

1678

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the general municipal law, in relation to the brownfield opportunity area program

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

1     Section 1. The opening paragraph of section 27-1403 of the environ-  
2     mental conservation law, as added by section 1 of part A of chapter 1 of  
3     the laws of 2003, is amended to read as follows:

4     The legislature hereby finds that there are thousands of abandoned and  
5     likely contaminated properties that threaten the health and vitality of  
6     the communities they burden, and that these sites, known as brownfields,  
7     are also contributing to sprawl development and loss of open space. It  
8     is therefore declared that, to advance the policy of the state of New  
9     York to conserve, improve, and protect its natural resources and envi-  
10    ronment and control water, land, and air pollution in order to enhance  
11    the health, safety, and welfare of the people of the state and their  
12    overall economic and social well being, it is appropriate to adopt this  
13    act to encourage persons to voluntarily remediate brownfield sites for  
14    reuse and redevelopment by establishing within the department a statuto-  
15    ry program to encourage cleanup and redevelopment of brownfield sites.  
16    All remedies shall be fully protective of public health and the environ-  
17    ment including, but not limited to, groundwater according to its classi-  
18    fication pursuant to section 17-0301 of this chapter. A remedial program  
19    that achieves a permanent cleanup of a contaminated site, including the  
20    restoration of groundwater to its classified use, is to be preferred  
21    over a remedial program that does not do so. It is the intent of the  
22    legislature that the provisions of this brownfield cleanup program shall  
23    not be construed as limiting or otherwise affecting any authority  
24    conferred upon the department by any other provision of law. It is also

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

LBD04748-01-3

1 the intent of the legislature to encourage the cleanup and redevelopment  
2 of brownfields located in brownfield opportunity areas, as defined in  
3 section nine hundred seventy-r of the general municipal law, and to  
4 encourage such redevelopment to be in conformance with the brownfield  
5 opportunity area nomination and implementation strategies approved  
6 pursuant to such law.

7 S 2. Paragraph (d) of subdivision 3 of section 27-1413 of the environ-  
8 mental conservation law, as amended by section 6 of part A of chapter  
9 577 of the laws of 2004, is amended and a new paragraph (e) is added to  
10 read as follows:

11 (d) the economic benefit to the state to be realized by the expe-  
12 ditious remediation of the property[.]; AND

13 (E) FOR SITES WITHIN A BROWNFIELD OPPORTUNITY AREA AS DEFINED IN  
14 SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, THE COMPAT-  
15 IBILITY OF THE REMEDY WITH THE BROWNFIELD OPPORTUNITY AREA NOMINATION  
16 AND IMPLEMENTATION STRATEGIES, AS VERIFIED BY THE SITE OWNER.

17 S 3. Paragraph (d) of subdivision 7 of section 27-1415 of the environ-  
18 mental conservation law, as added by section 1 of part A of chapter 1 of  
19 the laws of 2003, is amended to read as follows:

20 (d) The commissioner shall create, update, and maintain a database  
21 system for public information purposes and to monitor and track all  
22 brownfield sites subject to this title. Data incorporated into such  
23 system for each site for which information has been collected pursuant  
24 to this title shall include, but shall not be limited to, a site summa-  
25 ry, name of site owner, location, status of site remedial activity,  
26 WHETHER THE SITE IS LOCATED IN A BROWNFIELD OPPORTUNITY AREA AS DEFINED  
27 IN SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, and, if  
28 one has been created pursuant to title thirty-six of article seventy-one  
29 of this chapter, a copy of the environmental easement, and a contact  
30 number to obtain additional information. Sites shall be added to such  
31 system upon the execution of a brownfield site cleanup agreement pursu-  
32 ant to section 27-1409 of this title. If and when an environmental ease-  
33 ment is modified or extinguished, the copy of the environmental easement  
34 contained in the database shall be updated accordingly. Such database  
35 shall be in such a format that it can be readily searched by affected  
36 local governments and the public for purposes including but not limited  
37 to determining whether an environmental easement has been recorded for a  
38 site pursuant to title thirty-six of article seventy-one of this chap-  
39 ter. The database shall be available electronically. Information from  
40 this database shall be incorporated into the geographic information  
41 system created and maintained by the department pursuant to section  
42 3-0315 of this chapter.

