, the secretary of state and the director of the division of the budget, eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district or every eight years if the district was adopted prior to August first, nineteen hundred eighty-three, and every eight, twelve or twenty year period thereafter, whichever may be applicable. Each such review shall include consultations with local elected officials, planning bodies, agricultural and agribusiness interest, community leaders, and other interested groups, and shall also include a public hearing at a specified time and at a specified place either within the district or easily accessible to the proposed district, notice of such hearing to be published in a newspaper having general circulation within the district. In addition, the commissioner of agriculture and markets shall give notice, in writing, of such public hearing to persons owning land in the district. After any such review, the commissioner of agriculture and markets may modify such district so as to exclude land which is no longer predominantly unique and irreplaceable agricultural land or to include additional such land, provided:

(a) such modification would serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state:

(b) the commissioner of environmental conservation has determined that such modification would further state environmental plans, policies and objectives;

(c) the secretary of state has determined that such modification would be consistent with state comprehensive plans, policies and objectives; and

(d) such modification has been approved by the director of the division of the budget; provided, further, that if the commissioner of agriculture and markets modifies the district to include additional land, he shall hold another public hearing, on the same type of published and written notice. Then the commissioner may again modify or dissolve the district, but he may not modify it to include land not included in the proposed modifications upon which the second hearing was held. After any such review the commissioner of agriculture and markets, after consultation with the advisory council on agriculture, shall dissolve any such district if (a) the land within the district is no longer predominantly unique and irreplaceable agricultural land or (b) the commissioner of environmental conservation has determined that the continuation of the district would not further state environmental plans, policies and objectives, or (c) the secretary of state has determined that the continuation of the district would be inconsistent with state comprehensive plans, policies and objectives. A modification or dissolution of a district shall become effective in the same manner as is provided for in subdivision three of this section, except that in the case of dissolution, a notice of dissolution shall be filed instead of a map.

As amended L. 1972, C. 712, Sec. 3; L. 1974, C. 864, Sec. 1; L. 1975, C. 464, Sec. 5; L. 1980, C. 79, Sec. 6; L. 1983, C. 804, Sec. 2; L. 1984, C. 326, Sec. 2.

304-a. Determination of agricultural value

1. a. Agriculture value per acres shall be determined annually by the state board of equalization and assessment by ascertaining the average value per acre of lands used in agricultural production in New York

state using the land classification system developed by the department of agriculture and markets and a capitalization of income method which uses a capitalization rate equal to the annual five year average effective interest rate on new federal land bank loans made in the Springfield federal land bank district for the five year period immediately preceding the year for which agricultural values are being determined and economic profiles developed by the state board of equalization and assessment. Separate determinations may be made, where deemed appropriate, for different areas of the state.

b. The state board of equalization and assessment, during development of the agricultural values, may make suitable adjustments to the economic data used in the income capitalization computation consistent with the index of prices received by farm units for agricultural products and prices paid for goods, services and commodities essential to the production of those agricultural products, data published by the United States department of agriculture with respect to its index numbers of average value per acre of farm real estate and such other data as may be appropriate, including sale prices for land sold for agricultural use as commercial units, if such sales are reasonably related to the value of such land used for agricultural purposes.

c. Determination of agriculture value per acre shall be made following a review of comments and recommendations by the advisory council on agriculture and after a public hearing by the state board of equalization and assessment or its duly designated representative. In making its determination, the state board of equalization and assessment shall:

(1) describe the manner in which it has implemented the income capitalization methodology, including any adjustments it has made to the agricultural economic data;

(2) respond to any recommendations made by the advisory council on agriculture, stating which recommendations it has adopted, and the reasons for which it may have disregarded any recommendations; and

(3) specify any changes made as a result of information provided at the public hearing conducted pursuant to this paragraph.

d. The state board of equalization and assessment shall annually certify its determination of agricultural value per acre to the assessor of each assessing unit.

2. a. The state board of equalization and assessment shall promulgate rules establishing the methodology for implementation of subdivisions one and two of this section, after consulting with the New York state college of agriculture and life sciences at Cornell university, the department of agriculture and markets, financial institutions, farming and agricultural business representatives, others directly knowledgeable about agricultural economic data and following a review of comments and recommendations of the advisory council on agriculture. Such rules shall include a description of the types of agricultural economic data and the methods for their compilation and computation for development of the economic profiles and a delineation of the process to be followed in applying the income capitalization method.

b. Agricultural economic data on which to base the economic profiles shall be gathered by the New York state college of agriculture and life sciences at Cornell university, the crop reporting service of the New York state department of agriculture and markets and such other sources as may be appropriate, consistent with the types of data and methods set forth for the income capitalization methodology.

