S T A T E O F N E W Y O R K

1535

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. PERKINS, ADAMS, HASSELL-THOMPSON, KRUEGER, MONTGOMERY, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the eminent domain procedure law and the New York state urban development corporation act, in relation to defining blight; and to repeal certain provisions of the New York state urban development corporation act relating thereto

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

Section 1. Legislative findings and intent. The legislature hereby finds and declares that eminent domain, while a meaningful tool for government to move forward on important projects, has come under a great deal of criticism in recent years for many alleged abuses that have occurred within the state of New York. Traditionally, the right of eminent domain, or the state's ability to seize private land was limited for "public use". However, over the years, phrases such as "public use" and "blighted" have taken on more expansive meanings.

Since Kelo v. City of New London, the 2005 decision in which the U.S. Supreme Court approved the forcible transfer of property from one private owner to another in the name of "economic development", forty-three states have passed eminent domain reform legislation. New York has thus far failed to take such action but continues again and again to approve eminent domain condemnation for projects that benefit private entities at the public's expense. A 2009 report by the Institute for Justice entitled "Building Empires, Destroying Homes: Eminent Domain Abuse in New York" detailed widespread eminent domain abuse throughout the state.

Furthermore, two recent court decisions, Goldstein v. New York State Urban Development Corporation and Kaur v. New York State Urban Development Corporation demonstrate the need to balance the rights of property

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

LBD04202-01-3

owners without stifling positive economic development programs. Instead, New Yorkers suffer under an inequitable system of eminent domain laws that greatly favors private developers partnered with public actors at the expense of homeowners, businesses, and tenants.

The use of "blight" as a basis for condemnation is vaguely defined and in need of clarification. Under the loose standards of existing law practically anything can qualify as blighted. Consequently it is imperative that the legislature enact objective criteria to ensure that blight determinations are consistent, predictable, and based on factors actually related to the public's health and safety. There also needs to be better protections in place so that tenants and low income residents are ensured that they are not excluded from the development process.

As Judge Catterson notes for the majority in the Kaur decision, it has been well documented that the urban renewal schemes of the 1950s and 1960s displaced millions of people and destroyed hundreds of neighborhoods. By and far, these programs disproportionately harmed low income and minority families. Legislative reforms are needed to prevent a repeat of these injustices. It is now time for New York to make the necessary reforms that will ensure a fair and equitable use of our eminent domain laws.

S 2. Section 103 of the eminent domain procedure law is amended by adding five new subdivisions (H), (I), (J), (K) and (L) to read as follows:

(H) "BLIGHTED PROPERTY" AND "BLIGHTED AREA" MEAN PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER.

(I) "SLUM" MEANS PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER.

(J) "SUBSTANDARD AND INSANITARY PROPERTY" MEANS PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER.

(K) "UNFIT FOR HUMAN HABITATION" MEANS PREMISES WHICH HAVE IDENTIFIABLE CONDITIONS THAT ENDANGER THE LIFE, HEALTH AND SAFETY OF THE OWNERS, OCCUPANTS, OR THE PUBLIC. CONDITIONS RENDERING PROPERTY UNFIT FOR HUMAN HABITATION INCLUDE, BUT ARE NOT LIMITED TO, SUBSTANTIAL STRUCTURAL DEFECTS OR DETERIORATION, VERMIN INFESTATION, LACK OF NECESSARY UTILITIES, AND FIRE HAZARDS.

(L) "ABANDONED PROPERTY" MEANS:

(1) UNOCCUPIED PROPERTY WHICH HAS BEEN TAX DELINQUENT FOR AT LEAST TWO YEARS; OR

(2) A BUILDING:

(A) THAT IS UNOCCUPIED BY OWNER OR TENANT;

(B) THAT IS UNFIT FOR HABITATION;

(C) THAT HAS DETERIORATED TO THE POINT WHERE:

(I) THE BUILDING IS STRUCTURALLY UNSOUND OR POSES AN IMMEDIATE THREAT TO LIFE OR OTHER PROPERTY; OR

(II) THE COST OF REHABILITATION SIGNIFICANTLY EXCEEDS THE POST-REHABILITATION MARKET VALUE; AND

(D) THE OWNER IS UNKNOWN OR THE OWNER FAILS TO RESPOND WITHIN SIX MONTHS TO A VIOLATION NOTICE FROM THE APPROPRIATE GOVERNING BODY REQUIRING THE OWNER TO:

(I) REHABILITATE THE BUILDING TO CONFORM TO MINIMUM CODE HABITABILITY REQUIREMENTS; OR

(II) DEMOLISH THE BUILDING FOR HEALTH AND SAFETY REASONS; OR

(3) A VACANT LOT ON WHICH A BUILDING HAS BEEN DEMOLISHED AND FOR WHICH A MUNICIPAL LIEN FOR DEMOLITION COSTS REMAINS UNPAID FOR SIX MONTHS.

