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I N   S E N A T E

January 24, 2014

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Introduced by Sen. PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the New York state urban development corporation act, in relation to consultation with affected parties on certain projects

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 16 of section 1 of chapter 174 of the laws of 1968  
2     constituting the New York state urban development corporation act,  
3     subdivisions 2 and 3 as amended by chapter 732 of the laws of 1990 and  
4     subdivision 5 as amended and subdivision 6 as added by chapter 847 of  
5     the laws of 1971, is amended to read as follows:  
6     S 16. Cooperation with municipalities. (1) In effectuating the  
7     purposes of this act, the corporation and community advisory committees  
8     created pursuant to section four of this act shall work [closely,  
9     consult and cooperate] DIRECTLY with local elected officials [and],  
10    community leaders AND SPECIFICALLY AFFECTED PARTIES at the earliest  
11    practicable time, INCLUDING BEFORE PROJECTS ARE PROPOSED, DURING THEIR  
12    DEVELOPMENT AND WHEN THEY ARE PRESENTED TO THE GENERAL PUBLIC. WHENEVER  
13    A PROJECT IS PROPOSED, AND AT EACH SUBSEQUENT STAGE OF SUCH PROPOSED  
14    PROJECT, INCLUDING, WITHOUT LIMITATION: BOARD MEETINGS, BOARD APPROVALS,  
15    PUBLIC MEETINGS AND PUBLIC HEARINGS THE CORPORATION AND COMMUNITY ADVI-  
16    SORY COMMITTEES SHALL ENGAGE IN DIRECT AND PROACTIVE CONSULTATION WITH  
17    ALL AFFECTED PARTIES, INCLUDING "SPECIFICALLY AFFECTED PARTIES" AS  
18    DEFINED BELOW. FOR PURPOSES OF THIS ACT, THE TERM "SPECIFICALLY AFFECTED  
19    PARTIES" SHALL HAVE THE FOLLOWING MEANING: (A) CURRENT TENANTS OR OCCU-  
20    PANTS OF THE PROPOSED PROJECT SITE IN QUESTION, (B) ALL ELECTED OFFI-  
21    CIALS THAT GEOGRAPHICALLY REPRESENT THE PROPOSED PROJECT SITE IN QUES-  
22    TION, (C) ALL LOCAL GOVERNMENT SUBSIDIARIES CHARGED WITH LAND USE/ZONING  
23    REVIEW DUTIES WITHIN THE PROPOSED PROJECT SITE IN QUESTION, (D) THE  
24    COMMUNITY, MINIMALLY OPERATIONALIZED AS RESIDENTS WHO LIVE WITHIN A FIVE  
25    MILE RADIUS OF THE PROPOSED PROJECT SITE IN QUESTION AND (E) COMMUNITY  
26    BASED ORGANIZATIONS WHO ARE PRINCIPALLY BASED IN THE CATCHMENT AREA THAT  
27    IS CONCURRENT WITH THE PROPOSED PROJECT SITE IN QUESTION. THE TERM