3. a. It shall be the responsibility of the commissioner of agriculture and markets to establish a land classification system based on soils productivity and capability which takes into account climatic conditions. In so doing, the commissioner shall foster participation by agricultural districting advisory committees, district soil and water conservation committees, and the cooperative extension service and consult with other state agencies, appropriate federal agencies, municipalities, the New York state college of agriculture and life sciences at Cornell university and farm organizations.

b. The initial land classification system shall be promulgated by rule by the commissioner following a review of comments and recommendations of the advisory council on agriculture and

after a public hearing. In making any subsequent revisions to the land classification system the commissioner may, in his discretion, conduct a public hearing. The commissioner shall certify to the state board of equalization and assessment the initial land classification system and any subsequent revisions thereto.

c. The commissioner shall prepare such materials as may be needed for the utilization of the land classification system and provide assistance to landowners and local officials in its use.

4. a. In carrying out their responsibilities under this section, the state board of equalization and assessment and the commissioner shall keep the advisory council on agriculture fully apprised of matters relating to its duties and responsibilities.

b. In doing so the state board of equalization and assessment and the commissioner shall provide, in a timely manner, any materials needed by the advisory council on agriculture to carry out its responsibilities under this section.

Added L. 1980, C. 79, Sec. 7.

Sec. 305. Agricultural districts; effects

1. Agricultural value assessments.

a. Any owner of land used in agricultural production within an agricultural district shall be eligible for an agricultural value assessment pursuant to this section. If an applicant owning not less than ten acres rents land from another for use for agricultural production, the gross sales value of the agricultural products produced on such rented land shall be added to the gross sales value of agricultural products produced on the land of the applicant for purposes of determining eligibility for an agricultural value assessment on the land of the applicant. Such assessment shall be granted only upon an annual application by the owner of such land on a form prescribed by the state board of equalization and assessment. The applicant shall furnish to the assessor such information as the state board of equalization and assessment shall require, including land classification information prepared for his land used in agricultural production by the soil and

water conservation district office in his county. Such application shall be filed with the assessor of the city, town, village or county having the power to assess property for taxation on or before the appropriate taxable status date of such city, town, village or county. If the assessor is satisfied that the applicant is entitled to an agricultural value assessment, he shall approve the application and the land shall be assessed pursuant to this section. The assessor shall not less than ten days prior to the date for hearing complaints in relation to assessments mail to each applicant, who has included with his application at least one self-addressed, pre-paid envelope, a notice of the approval or denial of the application. Such notice shall be on a form prescribed by the state board of equalization and assessment which shall indicate the manner in which the total assessed value is apportioned among the various portions of the property subject to agricultural assessment and those other portions of the property not eligible for agricultural assessment as determined for the tentative assessment roll and the latest final assessment roll. Failure to mail any such notice or failure of the owner to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on such real property.

b. That portion of the value of land utilized for agricultural production within an agricultural district which represents an excess above the agricultural value ceiling as determined in accordance with this subdivision shall not be subject to real property taxation. Such excess amount if any shall be entered on the assessment roll in such manner as shall be prescribed by the state board of equalization and assessment.

c. (i) (A) Except as provided in clause (B) of this subparagraph, the assessor shall utilize the agricultural value per acre as certified by the state board in determining the amount of the assessment of farm lands eligible for agricultural value assessments under this article by multiplying it by the number of acres of land utilized for agricultural production and adjusting such result by application of the latest state equalization rate or a special equalization rate as may be established and certified by the

state board for the purpose of computing the agricultural value ceiling pursuant to this paragraph. This resulting amount shall be the agricultural value ceiling for such lands; and

(B) in the case of vineyards and orchards, the assessor shall compute the agricultural value ceiling as provided in clause (A) of this subparagraph, provided, however, that starting with assessment rolls prepared on the basis of taxable status dates occurring on or after January first, nineteen hundred eighty-six, where a vineyard or orchard is newly planted or replanted between January first, nineteen hundred eighty and January first, nineteen hundred eighty-nine, the assessor shall reduce the agricultural value certified by the state board of equalization and assessment as being attributable to the fruit trees and grapevines in accordance with the following schedule:

Year	Percentage
1	90
2	80
3	60
4	40
5	20

(ii) Where the latest state equalization rate exceeds one hundred, or where a special equalization rate which would otherwise be established for the purposes of this section would exceed one hundred, a special equalization rate of one hundred shall be established and certified by the state board for the purposes of this section.