S 3. Paragraph 4 of subdivision (B) of section 204 of the eminent domain procedure law is amended and a new paragraph 5 is added to read as follows:

(4) such other factors as it considers relevant[.];

(5) THE FINDINGS REQUIRED PURSUANT TO SUBDIVISION (D) OF SECTION TWO HUNDRED FOUR-A OF THIS ARTICLE.

S 4. The eminent domain procedure law is amended by adding a new section 204-a to read as follows:

S 204-A. BLIGHTED PROPERTIES AND AREAS. (A) SUBJECT TO THE EXCEPTIONS LISTED IN PARAGRAPH TWO OF SUBDIVISION (B) OF THIS SECTION, ANY SINGLE PROPERTY MAY BE DECLARED BLIGHTED IF IT MEETS ANY OF THE FOLLOWING CONDITIONS:

(1) ANY PREMISES, WHICH BECAUSE OF DILAPIDATION, DETERIORATION, STRUCTURAL DEFECTS, VERMIN INFESTATION, HEALTH HAZARDS, FIRE HAZARDS, LACK OF UTILITIES, LACK OF FACILITIES OR EQUIPMENT REQUIRED BY STATUTE OR MUNICIPAL CODE, NEGLECT, OR LACK OF MAINTENANCE:

(A) IS UNFIT FOR HUMAN HABITATION;

(B) HAS DETERIORATED TO THE POINT WHERE:

(I) THE BUILDING IS STRUCTURALLY UNSOUND OR POSES AN IMMEDIATE THREAT TO LIFE OR OTHER PROPERTY; OR

(II) THE COST OF REHABILITATION SIGNIFICANTLY EXCEEDS THE POST-REHABILITATION MARKET VALUE; AND

(C) THE OWNER FAILS TO REMEDY THE PROBLEM WITHIN A REASONABLE TIME AFTER RECEIVING NOTICE OF VIOLATION BY THE APPROPRIATE GOVERNING BODY REQUIRING THE OWNER TO:

(I) REHABILITATE THE BUILDING TO CONFORM TO MINIMUM CODE HABITABILITY REQUIREMENTS; OR

(II) DEMOLISH THE BUILDING FOR HEALTH AND SAFETY REASONS.

(2) ANY ABANDONED PROPERTY AS DEFINED IN SUBDIVISION (L) OF SECTION ONE HUNDRED THREE OF THIS CHAPTER.

(3) PROPERTY THAT IS ENVIRONMENTALLY CONTAMINATED AND THAT REQUIRES REMEDIATION FOR CURRENT OR FUTURE USE UNDER STATE OR FEDERAL LAW, IF THE OWNER FAILS TO REMEDY THE PROBLEM WITHIN SIX MONTHS OF RECEIVING NOTICE OF VIOLATION FROM THE APPROPRIATE GOVERNING BODY.

(4) A PREMISES WHICH, BECAUSE OF PHYSICAL CONDITION OR USE, IS REGARDED AS A PUBLIC NUISANCE AT COMMON LAW OR HAS BEEN DECLARED A PUBLIC NUISANCE UNDER A STATUTE OR AN APPLICABLE MUNICIPAL CODE, AND THE OWNER FAILS TO ABATE THE NUISANCE WITHIN SIX MONTHS OF RECEIVING NOTICE OF VIOLATION FROM THE APPROPRIATE GOVERNING BODY.

(5) ANY WELL, SHAFT, BASEMENT, EXCAVATION, OR UNSAFE FENCE OR STRUCTURE THAT, BECAUSE OF PHYSICAL CONDITION, USE OR OCCUPANCY, IS DEEMED AN ATTRACTIVE NUISANCE TO CHILDREN, AND THE OWNER FAILS TO ABATE THE NUISANCE WITHIN SIX MONTHS AFTER RECEIVING NOTICE OF VIOLATION FROM THE APPROPRIATE GOVERNING BODY.

(6) VACANT PROPERTY THAT HAS BECOME OVERGROWN WITH WEEDS, IS A PLACE FOR THE ACCUMULATION OF TRASH AND DEBRIS, OR A HAVEN FOR VERMIN, IF THE OWNER FAILS TO REMEDY THE PROBLEM WITHIN SIX MONTHS AFTER RECEIVING NOTICE OF VIOLATION BY THE APPROPRIATE GOVERNING BODY REQUIRING THE OWNER TO REHABILITATE THE PROPERTY TO CONFORM WITH MINIMUM CODE REQUIREMENTS.