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

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1 "DIRECT AND PROACTIVE CONSULTATION" SHALL MEAN THE FOLLOWING: THE CORPO-  
2 RATION AND COMMUNITY ADVISORY COMMITTEES SHALL REACH OUT TO ALL SPECIF-  
3 ICALLY AFFECTED PARTIES WHEN THE PROJECT IS BEING CONTEMPLATED, DEVEL-  
4 OPED AND PROPOSED AND AT EACH SUBSEQUENT STAGE OF SUCH PROPOSED PROJECT  
5 VIA: FIRST CLASS MAIL, E-MAIL AND PHONE, WHERE PRACTICABLE; FURTHER, AT  
6 EACH STAGE OF THE PROPOSED PROJECT IN QUESTION IN PERSON COMMUNITY PLAN-  
7 NING MEETINGS MUST BE HELD WITH ALL CURRENT TENANTS OF THE SITE IN QUES-  
8 TION, ELECTED OFFICIALS AND LOCAL GOVERNMENT SUBSIDIARIES CHARGED WITH  
9 LAND USE/ZONING REVIEW DUTIES. SUCH COMMUNITY PLANNING MEETINGS, AT A  
10 MINIMUM, MUST PROVIDE EACH PARTY WITH AN OPPORTUNITY TO PROPOSE AFFIRMA-  
11 TIVE, MODIFIED OR ENTIRELY DIFFERENT PLANS THAN THOSE CURRENTLY UNDER  
12 CONSIDERATION. IN ADDITION, COMPLEMENTARY CONSULTATION STEPS MUST ALSO  
13 BE TAKEN TO REACH THE GENERAL PUBLIC, WHICH SHALL INCLUDE, WITHOUT LIMI-  
14 TATION: DISTRIBUTING FLYERS THAT DESCRIBE THE PROPOSED PROJECT IN THE  
15 AFFECTED AREA, ERECTING LARGE SIGNAGE CONTAINING PROJECT DETAILS AT THE  
16 PROPOSED PROJECT SITE IN QUESTION, ATTENDING AND SPEAKING AT COMMUNITY  
17 MEETINGS WHERE APPROPRIATE AND TAKING OUT FULL PAGE ADVERTISEMENTS IN NO  
18 LESS THAN TWO LOCAL PAPERS THAT ARE LIKELY TO REACH THE AFFECTED  
19 PARTIES. The corporation shall give primary consideration to local  
20 needs and desires and shall foster local initiative and participation in  
21 connection with the planning and development of its projects AT ALL  
22 STAGES. Wherever possible, activities of the corporation shall be coor-  
23 dinated with local urban renewal and other community projects, and the  
24 corporation shall assist localities in carrying out such projects.  
25 Consideration shall also be given to local and regional goals and poli-  
26 cies as expressed in urban renewal, community renewal and local compre-  
27 hensive land use plans and regional plans.

28 (2) Except with respect to a project consisting in whole or in part of  
29 real property acquired by the corporation pursuant to section fourteen  
30 of this act, before commencing the acquisition, construction, recon-  
31 struction, rehabilitation, alteration or improvement of any project: (a)  
32 upon adoption of the general project plan, the corporation shall file a  
33 copy of such plan, including the findings required pursuant to section  
34 ten of this act, in its corporate offices and in the office of the clerk  
35 of any municipality in which the project is to be located, AS WELL AS  
36 WITH ALL "SPECIFICALLY AFFECTED PARTIES" AS DEFINED ABOVE. Upon  
37 request, any other person shall be furnished with a digest of such plan;  
38 (b) pursuant to authorization from the chief executive officer of the  
39 corporation, which authorization may be given prior to the adoption of  
40 such plan by the corporation, the corporation shall: (i) publish in [one  
41 newspaper] TWO NEWSPAPERS of general circulation within the municipi-  
42 pality, (ii) provide to the chief executive officer of the municipality  
43 within which the project is located, and (iii) in any city having a  
44 population of one million or more, [provide to] ENGAGE IN DIRECT AND  
45 PROACTIVE CONSULTATION, AS DEFINED ABOVE, WITH ALL SPECIFICALLY AFFECTED  
46 PARTIES, INCLUDING any community board in which the project will be  
47 located, INCLUDING BY PROVIDING a notice that such plan will be filed  
48 upon its adoption by the corporation and that digests thereof will be  
49 available, which notice shall also state that a public hearing will be  
50 held to consider the plan at a specified time and place on a date not  
51 less than [ten] SIXTY days after such publication; THE SIXTY DAY PERIOD  
52 WILL COMMENCE WHEN THE COMMUNITY BOARDS, AFFECTED TENANTS AND ELECTED  
53 OFFICIALS ALL CONFIRM WITH THE CORPORATION THAT THEY HAVE RECEIVED  
54 NOTICE; (c) the corporation shall conduct a public hearing pursuant to  
55 such notice, AND SHALL ENGAGE IN DIRECT AND PROACTIVE CONSULTATION WITH  
56 "SPECIFICALLY AFFECTED PARTIES" FOR THE FULL SIXTY DAY PERIOD TO ENSURE