(iii) Where a special equalization rate has been established and certified by the state board for the purposes of this paragraph, the assessor is directed and authorized to recompute the agricultural value ceiling on the assessment roll by applying such special equalization rate instead of the latest state equalization rate in computing the agricultural value ceiling, and to make the appropriate corrections on the assessment roll, subject to the provisions of title two of article twelve of the real property tax law.

d. If any land within an agricultural district utilized for agricultural production is converted to a use other than agricultural production, each appropriate taxing jurisdiction shall compute an amount ascertained by applying the applicable tax rate for each of the preceding five years to the excess amount

of assessed valuation of such land as set forth on the assessment rolls for such year as provided for in paragraph a and b of this subdivision. Such amount shall be the roll-back taxes to be levied and collected on the first assessment roll prepared subsequent to such conversion in the same manner and at the same time as other taxes. If such converted land constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion the assessment of such parcel on the first assessment roll prepared subsequent to the conversion and enter the apportioned amount attributable to the portion converted as a separately assessed parcel on the assessment roll. Such apportionment shall be made for each of the years to which roll-back taxes apply. The assessor shall also apportion the agricultural value ceiling applicable to such parcel for each of the years to which roll-back taxes apply. The difference between such apportioned assessment of the portion converted and such apportioned agricultural value ceiling attributable thereto shall constitute the excess amount of value to which roll-back taxes shall apply for each applicable year.

Roll-back taxes shall be levied and collected on the first assessment roll prepared subsequent to such conversion in the same manner and at the same time as other taxes are imposed and levied on such roll.

Provided, however, that in the event that such land or any portion thereof is converted to a use other than agricultural production by virtue of oil or gas exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding, except a tax sale, such land or any portion thereof so converted to uses other than agricultural production shall not be subject to roll-back taxes. In the event the land so converted to a use other than agricultural production constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion the assessment, and enter the portion so converted as a separately assessed parcel on the appropriate portion of the assessment roll. The assessor shall adjust the agricultural value ceiling attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural value ceiling attributable to the

portion so converted. Provided further that land within an agricultural district and eligible for an agricultural value assessment shall not be considered to have been converted to a use other than agricultural production solely due to the conveyance of oil and gas rights associated with that land.

e. In connection with any district created under section three hundred four of this article, the state shall provide assistance to each taxing jurisdiction in an amount equal to one-half of the tax loss that results from requests for agricultural value assessments in the district. The amount of such tax loss shall be computed annually by applying the applicable tax rate to an amount computed by subtracting the agricultural value assessment from the assessed value of the property on the assessment roll completed and filed prior to July first, nineteen hundred seventy-one, taking into consideration any change in the level of assessment. The chief fiscal officer of a taxing jurisdiction entitled to state assistance under this article shall make application for such assistance to the state board of equalization and assessment on a form approved by such board and containing such information as the board shall require. Upon approval of the application by such board, such assistance shall be apportioned and paid to such taxing jurisdiction on the audit and warrant of the state comptroller out of moneys appropriated by the legislature for the purpose of this article; provided, however, that any such assistance payment shall be reduced by one-half the amount of any roll-backs levied under paragraph a of this subdivision for land in any district created under section three hundred four of this article, unless one-half the amount of such roll-backs have already been used to reduce a previous assistance payment under this paragraph f.*

f. Notwithstanding any inconsistent general, special or local law to the contrary, if a natural disaster, act of God, or continued adverse weather conditions shall destroy the agricultural production and such fact is certified by the cooperative extension service and, as a result, such production does not produce a gross average sales value of ten thousand dollars or more, the owner may nevertheless qualify for an agricultural value assessment provided the owner shall substantiate in such manner as

*So in original. Probably should read "e".

prescribed by the state board of equalization and assessment that the agricultural production initiated on such land would have produced an average gross sales value of ten thousand dollars or more but for the natural disaster, act of God or continued adverse weather conditions.

2. Limitation on local regulation. No local government shall exercise any of its powers to enact local laws or ordinances within an agricultural district in a manner which would unreasonably restrict or regulate farm structures or farming practices in contravention of the purposes of the act unless such restrictions or regulations bear a direct relationship to the public health or safety.

3. Policy of state agencies. It shall be the policy of all state agencies to encourage the maintenance of viable farming in agricultural districts and their administrative regulations and procedures shall be modified to this end insofar as is consistent with the promotion of public health and safety and with the provisions of any federal statutes, standards, criteria, rules, regulations, or policies, and any other requirements of federal agencies, including provisions applicable only to obtaining federal grants, loans, or other funding.