43 S 4. Paragraph (a) of subdivision 4 of section 27-1417 of the environ-  
44 mental conservation law, as amended by section 8 of part A of chapter  
45 577 of the laws of 2004, is amended to read as follows:

46 (a) Within the limits of appropriations made available pursuant to  
47 paragraph [j] (J) of subdivision three of section ninety-seven-b of the  
48 state finance law, the commissioner is authorized to provide grants to  
49 any not-for-profit corporation exempt from taxation under section  
50 501(c)(3) of the internal revenue code at any site WHICH MAY BE AFFECTED  
51 BY A BROWNFIELD SITE REMEDIAL PROGRAM AND IS determined BY THE DEPART-  
52 MENT EITHER to pose a significant threat [by the department and which  
53 may be affected by a brownfield site remedial program] OR TO BE LOCATED  
54 IN A BROWNFIELD OPPORTUNITY AREA AS DEFINED IN SECTION NINE HUNDRED  
55 SEVENTY-R OF THE GENERAL MUNICIPAL LAW. To qualify to receive such  
56 assistance, a community group must demonstrate that its membership

1 represents the interests of the community affected by such site.  
2 Furthermore, the commissioner is authorized to direct any applicant who  
3 is a responsible party, as defined in section 27-1313 of this article,  
4 to provide such grants. Such grants shall be known as technical assist-  
5 ance grants and may be used to obtain technical assistance in interpret-  
6 ing information with regard to the nature of the hazard posed by contam-  
7 ination located AT or emanating from a brownfield site or sites and the  
8 development and implementation of a brownfield site remedial program or  
9 programs. Such grants may also be used to hire health and safety experts  
10 to advise affected residents on any health assessments and for the  
11 education of interested affected community members to enable them to  
12 more effectively participate in the remedy selection process. Grants  
13 awarded under this section may not be used for the purposes of collect-  
14 ing field sampling data, political activity or lobbying legislative  
15 bodies.

16 S 5. Paragraphs e and f of subdivision 1 of section 27-1420 of the  
17 environmental conservation law, as added by chapter 390 of the laws of  
18 2008, are amended to read as follows:

19 e. the total number of certificates of completion issued; [and]

20 f. HOW MANY OF THE SITES APPROVED FOR PARTICIPATION, DENIED PARTIC-  
21 IPATION, CURRENTLY PARTICIPATING, AND GRANTED CERTIFICATES OF COMPLETION  
22 ARE LOCATED IN BROWNFIELD OPPORTUNITY AREAS AS DEFINED IN SECTION NINE  
23 HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW; AND

24 G. such other information as the commissioner may determine is rele-  
25 vant to the status of the administration of the program.

26 S 6. Subdivision 1 of section 27-1423 of the environmental conserva-  
27 tion law, as amended by section 11 of part A of chapter 577 of the laws  
28 of 2004, is amended and a new subdivision 3 is added to read as follows:

29 1. Pursuant to timetables contained in the brownfield site cleanup  
30 agreement, AND EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF THIS  
31 SECTION, the volunteer shall pay all state costs incurred in negotiating  
32 and overseeing implementation of such agreement, provided, however, as  
33 set forth in a brownfield site cleanup agreement pursuant to this title,  
34 that such costs may be based upon a reasonable flat-fee for oversight,  
35 which shall reflect the projected future state costs to be incurred in  
36 negotiating and overseeing implementation of such agreement. In addi-  
37 tion, a participant shall pay all costs incurred by the state up to the  
38 effective date of such agreement.

39 3. NO COSTS SHALL BE INCURRED UNDER THIS SECTION FOR THE NEGOTIATION  
40 AND OVERSIGHT OF A BROWNFIELD SITE CLEANUP AGREEMENT FOR SITES WITHIN A  
41 BROWNFIELD OPPORTUNITY AREA, PROVIDED THAT THE FUTURE USE OF THE SITE,  
42 AS DESCRIBED AND VERIFIED BY THE SITE OWNER, IS COMPATIBLE WITH THE  
43 BROWNFIELD OPPORTUNITY AREA NOMINATION AND IMPLEMENTATION STRATEGIES,  
44 AND DECLARED AS SUCH BY THE SECRETARY OF STATE. THE FULL COST INCURRED  
45 IN NEGOTIATING AND OVERSEEING IMPLEMENTATION OF THE BROWNFIELD SITE  
46 CLEANUP AGREEMENT SHALL BE IMMEDIATELY PAYABLE UPON DEVELOPMENT OF THE  
47 SITE CONSISTENT WITH THE FUTURE USE AS DESCRIBED AND VERIFIED BY THE  
48 SITE OWNER AND WITH THE BROWNFIELD OPPORTUNITY AREA IMPLEMENTATION STRA-  
49 TEGIES DECLARED AS SUCH BY THE SECRETARY OF STATE.