(7) DEFECTIVE OR UNUSUAL CONDITIONS OF TITLE THAT MAKE THE FREE TRANSFER OR ALIENATION OF THE PROPERTY IMPOSSIBLE.

(8) OCCUPIED OR UNOCCUPIED PROPERTY THAT HAS TAX DELINQUENCIES EXCEEDING THE VALUE OF THE PROPERTY.

(9) PROPERTY THAT IS USED FOR PERVASIVE AND PERSISTENT CRIMINAL ACTIVITY. FOR PURPOSES OF THIS SECTION, SUCH ACTIVITY SHALL BE DEFINED AS TWO

OR MORE CONVICTIONS OF ANY PERSON OR PERSONS HAD, WITHIN A PERIOD OF ONE YEAR, FOR ANY OF THE FOLLOWING PENAL LAW OFFENSES ARISING OUT OF CONDUCT ENGAGED IN AT THE PROPERTY:

(A) SALE OF A CONTROLLED SUBSTANCE DESCRIBED IN SECTIONS 220.31, 220.34, 220.39, 220.41, OR 220.43 OF THE PENAL LAW; OR

(B) OFFENSES RELATED TO THE CRIME OF PROSTITUTION AS DESCRIBED IN ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW; OR

(C) OFFENSES RELATED TO THE CRIME OF GAMBLING AS DESCRIBED IN ARTICLE TWO HUNDRED TWENTY-FIVE OF THE PENAL LAW; OR

(D) ENTERPRISE CORRUPTION AS DEFINED IN ARTICLE FOUR HUNDRED SIXTY OF THE PENAL LAW.

(10) PROPERTY THAT DOES NOT OTHERWISE MEET ANY OF THE CONDITIONS LISTED IN THIS SECTION MAY NOT BE DECLARED BLIGHTED.

(B) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION, THE FOLLOWING EXCEPTIONS SHALL APPLY:

(1) PROPERTY SHALL IN NO CASE BE DECLARED BLIGHTED IF IT MEETS ONE OR MORE OF THE FOLLOWING CRITERIA:

(A) VACANT AND UNIMPROVED PROPERTY LOCATED IN ANY RURAL OR SUBURBAN AREA WHICH IS NOT SERVED BY EXISTING UTILITIES.

(B) PROPERTY WHICH SATISFIES THE DEFINITION OF "FARM WOODLAND", "LAND USED IN AGRICULTURAL PRODUCTION", "UNIQUE AND IRREPLACEABLE AGRICULTURAL LAND", OR "VIABLE AGRICULTURAL LAND", AS THOSE TERMS ARE DEFINED IN SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW.

(2) FOR PURPOSES OF THIS SECTION, IF A DEVELOPER OR CONDEMNOR INVOLVED IN A REDEVELOPMENT PROJECT HAS CAUSED OR BROUGHT ABOUT BY ACTION OR INACTION OR MAINTAINED FOR MORE THAN SEVEN YEARS A CONDITION LISTED IN SUBDIVISION (A) OF THIS SECTION WITHIN THE PROPOSED PROJECT AREA, THAT CONDITION MAY NOT BE USED IN THE DETERMINATION OF BLIGHT.

(3) FOR PURPOSES OF THIS SECTION, IF PROPERTY LOCATED IN AN URBANIZED AREA GENERALLY SERVED BY MUNICIPAL INFRASTRUCTURE AND UTILITIES MEETS ONE OR MORE OF THE CONDITIONS LISTED IN SUBDIVISION (A) OF THIS SECTION DUE TO FAILURE ON THE PART OF THE APPROPRIATE GOVERNING BODY TO PROVIDE NECESSARY UTILITY SERVICES AND/OR INFRASTRUCTURE, THAT CONDITION MAY NOT BE USED IN THE DETERMINATION OF BLIGHT.

(C) MULTIPLE PROPERTIES AND PROJECT AREAS MAY BE DECLARED BLIGHTED IF THEY MEET ANY OF THE FOLLOWING CONDITIONS:

(1) FOR PURPOSES OF ACQUIRING MULTIPLE UNITS OF PROPERTY BY EMINENT DOMAIN, AN AREA MAY BE DECLARED GENERALLY BLIGHTED ONLY IF:

(A) THE AREA IS LOCATED IN AN URBAN OR SUBURBAN AREA GENERALLY SERVED BY EXISTING UTILITIES AND INFRASTRUCTURE; AND

(B) SEVENTY-FIVE PERCENT OF THE INDIVIDUAL PARCELS IN THE AREA ARE DECLARED BLIGHTED UNDER SUBDIVISION (A) OF THIS SECTION.