4. Limitation on the exercise of eminent domain and on the advance of public funds.

a. Any agency of the state, any public benefit corporation or any local government which intends to acquire land or any interest therein, provided that the acquisition from any one actively operated farm within the district would be in excess of ten acres or that the total acquisition within the district would be in excess of one hundred acres, or which intends to advance a grant, loan, interest subsidy or other funds within a district for the construction of dwellings, commercial or industrial facilities, water or sewer facilities to serve non-farm structures, shall at least thirty days prior to such action file a notice of intent with the commissioner of agriculture and markets, containing such information and in such manner and form as he may require. Such notice of intent shall contain a report justifying the proposed action including an evaluation

of alternatives which would not require action within the agricultural district.

b. Upon receipt of such notice, the commissioner of agriculture and markets shall thereupon forward a copy of such notice to the commissioner of environmental conservation, the secretary of state and the advisory council on agriculture. The commissioner of agriculture and markets, in consultation with the commissioner of environmental conservation, the secretary of state and the advisory council on agriculture, shall review the proposed action to determine what the effect of such action would be upon the preservation and enhancement of agriculture and agricultural resources within the district, state environmental plans, policies and objectives, and state comprehensive plans, policies and objectives.

c. If the commissioner of agriculture and markets finds that such proposed action might have an unreasonably adverse effect upon such goals, resources, plans, policies or objectives, the commissioner shall issue an order within such thirty day period to such agency, corporation or government directing such agency, corporation or government not to take such action for an additional period of sixty days immediately following such thirty day period.

d. During such additional sixty day period, the commissioner of agriculture and markets shall hold a public hearing concerning such proposed action at a place within the district or otherwise easily accessible to the district upon notice in a newspaper having a general circulation within the district, and individual notice, in writing, to the municipalities whose territories encompass the district, the commissioner of environmental conservation, the secretary of state, the advisory council on agriculture and the agency, corporation or government proposing to take such action. On or before the conclusion of such additional sixty day period, the commissioner of agriculture and markets shall report his findings to the agency, corporation or government proposing to take such action, to any public agency having the power of review of or approval of such action, and in a manner conducive to the wide dissemination of such findings, to the public.

e. The commissioner of agriculture and markets may request the attorney general to bring an action to enjoin any such agency, corporation or government from

violating any of the provisions of this subdivision.

f. This subdivision shall not apply to any emergency project which is immediately necessary for the protection of life or property.

5. Limitation on power to impose benefit assessments or special ad valorem levies in certain improvement districts or benefit areas. Within improvement districts or areas deemed benefited by town improvements for sewer, water, lighting, non-farm drainage, solid waste disposal or other landfill operations, no benefit assessments or special ad valorem levies may be imposed on land used primarily for agricultural production within an agricultural district on the basis of frontage, acreage, or value, except a lot not exceeding one-half acre surrounding any dwelling or non-farm structure located on said land unless such benefit assessments or ad valorem levies were imposed prior to the formation of the agricultural district.

As amended L. 1972, C. 712, Sec. 4; L. 1973, C. 232, Secs. 1, 2; L. 1974, C. 169, Sec. 1; L. 1975, C. 464, Sec. 6; L. 1975, C. 717, Sec. 1; L. 1976, C. 576, Sec. 1; L. 1978, C. 663, Sec. 1; L. 1979, C. 266, Sec. 2; L. 1980, C. 79, Sec. 9; L. 1981, C. 846, Sec. 22; L. 1982, C. 564, Sec. 1; L. 1983, C. 443, Sec. 1; L. 1985, C. 280, Sec. 23; L. 1985, C. 816, Sec. 1.

Sec. 306. Agricultural lands outside of districts; agricultural value assessments

1. Any owner of land used in agricultural production may make a commitment on a form to be prescribed by the state board of equalization and assessment to continue to use such land exclusively for agricultural production for the next succeeding eight years. If an applicant owning not less than ten acres rents land from another for use for agricultural production, the gross sales value of the agricultural products produced on such rented land shall be added to the gross sales value of agricultural products produced on the land of the applicant for purposes of determining eligibility for an agricultural value assessment on the land of the applicant.

Such commitment shall be filed annually with the county clerk of the

county in which such land is located, at a time and in a manner to be prescribed by the state board of equalization and assessment, and shall entitle such land to be assessed for real property tax purposes pursuant to paragraphs a, b and f of subdivision one of section three hundred five of this article as if such land were in an agricultural district.

