

111TH CONGRESS
1ST SESSION

H. R. 1896

To amend the Internal Revenue Code of 1986 to clarify that installment sales treatment shall not fail to apply to property acquired for conservation purposes by a State or local government or certain tax-exempt organizations merely because purchase funds are held in a sinking or similar fund pursuant to State law.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Mr. BISHOP of New York (for himself and Mr. LEE of New York) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to clarify that installment sales treatment shall not fail to apply to property acquired for conservation purposes by a State or local government or certain tax-exempt organizations merely because purchase funds are held in a sinking or similar fund pursuant to State law.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Open Space Preserva-
5 tion Promotion Act of 2009”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

3 (1) Land conservation and farmland preserva-
4 tion is an important national goal that allows farm-
5 ers to continue to farm on their land, and allows
6 communities to protect invaluable natural resources
7 for future generations.

8 (2) Farmland in metropolitan and frequently
9 high-cost communities is estimated to account for
10 one-third of all farms, and 18 percent of this Na-
11 tion's farmland.

12 (3) In many urban fringe areas farmland is
13 rapidly disappearing, and the U.S. Department of
14 Agriculture estimates that approximately 95 million
15 acres of farmland will be taken over by sprawl and
16 urban growth in the coming years.

17 (4) Farmers and landowners generally receive a
18 significantly reduced payment for the sale of devel-
19 opment rights and conservation easements than they
20 would receive by selling the land to the private sec-
21 tor for development. In many instances, however,
22 these sales are treated the same under the tax code.

23 (5) In areas where State law requires debt as-
24 sumed by a municipality to be structured in the
25 form of a sinking fund, farmers and landowners may
26 be discouraged from selling the development rights

1 of their land for conservation purposes. Since sales
2 to State and local governments will be in the form
3 of a sinking fund, a seller may not be able to pay
4 capital gains taxes in full when the seller will not re-
5 ceive cash payments until a future date.

6 (6) In urban fringe areas, many communities
7 have made a concerted effort to purchase develop-
8 ment rights to land. The land remains private, but
9 the community gains by preserving open spaces and
10 enjoying environmental benefits. Communities will
11 greatly benefit by the Federal Government taking
12 steps to assist municipalities in the purchase of de-
13 velopment rights.

14 **SEC. 3. USE OF SINKING FUND BY STATE OR LOCAL GOV-**
15 **ERNMENT NOT TO PREVENT INSTALLMENT**
16 **SALES TREATMENT.**

17 (a) IN GENERAL.—Paragraph (3) of section 453(f)
18 of the Internal Revenue Code of 1986 (relating to pay-
19 ment) is amended to read as follows:

20 “(3) PAYMENT.—

21 “(A) IN GENERAL.—Except as provided in
22 paragraph (4), the term ‘payment’ does not in-
23 clude the receipt of evidences of indebtedness of
24 the person acquiring the property (whether or

1 not payment of such indebtedness is guaranteed
2 by another person).

3 “(B) TREATMENT OF SINKING AND SIMI-
4 LAR FUNDS REQUIRED BY STATE LAW.—Noth-
5 ing in this section or the regulations thereunder
6 shall be construed as treating a seller of prop-
7 erty to a qualified organization (as defined in
8 section 170(h)(3)) as receiving a payment by
9 reason of the fact that some or all of the funds
10 for such purchase are made (as required by
11 State law) to a sinking or similar fund if the
12 property is being acquired by such organization
13 exclusively for conservation purposes (as de-
14 fined in section 170(h)(4)).”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall take effect on the date of the enactment
17 of this Act.

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