(2) A CONDEMNOR MAY USE EMINENT DOMAIN TO ACQUIRE ANY UNIT OF PROPERTY WITHIN A BLIGHTED PROJECT AREA.

(3) PROPERTIES OWNED BY A DEVELOPER OR CONDEMNOR INVOLVED IN A REDEVELOPMENT PROJECT MAY BE INCLUDED IN ANY BLIGHTED PROJECT AREA DETERMINATION.

(4) FOR PURPOSES OF THIS SECTION, A BUILDING CONTAINING MULTIPLE UNITS SHALL BE TREATED AS A SINGLE PROPERTY.

(D) THE FOLLOWING FINDINGS SHALL BE REQUIRED BEFORE A PROPERTY OR PROJECT AREA MAY BE DECLARED BLIGHTED:

(1) TO DECLARE ANY SINGLE PROPERTY BLIGHTED, THE CONDEMNOR MUST MAKE WRITTEN FINDINGS IDENTIFYING THE SPECIFIC CONDITIONS WHICH RENDER THE PROPERTY BLIGHTED UNDER SUBDIVISION (A) OF THIS SECTION.

(2) TO DECLARE MULTIPLE PROPERTIES OR PROJECT AREAS BLIGHTED, THE CONDEMNOR MUST MAKE WRITTEN FINDINGS DEMONSTRATING THAT THE REQUIREMENTS

OF SUBDIVISION (C) OF THIS SECTION HAVE BEEN MET. TO DEMONSTRATE THAT SEVENTY-FIVE PERCENT OF THE PARCELS IN THE AREA ARE INDIVIDUALLY BLIGHTED, EACH BLIGHTED PARCEL MUST BE IDENTIFIED AND THE SPECIFIC CONDITIONS RENDERING IT BLIGHTED UNDER SUBDIVISION (A) OF THIS SECTION MUST BE IDENTIFIED.

(E) ANY DECLARATION MADE PURSUANT TO SUBDIVISION (D) OF THIS SECTION SHALL BE VALID FOR A PERIOD OF TEN YEARS.

S 5. Section 2 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, the ninth undesignated paragraph as added by chapter 280 of the laws of 1984 and the tenth undesignated paragraph as amended by chapter 747 of the laws of 2005, is amended to read as follows:

S 2. Statement of legislative findings and purposes. It is hereby found and declared that there exists in [urban] SOME areas of this state a condition of substantial and persistent unemployment and underemployment which causes hardship to many individuals and families, wastes vital human resources, increases the public assistance burdens of the state and municipalities, impairs the security of family life, contributes to the growth of crime and delinquency, prevents many of our youth from finishing their educations, impedes the economic and physical development of municipalities and adversely affects the welfare and prosperity of all the people of the state. [Many existing industrial, manufacturing and commercial facilities in such urban areas are obsolete and inefficient, dilapidated, and without adequate mass transportation facilities and public services. Many of such facilities are underutilized or in the process of being vacated, creating additional unemployment. Technological advances and the provision of modern, efficient facilities in other states will speed the obsolescence and abandonment of existing facilities causing serious injury to the economy of the state. Many existing and planned industrial, manufacturing and commercial facilities are, moreover, far from or not easily accessible to the places of residence of substantial numbers of unemployed persons. As a result, problems of chronic unemployment are not being alleviated but are aggravated. New industrial, manufacturing and commercial facilities are required to attract and house new industries and thereby to reduce the hazards of unemployment. The unaided efforts of private enterprise have not met and cannot meet the needs of providing such facilities due to problems encountered in assembling suitable building sites]

IT IS FURTHER FOUND AND DECLARED THAT THE UNAIDED EFFORTS OF PRIVATE INDUSTRIAL, MANUFACTURING AND COMMERCIAL BUSINESSES ARE NEGATIVELY AFFECTED BY AGING AND INEFFICIENT FACILITIES, DIFFICULTIES IN FINDING SUITABLE BUILDING SITES FOR NEW FACILITIES, lack of adequate public services, the unavailability of private capital for development [in such urban areas], and the inability of private enterprise alone to plan[,] AND finance DEVELOPMENT and TO coordinate [industrial and commercial development] SUCH DEVELOPMENT with [residential developments for persons and families of low income and with] AFFORDABLE HOUSING DEVELOPMENT, COMMUNITY DEVELOPMENT PROGRAMS, public services and mass transportation facilities.