2. In the event any part of such land is converted by such owner or by any subsequent owner, during the period of any such commitment, to a use other than for agricultural production, such conversion shall constitute a breach of commitment and shall disqualify all of the land subject to such commitment from being entitled to an agricultural value assessment, and shall subject all of the land subject to such commitment to an additional amount in compensation for the prior benefits of agricultural value assessments, equal to two times the taxes determined in the year following the breach of commitment for all of the land previously under commitment. This amount shall be added by the local taxing jurisdiction to the taxes determined for that year, and, when levied, shall become a tax lien on such land. Provided, however, that in the event that such land or any portion thereof is converted to a use other than agricultural production by virtue of oil or gas exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding, except a tax sale, such activity or involuntary conversion of such land or any portion thereof to uses other than agricultural production shall not constitute a breach of commitment. In the event the land involuntarily converted to a use other than agricultural production, or converted to oil or gas exploration, development, or extraction activity constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion the assessment, and enter the portion so converted as a separately assessed parcel on the appropriate portion of the assessment roll. The assessor shall adjust the agricultural value ceiling attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural value ceiling attributable to the portion so converted. And provided further that land for which a commitment is filed pursuant to this section shall not be considered to have been converted to a use other than agricultural production solely due to the conveyance of oil and gas rights associated with that land.

3. Upon the inclusion of agricultural lands subject to a pre-existing commitment in an agricultural district formed pursuant to section three hundred three, such commitment shall become null and void and provisions of section three hundred five shall be controlling. Upon such inclusion, the owner of such land shall file a certificate of cancellation with the county clerk. Such certificate of cancellation shall be filed in the same manner and place as the commitment was filed.

As amended L. 1972, C. 712, Sec. 4; L. 1973, C. 232, Sec. 3; L. 1976, C. 576, Secs. 2, 3; L. 1980, C. 79, Sec. 11; L. 1981, C. 846, Sec. 23; L. 1982, C. 564, Sec. 2; L. 1983, C. 804, Sec. 3; L. 1984, C. 326, Sec. 3.

Sec. 307. Promulgation of rules and regulations

The state board of equalization and assessment and the commissioner of agriculture and markets are each empowered to promulgate such rules and regulations and to prescribe such forms as each shall deem necessary to effectuate the purposes of this article, and the commissioner of agriculture and markets is further empowered to promulgate such rules and regulations as are necessary to provide for the reasonable consolidation of existing agricultural districts with new agricultural districts or with other existing districts undergoing modification pursuant to subdivision eight of section three hundred three of this article. Where a document or any other paper or information is required, by such rules and regulations, or by any provision of this article, to be filed with, or by, a county clerk or any other local official, such clerk or other local official may file such document, paper, or information as he deems proper, but he shall also file or record it in any manner directed by the state board of equalization and assessment, by rule or regulation. In promulgating such a rule or regulation, such board shall consider, among any other relevant factors, the need for security of land titles, the requirement that purchaser of land know of all potential tax and penalty liabilities, and the desirability that the searching of titles not be further complicated by the establishment of new sets of record books.

As amended L. 1972, C. 712, Sec. 4; L. 1980, C. 79, Sec. 12; L. 1984, C. 326, Sec. 4.

Sec. 309. Advisory council on agriculture

1. There shall be established within the department the advisory council on agriculture, to advise and make recommendations to the state agencies on state government plans, policies and programs affecting agriculture, as outlined below, and in such areas as its experience and studies may indicate to be appropriate. The department of agriculture and markets shall provide necessary secretariat and support services to the council.

2. The advisory council on agriculture shall consist of nine members appointed by the governor with the advice and consent of the senate, selected for their experience and expertise related to areas of council responsibility. At least five members of the council shall be operators of a commercial farm enterprise. The balance of the council shall be comprised of representatives of business or institutions related to agriculture. Members shall be appointed for a term of three years and may serve until their successors are chosen provided, however, that of the members first appointed, three shall serve for a term of one year, three shall serve for a term of two years, and three shall serve for a term of three years. Members shall serve without salary but shall be entitled to reimbursement of their ordinary and necessary travel expenses. The members of the council shall elect a chairman.

3. The duties and responsibilities of the advisory council on agriculture as they pertain to agricultural districts shall include, but not be limited to, providing timely advice, comments and recommendations to the commissioner in regard to:

a. the establishment of agricultural districts;

b. the eight year review of agricultural districts; and

c. the establishment of and any subsequent revision to the land classification system used in connection with the determination of agricultural values.

The commissioner may delegate to the council such additional duties and responsibilities as he deems necessary.

4. The duties and responsibilities of the advisory council on agriculture as they pertain to the establishment of agricultural values shall include, but not be limited to, providing timely advice, comments and recommendations to the state board of equalization and assessment in regard to:

a. the rules for the implementation of the income capitalization method of establishing agricultural values;

b. agricultural economic data and their utilization in the development of economic profiles; and

c. agricultural values prior to their promulgation.

The state board of equalization and assessment may delegate to the council such additional duties and responsibilities as it deems necessary in the establishment of agricultural values.