1 MAXIMUM PARTICIPATION AT SUCH HEARING; provided that such public hearing  
2 shall not take place before the adoption or the filing of such plan by  
3 the corporation; (d) [upon] ALL TESTIMONY RECEIVED AT THE HEARING,  
4 WHETHER WRITTEN OR DELIVERED ORALLY AND INCLUDING WRITTEN TESTIMONY  
5 SUBMITTED FOR A PERIOD OF THIRTY DAYS AFTER SUCH HEARING SHALL BE  
6 REVIEWED AND ACTED ON BY THE CORPORATION. THE CORPORATION SHALL RESPOND  
7 TO EACH SUBSTANTIVE COMMENT IN WRITING, INCLUDING ALL SUBSTANTIVE NEGA-  
8 TIVE COMMENTS AND SHALL SHARE SUCH RESPONSE DOCUMENT WITH ALL "SPECIF-  
9 ICALLY AFFECTED PARTIES". IF A SIGNIFICANT AMOUNT OF SUBSTANTIVE NEGA-  
10 TIVE COMMENTS ARE RECEIVED, THE CORPORATION WILL, AFTER DUE  
11 CONSIDERATION OF SUCH TESTIMONY AND COMMENT, AFFIRM, MODIFY OR WITHDRAW  
12 THE PLAN IN THE MANNER PROVIDED FOR THE INITIAL FILING OF SUCH PLAN IN  
13 PARAGRAPH (A) OF THIS SUBDIVISION. HOWEVER, BEFORE THE CORPORATION  
14 AFFIRMS THE PLAN IT MUST HOLD A PUBLIC MEETING WITH THIRTY DAYS NOTICE  
15 AND DIRECT AND PROACTIVE CONSULTATION WITH "SPECIFICALLY AFFECTED  
16 PARTIES". AT SUCH MEETING, THE CORPORATION MUST EXPLAIN WHY THEY HAVE  
17 NOT MODIFIED OR WITHDRAWN THE PLAN IN RESPONSE TO SUBSTANTIVE NEGATIVE  
18 COMMENTS. UPON a written finding of the chief executive officer of the  
19 corporation that no substantive negative testimony or comment has been  
20 received at such public hearing, NOR IN THE THIRTY DAY WRITTEN COMMENT  
21 PERIOD THEREAFTER, such plan shall be effective at the conclusion of  
22 such [hearing; provided, however, that if any substantive negative  
23 testimony or comment is received at such public hearing, the corporation  
24 may, after due consideration of such testimony and comment, affirm,  
25 modify or withdraw the plan in the manner provided for the initial  
26 filing of such plan in paragraph (a) of this subdivision] TIMEFRAME.

27 (3) After DIRECT AND PROACTIVE consultation with local officials, as  
28 provided in subdivision one of this section, the corporation and any  
29 subsidiary thereof shall, in constructing, reconstructing, rehabilitat-  
30 ing, altering or improving any project, comply with the requirements of  
31 local laws, ordinances, codes, charters or regulations applicable to  
32 such construction, reconstruction, rehabilitation, alteration or  
33 improvement, provided however, that when, in the discretion of the  
34 corporation, such compliance is not feasible or practicable, the corpo-  
35 ration and any subsidiary thereof shall comply with the requirements of  
36 the state building construction code, formulated by the state building  
37 code council pursuant to article eighteen of the executive law, applica-  
38 ble to such construction, reconstruction, rehabilitation, alteration or  
39 improvement. In those circumstances where, in the discretion of the  
40 corporation, such compliance with local laws, ordinances, codes, char-  
41 ters or regulations is not feasible or practicable, and in the case of  
42 any project where the corporation intends to acquire real property  
43 pursuant to section thirteen of this act, the requirements of subdivi-  
44 sion two of this section shall be complied with; provided, however, that  
45 (a) the corporation shall provide a copy of the plan to the chief execu-  
46 tive officer of any municipality within which the project is to be  
47 located, the chairman of the planning board or commission of any such  
48 municipality, or if there is no planning board or commission, to the  
49 presiding officer of the local governing body and in any city having a  
50 population of one million or more, to any community board in which the  
51 project is located, and the public hearing to consider the plan required  
52 pursuant thereto shall be held on thirty days notice following adoption  
53 of the plan by the corporation; SUCH PUBLIC HEARING SHALL CONFORM TO ALL  
54 OF THE DIRECT AND PROACTIVE CONSULTATION REQUIREMENTS AND THE PUBLIC  
55 HEARING REQUIREMENTS AS DEFINED IN SUBDIVISIONS ONE AND TWO OF THIS  
56 SECTION; (b) any person shall have the opportunity to present written