50 S 7. Subdivision 1 of section 970-r of the general municipal law is  
51 amended by adding a new paragraph j to read as follows:

52 J. "BROWNFIELD OPPORTUNITY AREA" SHALL MEAN A STUDY AREA ACCEPTED BY  
53 THE SECRETARY IN CONNECTION WITH A FUNDING AWARD MADE PURSUANT TO THIS  
54 SECTION OR A BROWNFIELD OPPORTUNITY AREA DESIGNATED BY THE SECRETARY  
55 PURSUANT TO THIS SECTION.

1 S 8. Paragraph b of subdivision 2 of section 970-r of the general  
2 municipal law, as added by section 1 of part F of chapter 1 of the laws  
3 of 2003, is amended to read as follows:

4 b. Activities eligible to receive such assistance shall include, but  
5 are not limited to, the assembly and development of basic information  
6 about:

7 (1) the borders of the [proposed] brownfield opportunity area;

8 (2) the number and size of brownfield sites;

9 (3) current and anticipated uses of the properties in the [proposed]  
10 BROWNFIELD OPPORTUNITY area;

11 (4) current and anticipated future conditions of groundwater in the  
12 [proposed] BROWNFIELD OPPORTUNITY area;

13 (5) known data about the environmental conditions of the properties in  
14 the [proposed] BROWNFIELD OPPORTUNITY area;

15 (6) ownership of the properties in the [proposed] BROWNFIELD OPPORTU-  
16 NITY area; and

17 (7) preliminary descriptions of possible remediation strategies, reuse  
18 opportunities, necessary infrastructure improvements and other public or  
19 private measures needed to stimulate investment, promote revitalization,  
20 and enhance community health and environmental conditions.

21 S 9. Subdivision 2 of section 970-r of the general municipal law is  
22 amended by adding a new paragraph h to read as follows:

23 H. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE  
24 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE  
25 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH  
26 FUNDS TO THE SECRETARY.

27 S 10. Subdivision 3 of section 970-r of the general municipal law, as  
28 added by section 1 of part F of chapter 1 of the laws of 2003, para-  
29 graphs a, b, g, h, i, the opening paragraph and subparagraph 6 of para-  
30 graph f as amended by chapter 390 of the laws of 2008, paragraph f as  
31 amended by section 1 of part F of chapter 577 of the laws of 2004, is  
32 amended to read as follows:

33 3. State assistance for nominations to designate brownfield opportu-  
34 nity areas. a. Within the limits of appropriations therefor, the secre-  
35 tary is authorized to provide, on a competitive basis, financial assist-  
36 ance to municipalities, to community based organizations, to community  
37 boards, or to municipalities and community based organizations acting in  
38 cooperation to prepare a nomination for designation of a brownfield  
39 opportunity area. Such financial assistance shall not exceed ninety  
40 percent of the costs of such nomination for any such area.

41 b. An application for such financial assistance shall include an indi-  
42 cation of support from owners of brownfield sites in the [proposed]  
43 brownfield opportunity area. All residents and property owners in the  
44 [proposed] brownfield opportunity area shall receive notice OF THE  
45 APPLICATION in such form and manner as the secretary shall prescribe.

46 c. No application for such financial assistance shall be considered  
47 unless the applicant demonstrates that it has, to the maximum extent  
48 practicable, solicited and considered the views of residents of the  
49 [proposed] brownfield opportunity area, the views of state and local  
50 officials elected to represent such residents and the local organiza-  
51 tions representing such residents.