5. The advisory council on agriculture shall advise the commissioner and other state agency heads on state government plans, policies and programs affecting farming and the agricultural industry of this state. Concerned state agencies shall be encouraged to establish a working relationship with the council and shall fully cooperate with the council in any requests it shall make.

6. The advisory council on agriculture may ask other individuals to attend its meetings or work with it on an occasional or regular basis provided, however, that it shall invite participation by the chairman of the state soil and water conservation committee and the dean of the New York state college of agriculture and life sciences at Cornell university. The advisory council on agriculture shall set the time and place of its meetings, and shall hold at least four meetings per year.

7. The advisory council on agriculture shall file a written report to the governor and the legislature by April first each year concerning its activities during the previous year and its program expectations for the succeeding year.

Added L. 1980, C.79, Sec. 13.

1For a detailed discussion of the creation process, refer to Agricultural Districts Program Handbook, N.Y.S. Department of Agriculture and Markets, Albany, New York, 1982.

2For those readers who are interested in a complete documentation of the Agricultural District Law including the original text as well as subsequent amendments please refer to McKinney's Consolidated Laws of New York-Annotated, Book 2B: Agriculture and Markets Law, West Publishing Company, St. Paul, Minnesota, 1972. The original text as well as amendments can be found in McKinney's Session Laws of New York for the years 1971 (Chapter 479), 1972 (Chapters 700 and 712), 1973 (Chapters 232 and 390), 1974 (Chapters 169, 552, and 864), 1975 (Chapters 464, 717, and 718), 1976 (Chapters 576, 671, and 672), 1978 (Chapters 241 and 663), 1979 (Chapter 266), 1980 (Chapter 79), 1981 (Chapter 846), 1982 (Chapters 520 and 546), 1983 (Chapters 146, 443, 804, and 866), 1984 (Chapter 326), 1985 (Chapters 280 and 816).

Public Health Law

Sec. 1300-c. Farming activities. Notwithstanding any other provision of law, the agricultural activities conducted on a farm, as defined in section six hundred seventy-one of the labor law, shall not be considered a private nuisance, provided such agricultural activities were commenced prior to the surrounding activities, have not increased substantially in magnitude or intensity and have not been determined to be the cause of conditions dangerous to life or health as determined by the commissioner, the local health officer or local board of health pursuant to sections thirteen hundred, thirteen hundred-a, thirteen hundred three and thirteen hundred four of this chapter.

L. 1984, C. 586, S. 1300-c,

APPENDIX A

Real Property Tax Law
Article 12 State Equalization Rates
Title 2
Special Equalization Rates

Sec.

- 1220. Definitions.
- 1222. Special equalization rates; state assessments.
- 1224. Special equalization rates; ceilings or local assessment limitations; alternative veterans exemption.
- 1226. Special equalization rates; tax apportionment.
- 1228. Certification of change in level of assessment factors for certain exemptions.

Sec. 1220. Definitions

1. "Change in level of assessment" means the net percentage increase or decrease in the assessed valuation of taxable real property in an assessing unit, other than increases or decreases in the assessed valuation of special franchises, transportation properties of railroad subject to a ceiling assessment, wholly exempt properties, and other than increases or decreases in value attributable to physical or quantity changes in the property.

2. "Change in level of assessment factor" means a multiplication factor which represents the change in level of assessment.

3. "Material change in level of assessment" means a change in level of assessment of two percent or more in any one year.

4. "Physical or quantity change" means but shall not be limited to either an increase in assessed value from the prior roll resulting from new construction, property annexed from another assessing unit, and the addition of property omitted from the prior roll, or a decrease in assessed value from the prior roll resulting from fire, demolition, and the deletion of duplicate parcels from the roll. A physical or quantity change does not result from the splitting or merging of parcels.

Sec. 1222. Special equalization rates; state assessments

1. (A) If the state board finds that there has been a material change in level of assessment since the establishment of the latest state equalization rate, it shall determine and certify a special equalization rate for purposes of the assessment of special franchises and the equalization of assessments of taxable state lands. The state board shall adjust the assessments affected by this special equalization rate and shall notify the appropriate assessor and county director of real property tax services.

(B) Upon receipt of the notice of a special equalization rate referred to in paragraph (A) of this subdivision, the assessor shall make the appropriate changes on the assessment roll. If the notice is received after the filing of the final assessment roll but at least ten days prior to the last day set by law for the first levy of taxes on that roll, the assessor shall notify the person or persons having custody and control of the roll of the changes to be made thereto and shall provide that person or those persons with a copy of the notice received by the assessor from the state board. The person or persons shall enter the changes on the roll and affix the notice from the state board.