It is further found and declared that there exist in many municipalities within this state [residential, nonresidential, commercial, industrial or vacant areas, and combinations thereof, which are slum or blighted, or which are becoming slum or blighted areas because of substandard, insanitary, deteriorated or deteriorating conditions, including obsolete and dilapidated buildings and structures, defective construction, outmoded design, lack of proper sanitary facilities or

adequate fire or safety protection, excessive land coverage, insufficient light and ventilation, excessive population density, illegal uses and conversions, inadequate maintenance, buildings abandoned or not utilized in whole or substantial part, obsolete systems of utilities, poorly or improperly designed street patterns and intersections, inadequate access to areas, traffic congestion hazardous to the public safety, lack of suitable off-street parking, inadequate loading and unloading facilities, impractical street widths, sizes and shapes, blocks and lots of irregular form, shape or insufficient size, width or depth, unsuitable topography, subsoil or other physical conditions, all of] BLIGHTED PROPERTIES AND BLIGHTED AREAS, WHICH ARE CHARACTERIZED BY PREMISES UNFIT FOR HUMAN HABITATION AND DANGEROUS TO LIFE AND PROPERTY, AND which hamper or impede proper and economic development of such areas and which impair or arrest the sound growth of the area, community or municipality, and the state as a whole.

It is further found and declared that there is a serious need throughout the state for adequate educational, recreational, cultural and other community facilities, the lack of which threatens and adversely affects the health, safety[, morals] and welfare of the people of the state.

It is further found and declared that there continues to exist throughout the state a seriously inadequate supply of [safe and sanitary] DECENT dwelling accommodations for persons and families of low income. This condition is contrary to the public interest and threatens the health, safety, welfare, comfort and security of the people of the state. The ordinary operations of private enterprise cannot provide an adequate supply of safe and sanitary dwelling accommodations [at rentals] which persons and families of low income can afford.

IT IS FURTHER FOUND AND DECLARED THAT THERE IS AN URGENT NEED TO PROTECT AND ENHANCE THE QUALITY OF THE NATURAL ENVIRONMENT, TO ENCOURAGE THE DEVELOPMENT AND EXPANSION OF EXISTING AND ALTERNATIVE SOURCES OF ENERGY AND THE CONSERVATION OF ENERGY, AND TO ABATE AND PREVENT THE GENERATION OF HAZARDOUS WASTE, TOXIC BY-PRODUCTS, AND OTHER TYPES OF ENVIRONMENTAL POLLUTION.

It is hereby declared to be the policy of the state to promote a vigorous and growing economy, to prevent economic stagnation and to encourage the creation of new job opportunities in order to protect against the hazards of unemployment, reduce the level of public assistance to now indigent individuals and families, increase revenues to the state and to its municipalities and to achieve stable and diversified local economies. In furtherance of these goals, it is the policy of the state to retain existing industries and to attract new industries through the acquisition, construction, FINANCING, reconstruction and rehabilitation of industrial and manufacturing plants and commercial facilities, and to develop sites for new industrial and commercial building. It is further declared to be the policy of the state to promote the development of such plants and facilities, reasonably accessible to residential facilities, in those areas where substantial unemployment or underemployment exists, to the end that the industrial and commercial development [of our urban areas] will proceed in sound fashion and in coordination with development of housing, mass transportation and public services, and that job opportunities will be available in those areas where people lack jobs.

It is further declared to be the policy of the state to promote the safety, health[, morals] and welfare of the people of the state and to promote the sound growth and development of our municipalities through the [correction of such substandard, insanitary, blighted, deteriorated