52 d. Activities eligible to receive such financial assistance shall  
53 include the identification, preparation, creation, development and  
54 assembly of information and elements to be included in a nomination for  
55 designation of a brownfield opportunity area, including but not limited  
56 to:

(1) A PLAN FOR THE REDEVELOPMENT AND REVITALIZATION OF THE BROWNFIELD OPPORTUNITY AREA, THAT CONTAINS BUT IS NOT LIMITED TO:

[(1)] (I) the borders of the [proposed] brownfield opportunity area;

[(2)] (II) the location of each known or suspected brownfield site in the [proposed] brownfield opportunity area;

[(3)] (III) EXISTING DETAILED ASSESSMENTS OF INDIVIDUAL BROWNFIELD SITES AND, WHERE THE CONSENT OF THE SITE OWNER HAS BEEN OBTAINED, THE NEED FOR CONDUCTING ON-SITE ASSESSMENTS;

[(4)] (IV) KNOWN DATA ABOUT THE ENVIRONMENTAL CONDITIONS OF PROPERTIES IN THE BROWNFIELD OPPORTUNITY AREA;

[(5)] (V) OWNERSHIP OF THE PROPERTIES IN THE BROWNFIELD OPPORTUNITY AREA;

[(6)] (VI) THE GOALS AND OBJECTIVES, BOTH SHORT TERM AND LONG TERM, FOR THE ECONOMIC REVITALIZATION OF THE BROWNFIELD OPPORTUNITY AREA;

[(7)] (VII) IDENTIFICATION OF THE PUBLICLY CONTROLLED AND DEVELOPABLE LAND AND BUILDINGS WITHIN THE BROWNFIELD OPPORTUNITY AREA WHICH ARE OR COULD BE MADE AVAILABLE FOR DEVELOPMENT; AND

[(8)] (VIII) the identification of strategic sites within the [proposed] brownfield opportunity area AND THE DEVELOPMENT OF STRATEGIES FOR IMPROVING THE LIKELIHOOD THAT SUCH STRATEGIC SITES ARE REUSED OR DEVELOPED CONSISTENT WITH THE BROWNFIELD OPPORTUNITY AREA;

[(9)] (2) AN IMPLEMENTATION STRATEGY THAT INCLUDES, BUT IS NOT LIMITED TO:

[(10)] (I) the type of potential developments anticipated for sites within the [proposed] brownfield opportunity area proposed by either the current or the prospective owners of such sites;

[(11)] (II) local legislative or regulatory action which may be required to implement a plan for the redevelopment of the [proposed] brownfield opportunity area;

[(12)] (III) priorities for public and private investment in infrastructure, open space, economic development, housing, or community facilities in the [proposed] brownfield opportunity area, INCLUDING THOSE THAT MAY BE ELIGIBLE FOR PRIORITY OR PREFERENCE IN ACCORDANCE WITH SUBDIVISION FIVE OF THIS SECTION;

[(13)] (IV) mapping of current and anticipated uses of the properties and groundwater in the [proposed] brownfield opportunity area;

[(14)] (V) existing detailed assessments of individual brownfield sites and, where the consent of the site owner has been obtained, the need for conducting on-site assessments;

[(15)] (VI) known data about the environmental conditions of properties in the [proposed] brownfield opportunity area;

[(16)] (VII) ownership of the properties in the [proposed] brownfield opportunity area; AND

[(17)] (VIII) descriptions of possible remediation strategies, brownfield redevelopment, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions[;

(12) the goals and objectives, both short term and long term, for the economic revitalization of the proposed brownfield opportunity area; and

(13) the publicly controlled and other developable lands and buildings within the proposed brownfield opportunity area which are or could be made available for residential, industrial and commercial development].

(3) ACTIVITIES TO ADDRESS KNOWN CONTAMINATION:

(I) THE TESTING OF PROPERTIES TO DETERMINE THE NATURE AND EXTENT OF THE CONTAMINATION (INCLUDING SOIL AND GROUNDWATER);

(II) ENVIRONMENTAL ASSESSMENTS, IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER;

1 (III) THE DEVELOPMENT OF A PROPOSED REMEDIATION STRATEGY TO ADDRESS  
2 ANY IDENTIFIED CONTAMINATION, IN CONFORMANCE WITH APPLICABLE REQUIRE-  
3 MENTS OF THE COMMISSIONER; AND

4 (IV) ANY OTHER ACTIVITIES RELATING TO ENVIRONMENTAL CONTAMINATION  
5 DEEMED APPROPRIATE BY THE SECRETARY.