(C) If the assessor or other local official is unable to make the appropriate changes within the time provided in paragraph (B) of this subdivision, and those changes would have increased the taxable assessed value, the assessor shall determine the amount of assessed valuation which was not subject to such tax levy and shall enter that

amount on the assessment roll of the succeeding year in the manner provided for the entry of omitted real property in section five hundred fifty-one of this chapter. If those changes would decrease the assessed value, correction shall be made in accordance with the provisions of title three of article five of this chapter.

2. If the state board finds that there has been a change in level of assessment, other than a material change in level of assessment, since the establishment of the latest state equalization rate, it shall determine and certify a special equalization rate for assessment purposes if it can do so not later than ten days prior to the last date set by law for the levy of taxes. The state board shall thereupon adjust the assessments affected by such special rate and shall notify the assessor and county director of real property tax services. Upon receipt of this notice, the assessor or other local official having custody and control of the assessment roll shall make the appropriate changes on the assessment roll, as provided in paragraph (B) of subdivision one of this section.

Sec. 1224. Special equalization rates: ceilings or local assessment limitations: alternative veterans exemption

1. Where the state board is authorized or directed by law to determine special equalization rates or change in level of assessment factors for an assessment ceiling or other assessment limitation and there has been a material change in level of assessment, the board shall determine and certify the appropriate special equalization rates or change in level of assessment factor and shall notify the assessor and the county director of real property tax services. The assessor shall recompute the ceilings or assessments on any properties affected by such rates.

2. If the ceiling or assessment limitation as determined prior to the application of the special equalization rate or change in level of assessment factor exceeded the local assessed valuation, the assessor shall make no change in the taxable assessed value of property subject to the ceiling or local assessment limitation. If the ceiling or assessment limitation prior

to application of the special rate or change in level of assessment factor was less than the local assessed valuation, after recomputing the ceiling or assessment limitation, the assessor shall amend the assessment roll by entering as the taxable assessed value the lesser of: (I) the new ceiling or limitation and (II) the local assessed valuation.

3. The provisions of this section shall apply to forest lands subject to an assessment ceiling pursuant to section four hundred eighty of this chapter, forest lands certified as eligible tracts for exemption purposes of section four hundred eighty-A of this chapter, railroad real property entitled to a railroad ceiling pursuant to title two-a or title two-b of article four of this chapter, the assessment of oil and gas rights pursuant to title five of article five of this chapter, reforested lands subject to an assessment ceiling pursuant to section two hundred nineteen of the county law, and to real property entitled to an agricultural value ceiling pursuant to the agriculture and markets law.

4. If the state board finds that there has been a material change in level of assessment since the establishment of the latest state equalization rate, it shall determine and certify a special equalization rate for alternative veterans exemption purposes pursuant to section four hundred fifty-eight-a of this chapter but in no event shall such special equalization rate exceed one hundred.

Sec. 1226. Special equalization rates: tax apportionment

1. If the state board finds that there has been a material change in level of assessment in a town or city since the last state equalization rate was established, it shall determine and certify a special equalization rate for tax apportionment purposes to the district superintendent of schools for use in the apportionment of school taxes as provided in section thirteen hundred fourteen of this chapter.

2. If the state board finds that the last state equalization rate is inequitable for part of a town or city within a school district or special district, it shall determine a special equalization rate for such part and shall furnish such rate to the district superintendent of schools or the clerk of the county legislative body, as the case

may be: provided that with respect to levies on behalf of special districts, the same be certified at least fifteen days prior to the last date set by law for such levy.

3. If the state board finds that the latest state equalization rate for a town is inequitable for the town or part thereof located in a village which has adopted a local law pursuant to subdivision three of section fourteen hundred two of this chapter, it shall determine a special equalization rate and furnish such rate to the clerk of the village board of trustees.

Sec. 1228. Certification of change in level of assessment factors for certain exemptions

Where the state board is authorized or directed by law to certify a change in level of assessment for adjustment by the assessor of a maximum taxable assessed value of partially exempt real property, it shall do so in the same manner and subject to the same limitations as provided in section twelve hundred twenty-four of this title for the determination of special equalization rates for ceiling purposes.