or deteriorating conditions, factors and characteristics by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or conservation of such areas,] REDEVELOPMENT OF BLIGHTED AREAS and [of areas reasonably accessible thereto] the undertaking of public and private improvement programs [related thereto], including the provision of educational, recreational and cultural facilities, and the encouragement of participation in these programs by private enterprise. IN FURTHERANCE OF THESE GOALS, IT IS THE POLICY OF THE STATE TO ENGAGE AND EMPOWER THE PUBLIC THROUGH EDUCATIONAL PROGRAMS, COMMUNITY OUTREACH, AND AN OPEN AND INCLUSIVE REDEVELOPMENT PLANNING PROCESS; TO COORDINATE REDEVELOPMENT PROJECTS AND IMPROVEMENT PROGRAMS WITH LOCAL GOVERNMENT PLANNING GOALS; TO RESPECT COMMUNITIES' EXISTING SOCIAL AND CULTURAL FABRIC AND TO LIMIT RESIDENTIAL AND BUSINESS DISPLACEMENT TO MAXIMUM EXTENT POSSIBLE; TO REUSE EXISTING RESOURCES AND INFRASTRUCTURE AND RECYCLE MATERIALS AND STRUCTURES; TO ENCOURAGE ENERGY EFFICIENCY AND SUSTAINABLE BUILDING; TO CONSERVE UNDEVELOPED LAND AND ENCOURAGE INFILL AND BROWNFIELD DEVELOPMENT; TO IMPROVE OR RESTORE NATURAL SYSTEMS SUCH AS STREAMBEDS, DRAINAGE COURSES, WETLANDS, RIVERS, AND OTHER ECOLOGICAL FEATURES, AND TO ENCOURAGE THE CREATION OF PUBLICLY AVAILABLE OPEN SPACES; TO ENSURE THAT ENVIRONMENTAL POLLUTION DOES NOT DISPARATELY AFFECT AREAS WITH A SUBSTANTIAL NUMBER OF MINORITY OR LOW INCOME HOUSEHOLDS; TO INCORPORATE CULTURAL RESOURCES AND LANDSCAPES INTO PROJECT DESIGNS BY PRESERVING AND REHABILITATING BUILDINGS WITH CULTURAL, HISTORICAL OR ARCHITECTURAL SIGNIFICANCE, ENCOURAGING ADAPTIVE REUSE AS AN ALTERNATIVE TO DEMOLITION AND NEW CONSTRUCTION, AND ENCOURAGING COMPATIBLE DESIGN OF NEW CONSTRUCTION; TO ENCOURAGE THE RETENTION AND CONSTRUCTION OF AFFORDABLE HOUSING THROUGH INCENTIVES, LOANS, AND OTHER PROGRAMS; TO ENCOURAGE DEVELOPMENT THAT IS ACCESSIBLE AND INVITING TO PEDESTRIANS, BICYCLISTS AND TRANSIT USERS, AND TO DISCOURAGE DEVELOPMENT THAT IS RELIANT ON PERSONAL AUTOMOBILE TRANSPORTATION; TO INCREASE OPPORTUNITIES FOR PRIVATE ENTERPRISE, ESPECIALLY FOR SMALL BUSINESSES, LOCAL BUSINESSES, AND BUSINESSES OWNED BY MINORITIES AND WOMEN, THROUGH PROCEDURES THAT ARE FAIR, OPEN, EQUITABLE, TRANSPARENT, AND DEMONSTRATED TO BE THE BEST CHOICE FOR THE PUBLIC INTEREST; TO PROVIDE SUFFICIENT GUARANTEES AND PROTECTIONS IN THE EVENT THAT PRIVATE DEVELOPERS WITHDRAW FROM PARTICIPATION IN A REDEVELOPMENT PROJECT OR IMPROVEMENT PROGRAM; TO INCREASE EMPLOYMENT OPPORTUNITIES FOR LOCAL RESIDENTS, ESPECIALLY LOW INCOME RESIDENTS, HOMELESS PERSONS, SINGLE PARENTS, FORMERLY INCARCERATED PERSONS, AND PERSONS WITH OTHER BARRIERS TO EMPLOYMENT, THROUGH JOB TRAINING, LOCAL HIRING AND OTHER ASSISTANCE PROGRAMS; AND TO ENCOURAGE THE CREATION OF QUALITY JOBS THAT PROVIDE A LIVING WAGE, ADEQUATE HEALTH BENEFITS, AND OPPORTUNITIES FOR ADVANCEMENT.

It is further declared to be the policy of the state to promote the safety, health[, morals] and welfare of the people of the state through the provision of adequate, safe and sanitary dwelling accommodations and facilities incidental or appurtenant thereto for persons and families of low income.

For these purposes, there should be created a corporate governmental agency to be known as the "New York state urban development corporation" which, through issuance of bonds and notes to the private, investing public, by encouraging maximum participation by the private sector of the economy, including the sale or lease of the corporation's interest in projects at the earliest time deemed feasible, and through participation in programs undertaken by the state, its agencies and subdivisions, and by municipalities and the federal government, may provide or obtain the capital resources necessary to acquire, construct, recon-

struct, rehabilitate or improve such industrial, manufacturing, commercial, educational, recreational and cultural facilities, and housing accommodations for persons and families of low income, and facilities incidental or appurtenant thereto, and to carry out the [clearance, replanning, reconstruction and rehabilitation of such substandard and insanitary] REDEVELOPMENT OF BLIGHTED areas.

It is further declared to be the policy of New York state to encourage the development of research and development facilities and high technology industrial incubator space at institutions of higher education located in this state and authorized to confer degrees by law or by the board of regents, or on lands in reasonable proximity to such institutions provided that (i) in the case of research and development facilities such facilities are for the cooperative use of one or more such institutions and one or more business corporations, research consortia or other industrial organizations involved in research, development, demonstration, or other technologically oriented industrial activities; and (ii) in the case of high technology industrial incubator space, such space shall be for rental to business concerns which are in their formative stages and which are involved in high technology activities, including but not limited to business concerns initiated by students, employees of such institution, including faculty members and other persons or firms academically associated with such institution.