6 e. Funding preferences shall be given to applications for such assist-  
7 ance that relate to areas having one or more of the following character-  
8 istics:

9 (1) areas for which the application is a partnered application by a  
10 municipality and a community based organization;

11 (2) areas with concentrations of brownfield sites;

12 (3) areas for which the application demonstrates support from a muni-  
13 cipality and a community based organization;

14 (4) areas showing indicators of economic distress including low resi-  
15 dent incomes, high unemployment, high commercial vacancy rates,  
16 depressed property values; and

17 (5) areas with brownfield sites presenting strategic opportunities to  
18 stimulate economic development, community revitalization or the siting  
19 of public amenities.

20 f. Each application for such assistance shall be submitted to the  
21 secretary in a format, and containing such information, as prescribed by  
22 the secretary but shall include, at a minimum, the following:

23 (1) a statement of the rationale or relationship between the proposed  
24 assistance and the criteria set forth in this section for the evaluation  
25 and ranking of assistance applications;

26 (2) the processes by which local participation in the development of  
27 the application has been sought;

28 (3) the process to be carried out under the state assistance includ-  
29 ing, but not limited to, the goals of and budget for the effort, the  
30 work plan and timeline for the attainment of these goals, and the  
31 intended process for public participation in the process;

32 (4) the manner and extent to which public or governmental agencies  
33 with jurisdiction over issues that will be addressed in the data gather-  
34 ing process will be involved in this process;

35 (5) other planning and development initiatives proposed or in progress  
36 in the [proposed] brownfield opportunity area;

37 (6) for each community based organization which is an applicant or a  
38 co-applicant, a copy of its determination of tax exempt status issued by  
39 the federal internal revenue service pursuant to section 501 of the  
40 internal revenue code, a description of the relationship between the  
41 community based organization and the area that is the subject of the  
42 application, its financial and institutional accountability, its experi-  
43 ence in conducting and completing planning initiatives and in working  
44 with the local government associated with the [proposed] brownfield  
45 opportunity area; and

46 (7) the financial commitments the applicant will make to the brown-  
47 field opportunity area for activities including, but not limited to,  
48 marketing of the area for business development, human resource services  
49 for residents and businesses in the brownfield opportunity area, and  
50 services for small and minority and women-owned businesses.

51 g. The secretary, upon the receipt of an application for such assist-  
52 ance from a community based organization not in cooperation with the  
53 local government having jurisdiction over the [proposed] brownfield  
54 opportunity area, shall request the municipal government to review and  
55 state the municipal government's support or lack of support. The muni-

1 pal government's statement shall be considered a part of the applica-  
2 tion.

3 h. Prior to making an award for assistance, the secretary shall notify  
4 the temporary president of the senate and speaker of the assembly.

5 i. Following notification to the applicant that assistance has been  
6 awarded, and prior to disbursement of funds, a contract shall be  
7 executed between the department and the applicant or co-applicants. The  
8 secretary shall establish terms and conditions for such contracts as the  
9 secretary deems appropriate, including provisions to define: applicant's  
10 work scope, work schedule, and deliverables; fiscal reports on budgeted  
11 and actual use of funds expended; and requirements for submission of a  
12 final fiscal report. The contract shall also require the distribution of  
13 work products to the department, and, for community based organizations,  
14 to the applicant's municipality. Applicants shall be required to make  
15 the results publicly available. Such contract shall further include a  
16 provision providing that if any responsible party payments become avail-  
17 able to the applicant, the amount of such payments attributable to  
18 expenses paid by the award shall be paid to the department by the appli-  
19 cant; provided that the applicant may first apply such responsible party  
20 payments toward any actual project costs incurred by the applicant.

21 J. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE  
22 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE  
23 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH  
24 FUNDS TO THE SECRETARY.

25 S 11. Subdivision 4 of section 970-r of the general municipal law, as  
26 amended by chapter 390 of the laws of 2008, is amended to read as  
27 follows:

28 4. Designation of brownfield opportunity area. A. Upon completion of a  
29 nomination for designation of a brownfield opportunity area, it shall be  
30 forwarded by the applicant to the secretary, who shall determine whether  
31 it is consistent with the provisions of this section. If the secretary  
32 determines that the nomination is consistent with the provisions of this  
33 section, the brownfield opportunity area shall be designated. If the  
34 secretary determines that the nomination is not consistent with the  
35 provisions of this section, the secretary shall make recommendations in  
36 writing to the applicant of the manner and nature in which the nomi-  
37 nation should be amended.