1 comments on the plan within thirty days after the public hearing; (c)  
2 any municipality within which the project is to be located, by majority  
3 vote of its planning board or commission, or in the event there is no  
4 planning board or commission, by majority vote of its local governing  
5 body, may recommend approval, disapproval or modification of the plan,  
6 which recommendation shall be submitted in writing to the corporation  
7 within thirty days after such hearing; and (d) after due consideration  
8 of such testimony and comments and municipal recommendations, if any,  
9 the corporation may affirm, modify or withdraw the plan in the manner  
10 provided for the initial filing of such plan in paragraph (a) of subdi-  
11 vision two of this section, provided, however that in the event any such  
12 municipality has recommended disapproval or modification of the plan, as  
13 provided herein, the corporation may affirm the plan only by a vote of  
14 two-thirds of the directors thereof then in office. No municipality  
15 shall have power to modify or change the drawings, plans or specifica-  
16 tions for the construction, reconstruction, rehabilitation, alteration  
17 or improvement of any project of the corporation or of any subsidiary  
18 thereof, or the construction, plumbing, heating, lighting or other  
19 mechanical branch of work necessary to complete the work in question,  
20 nor to require that any person, firm or corporation employed on any such  
21 work shall perform any such work in any other or different manner than  
22 that provided by such plans and specifications, nor to require that any  
23 such person, firm or corporation obtain any other or additional authori-  
24 ty, approval, permit or certificate from such municipality in relation  
25 to the work being done, and the doing of any such work by any person,  
26 firm or corporation in accordance with the terms of such drawings,  
27 plans, specifications or contracts shall not subject said person, firm  
28 or corporation to any liability or penalty, civil or criminal, other  
29 than as may be stated in such contracts or incidental to the proper  
30 enforcement thereof; nor shall any municipality have power to require  
31 the corporation or any subsidiary thereof, or lessee therefrom or  
32 successor in interest thereto, to obtain any other or additional author-  
33 ity, approval, permit, certificate or certificate of occupancy from such  
34 municipality as a condition of owning, using, maintaining, operating or  
35 occupying any project acquired, constructed, reconstructed, rehabili-  
36 tated, altered or improved by the corporation or by any subsidiary ther-  
37 eof. The foregoing provisions shall not preclude any municipality from  
38 exercising the right of inspection for the purpose of requiring compli-  
39 ance by any such project with local requirements for operation and main-  
40 tenance, affecting the health, safety and welfare of the occupants ther-  
41 eof, provided, however, that such compliance does not require changes,  
42 modifications or additions to the original construction of such project.

43 (4) Each municipality or political subdivision, including but not  
44 limited to a county, city, town, village or district, in which any  
45 project of the corporation or of any subsidiary thereof is located,  
46 shall provide for such project, whether then owned by the corporation,  
47 any subsidiary thereof or any successor in interest thereto, police,  
48 fire, sanitation, health protection and other municipal services of the  
49 same character and to the same extent as those provided for other resi-  
50 dents of such municipality or political subdivision.

51 (5) Notwithstanding the provisions of any general, special or local  
52 law or charter, any municipality or any public corporation is hereby  
53 empowered to purchase or lease for a term not exceeding ninety-nine  
54 years a civic project, upon such terms and conditions as may be agreed  
55 upon by such municipality or such public corporation and the corpo-  
56 ration. No agreement for such purchase or lease shall be deemed to be a

1 contract for public work or purchase within the meaning of the general  
2 municipal law. Nothing contained in this subdivision shall be deemed to  
3 amend or supersede any other provision of law requiring a vote of the  
4 qualified voters of any school district upon a proposed expenditure of  
5 funds or incurring of indebtedness by such school district.  
6 (6) In carrying out any project, the corporation and its subsidiaries  
7 shall be empowered to enter into contractual agreements with munici-  
8 palities and public corporations with respect to the furnishing of any  
9 community, municipal or public facilities or services necessary or  
10 desirable for such project, and any municipality or public corporation  
11 is hereby authorized and empowered, notwithstanding any other law, to  
12 enter into such contractual agreements with the corporation and its  
13 subsidiaries and to do all things necessary to carry out its obligations  
14 under the same.  
15 S 2. This act shall take effect immediately.