It is hereby declared that the acquisition, construction, FINANCING, reconstruction, rehabilitation or improvement of such industrial, manufacturing and commercial facilities, and of such cultural, educational and recreational facilities including but not limited to facilities identified as projects and called for to implement a state designated heritage area management plan as provided in title G of the parks, recreation and historic preservation law; the [clearance, replanning, reconstruction and rehabilitation of such substandard and insanitary] REDEVELOPMENT OF BLIGHTED areas; and the provision of adequate, safe and sanitary housing accommodations for persons and families of low income and such facilities as may be incidental or appurtenant thereto are public uses and public purposes for which public money may be loaned and private property may be acquired and tax exemption granted, and that the powers and duties of the New York state urban development corporation as hereinafter prescribed are necessary and proper for the purpose of achieving the ends here recited.

S 6. Section 3 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding two new subdivisions 31 and 32 to read as follows:

(31) "BLIGHTED PROPERTY" AND "BLIGHTED AREA". PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION 204-A OF THE EMINENT DOMAIN PROCEDURE LAW.

(32) "SLUM". PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION 204-A OF THE EMINENT DOMAIN PROCEDURE LAW.

S 7. Subdivision 12 of section 3 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is REPEALED and a new subdivision 12 is added to read as follows:

(12) "SUBSTANDARD AND INSANITARY PROPERTY". PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION 204-A OF THE EMINENT DOMAIN PROCEDURE LAW.

S 8. Subdivision 7 of section 5 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended to read as follows:

(7) To acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase, condemnation or otherwise, leaseholds, real, personal or mixed property or any interest therein, SUBJECT TO THE LIMITATIONS IN SECTION 204-A OF THE EMINENT DOMAIN PROCEDURE LAW; to own, hold, clear, improve and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same;

S 9. Section 10 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, subdivision (d) as amended by chapter 847 of the laws of 1971, subdivisions (e) and (f) as added and subdivisions (g) and (h) as relettered by chapter 839 of the laws of 1987, is amended to read as follows:

S 10. Findings of the corporation. Notwithstanding any other provision of this act, the corporation shall not be empowered to undertake the acquisition, construction, reconstruction, rehabilitation or improvement of a project unless the corporation finds:

(a) in the case of a residential project:

(1) That there exists, in the area in which the project is to be located, or in an area reasonably accessible to such area, a need for [safe and sanitary] DECENT housing accommodations for persons or families of low income, which the operations of private enterprise cannot provide;

(2) That the project has been approved as a project of a housing company pursuant to the provisions of the private housing finance law.

(b) in the case of an industrial project:

(1) That the area in which the project is to be located is a [substandard or insanitary area, or is in danger of becoming a substandard or insanitary area] BLIGHTED AREA, AS THAT TERM IS DEFINED IN SUBDIVISION (H) OF SECTION 103 OF THE EMINENT DOMAIN PROCEDURE LAW, wherein there exists a condition of substantial and persistent unemployment or underemployment;

(2) That the acquisition or construction and operation of such project will prevent, eliminate or reduce unemployment or underemployment in such area;

(3) That such project shall consist of a building or buildings which are suitable for manufacturing, warehousing or research or other industrial, business or commercial purposes[.];

(4) That adequate provision has been, or will be made for the payment of the cost of the acquisition, construction, operation, maintenance and upkeep of such project[.];

(5) That the acquisition and construction, proposed leasing, operation and use of such project will aid in the development, growth and prosperity of the state and the area in which such project is located;

(6) That the plans and specifications assure adequate light, air, sanitation and fire protection.

(c) in the case of a land use improvement project:

(1) That the area in which the project is to be located is a [substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest the sound growth and development of the municipality] BLIGHTED AREA, AS THAT TERM IS DEFINED IN SUBDIVISION (H) OF SECTION 103 OF THE EMINENT DOMAIN PROCEDURE LAW;

(2) That the project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto;

(3) That the plan or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole.

(d) in the case of a civic project:

(1) That THE AREA IN WHICH THE PROJECT IS TO BE LOCATED IS A BLIGHTED AREA, AS THAT TERM IS DEFINED IN SUBDIVISION (H) OF SECTION 103 OF THE EMINENT DOMAIN PROCEDURE LAW, WHEREIN there exists [in the area in which the project is to be located,] a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the project;

(2) That the project shall consist of a building or buildings or other facilities which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;

(3) That such project will be leased to or owned by the state or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be, made for the payment of the cost of acquisition, construction, operation, maintenance and upkeep of the project;

(4) That the plans and specifications assure or will assure adequate light, air, sanitation and fire protection.