L. 1985, C. 280, Sec. 6.

COUNTY COOPERATIVE EXTENSION OFFICES

ALBANY 518-765-3550 Martin Rd. Voorheesville 12186	HAMILTON 518-548-6191 P.O. Box 112 Lake Pleasant 12108	ROCKLAND 914-638-5500 62 Old Middletown Rd. New City 10956-2737
ALLEGANY 716-268-7644 R.D. 1, Box 226 Belmont 14813	HERKIMER 315-866-7920 107 Court St. Herkimer 13350	ST. LAWRENCE 315-379-2311 Univ. Shopping Center Canton 13617
BROOME 607-772-8953 840 Front St. Binghamton 13905-1542	JEFFERSON 315-788-8450 223 J.B. Wise Place Watertown 13601	SARATOGA 518-885-8995 50 W. High St. Ballston Spa 12020
CATTARAUGUS 716-699-2377 Parkside Dr. Ellicottville 14731-9708	LEWIS 315-376-5270 P.O. Box 72 Lowville 13367	SCHENECTADY 518-372-1622 615 State St. Schenectady 12305
CAYUGA 315-255-1183 248 Grant Ave. Auburn 13021	LIVINGSTON 716-658-4110 158 S. Main St. Mount Morris 14510	SCHOHARIE 518-234-4303 41 S. Grand St. Cobleskill 12043
CHAUTAUQUA 716-664-9502 R.D. 2, Turner Rd. Jamestown 14701-9608	MADISON 315-684-3001 Farm & Home Center Morrisville 13408-0640	SCHUYLER 607-535-7161 208 Broadway Montour Falls 14865
CHEMUNG 607-734-4453 425 Pennsylvania Ave. Elmira 14904	MONROE 716-461-1000 249 Highland Ave. Rochester 14620	SENECA 315-539-9251 321 E. Williams St. Waterloo 13165
CHENANGO 607-334-9971 99 N. Broad St. Norwich 13815	MONTGOMERY 518-853-3471 Old Court House Fonda 12068	STEUBEN 607-776-7666 119 E. Steuben St. Bath 14810
CLINTON 518-561-7450 Old Court House Bldg. Plattsburg 12901	NASSAU 516-454-0900 1425 Old County Rd. Plainview 11803	SUFFOLK 516-727-7850 246 Griffing Ave. Riverhead 11901
COLUMBIA 518-828-3346 Rt. 66, R.D. 1 Hudson 12534	NIAGARA 716-433-8839 4487 Lake Ave. Lockport 14094	SULLIVAN 914-292-6180 59 N. Main St. Liberty 12754
CORTLAND 607-753-5077 County Office Bldg. Cortland 13045	ONEIDA 315-736-3394 Second St., Box 126 Oriskany 13424-9998	TIOGA 607-687-4020 56 Main St. Owego 13827
DELAWARE 607-865-6531 P.O. Box 184 Hamden 13782	ONONDAGA 315-424-9485 1050 W. Genesee St. Syracuse 13204	TOMPKINS 607-272-2292 225 S. Fulton St. Ithaca 14850-3392
DUTCHESS 914-677-5006 Rt. 44 Millbrook 12545	ONTARIO 716-394-4110 480 N. Main St. Canandaigua 14424	ULSTER 914-331-1680 74 John St. Kingston 12401
ERIE 716-652-5401 21 S. Grove St. East Aurora 14052	ORANGE 914-343-1105 239 Wisner Ave. Middletown 10940	WARREN 518-623-3291 Schroon River Rd. Warrensburg 12885
ESSEX 518-962-4810 Sisco St. Westport 12993	ORLEANS 716-589-5561 P.O. Box 150 Albion 14411	WASHINGTON 518-747-2861 Co. Office Bldg. Annex Hudson Falls 12839
FRANKLIN 518-483-6767 11 Brewster St. Malone 12953	OSWEGO 315-963-7286 Main St. Mexico 13114	WAYNE 315-483-6918 P.O. Box 217 Alton 14413
FULTON 518-725-6441 57 E. Fulton St. Gloversville 12078	OTSEGO 607-547-2536 123 Lake St. Cooperstown 13326	WESTCHESTER 914-682-3070 216 Central Ave. White Plains 10606
GENESEE 716-343-3040 420 E. Main St. Batavia 14020-2599	PUTNAM 914-628-0454 179 E. Lake Blvd. Mahopac 10541	WYOMING 716-786-2251 401 N. Main St. Warsaw 14569
GREENE 518-622-9820 Extension Center Cairo 12413-9503	RENSSELAER 518-270-4000 Court House TROY 12180	YATES 315-536-3381 110 Court St. Penn Yan 14527

Additional Sources of Information

For additional information about agricultural districts, contact:

*Your Representative on the County Legislature
(board of supervisors)

*Your Cooperative Extension Agent

*New York State Department of Agriculture and Markets
Building 8, State Campus
Albany, New York 12235

*New York State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12201

*Department of Agricultural Economics
New York State College of Agriculture and Life Sciences
Cornell University
Ithaca, New York 14853-7801