(e) in the case of an industrial effectiveness project:

(1) That a feasibility study or productivity assessment exists demonstrating the potential for future profitability of the firm requesting financial assistance and such study or assessment has been reviewed and approved by the commissioner of economic development;

(2) That for loans to implement a corporate restructuring or turnaround plan, the management of the industrial firm requesting assistance is capable and the firm has a sound business development plan that includes measures to ensure labor and management cooperation and to effect changes required to continue as a successful business;

(3) That the requested financial assistance is not available from other public or private financing sources; and

(4) That the area in which the project is to be located is a [substandard or insanitary area, or is in danger of becoming a substandard or insanitary area] BLIGHTED AREA, AS THAT TERM IS DEFINED IN SUBDIVISION (H) OF SECTION 103 OF THE EMINENT DOMAIN PROCEDURE LAW, wherein there exists a condition of substantial and persistent unemployment or underemployment.

(f) in the case of a small and medium-sized business assistance project:

(1) That the area in which the project will be located is a [substandard or insanitary area, or is in danger of becoming a substandard or insanitary area] BLIGHTED AREA, AS THAT TERM IS DEFINED IN SUBDIVISION (H) OF SECTION 103 OF THE EMINENT DOMAIN PROCEDURE LAW, wherein there exists a condition of substantial and persistent unemployment or underemployment;

(2) That the project demonstrates market, management and financial feasibility and has a clear likelihood of success;

(3) That the [industrial] firm provides at least a ten percent equity contribution and such contribution is not derived from other governmental sources;

(4) That the requested financial assistance is not available from other public or private financing sources on terms compatible with the successful completion of the project;

(5) That the project will not result in the relocation of any [industrial] firm from one municipality within the state to another municipality, OR IN THE ABANDONMENT OF ONE OR MORE OF THE FIRMS' PLANTS OR FACILITIES LOCATED WITHIN THE STATE, except under one of the following conditions: (i) when [an industrial] A firm is relocating within a municipality with a population of at least one million where the governing body of such municipality approves such relocation; [or] (ii) the corporation notifies each municipality from which such [industrial] firm will be relocated and each municipality agrees to such relocation; OR (III) THE CORPORATION SHALL DETERMINE ON THE BASIS OF THE APPLICATION BEFORE IT THAT THE PROJECT IS REASONABLY NECESSARY TO DISCOURAGE THE FIRM FROM RELOCATING TO A LOCATION OUTSIDE THE STATE AND TO PRESERVE THE COMPETITIVE POSITION OF THE FIRM WITHIN ITS RESPECTIVE INDUSTRY; and

(6) That the project is not for the purpose of refinancing any portion of the total project cost or other existing loans or debts of the project sponsor or owner.

(g) in the case of all projects, that [there is a feasible method for the relocation of families and individuals displaced from the project area into decent, safe and sanitary dwellings] THE DISPLACEMENT OF RESIDENTS AND BUSINESSES IS LIMITED TO THE MAXIMUM EXTENT POSSIBLE, AND THAT ALL DISPLACED RESIDENTS AND BUSINESSES WILL BE AFFORDED ADEQUATE COMPENSATION AND/OR ASSISTANCE TO BE RELOCATED TO SUBSTANTIALLY COMPARABLE PROPERTIES, which are or will be [provided] LOCATED in the project area or in [other areas] AN AREA REASONABLY PROXIMATE TO THE PROJECT AREA AND not generally less desirable in regard to public utilities and public and commercial facilities, at SUBSTANTIALLY COMPARABLE rents or prices [within the financial means of such families or individuals], and reasonably accessible to their places of DWELLING AND/OR employment. [Insofar as is feasible, the] THE corporation shall offer SUBSTANTIALLY COMPARABLE housing accommodations to [such families and individuals] DISPLACED RESIDENTS in [residential] projects [of the corporation] THAT INCLUDE A RESIDENTIAL COMPONENT, AND INSOFAR AS IS FEASIBLE, THE CORPORATION SHALL OFFER SUBSTANTIALLY COMPARABLE INDUSTRIAL OR COMMERCIAL ACCOMMODATIONS TO DISPLACED BUSINESSES IN PROJECTS THAT INCLUDE AN INDUSTRIAL OR COMMERCIAL COMPONENT. The corporation may render to business and commercial tenants and [to families or other persons] displaced [from the project area,] RESIDENTS ANY OTHER such assistance as it may deem [necessary to enable them to relocate] APPROPRIATE.

(h) in the case of all projects, the corporation shall state the basis for its findings.

S 10. This act shall take effect immediately.