38 B. THE SECRETARY SHALL MAKE THE DETERMINATION REGARDING WHETHER A  
39 QUALIFIED SITE SUBJECT TO A BROWNFIELD SITE CLEANUP AGREEMENT PURSUANT  
40 TO SECTION 27-1409 OF THE ENVIRONMENTAL CONSERVATION LAW IS CONSISTENT  
41 WITH A DESIGNATED BROWNFIELD OPPORTUNITY AREA. THE SECRETARY SHALL  
42 PROMULGATE REGULATIONS TO ESTABLISH THE PROCESS, CRITERIA AND TIMING FOR  
43 MAKING DETERMINATIONS WHETHER A QUALIFIED SITE IS CONSISTENT WITH A  
44 DESIGNATED BROWNFIELD OPPORTUNITY AREA.

45 S 12. Subdivision 5 of section 970-r of the general municipal law, as  
46 added by section 1 of part F of chapter 1 of the laws of 2003, is  
47 amended to read as follows:

48 5. Priority and preference. The designation of a brownfield opportu-  
49 nity area pursuant to this section is intended to serve as a planning  
50 tool. It alone shall not impose any new obligations on any property or  
51 property owner.

52 A. UPON THE AWARD OF FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION,  
53 THE SECRETARY SHALL NOTIFY THE DIVISION OF HOUSING AND COMMUNITY  
54 RENEWAL, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPARTMENT OF  
55 TRANSPORTATION, THE DEPARTMENT OF PARKS, RECREATION AND HISTORIC PRESER-  
56 VATION, AND THE EMPIRE STATE DEVELOPMENT CORPORATION OF SUCH ASSISTANCE,

1 AND INCLUDE IN SUCH NOTIFICATION A DESCRIPTION OF THE BROWNFIELD OPPOR-  
2 TUNITY AREA STUDY AREA AND A REQUEST FOR RELEVANT INFORMATION CONCERN-  
3 ING, WITHOUT LIMITATION, LAND USES, CAPITAL PROJECTS AND PLANS RELATING  
4 TO PROPERTIES OR THE COMMUNITY WITHIN SUCH BROWNFIELD OPPORTUNITY AREA  
5 STUDY AREA, EXISTING PLANS AND PLANNING DOCUMENTS, DEMOGRAPHICS, AND  
6 LOCATION, MAPS AND DESCRIPTION OF EXISTING AND PROPOSED PUBLIC FACILI-  
7 TIES AND INFRASTRUCTURE.

8 B. UPON THE AWARD OF FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION,  
9 THE SECRETARY SHALL NOTIFY RELEVANT FEDERAL AND LOCAL AGENCIES OF SUCH  
10 ASSISTANCE, AND INCLUDE IN SUCH NOTIFICATION A DESCRIPTION OF THE BROWN-  
11 FIELD OPPORTUNITY AREA STUDY AREA AND A REQUEST FOR RELEVANT INFORMATION  
12 CONCERNING, WITHOUT LIMITATION, LAND USES, CAPITAL PROJECTS AND PLANS  
13 RELATING TO PROPERTIES OR THE COMMUNITY WITHIN SUCH BROWNFIELD OPPORTU-  
14 NITY AREA STUDY AREA, EXISTING PLANS AND PLANNING DOCUMENTS, DEMOGRAPH-  
15 ICS, AND LOCATION, MAPS AND DESCRIPTION OF EXISTING AND PROPOSED PUBLIC  
16 FACILITIES AND INFRASTRUCTURE.

17 C. WITHIN SIX MONTHS OF AN AWARD OF FINANCIAL ASSISTANCE PURSUANT TO  
18 THIS SECTION, THE SECRETARY SHALL SEEK COOPERATION FROM RELEVANT FEDER-  
19 AL, STATE AND LOCAL AGENCIES IN THE GATHERING OF INFORMATION ABOUT  
20 RESOURCES AND OR PROGRAMS THAT MAY BE RELEVANT TO THE BROWNFIELD OPPOR-  
21 TUNITY AREA STUDY AREA.

22 D. To the extent authorized by law, projects in brownfield opportunity  
23 areas designated pursuant to this section shall receive a priority and  
24 preference when considered for financial assistance pursuant to articles  
25 fifty-four and fifty-six of the environmental conservation law.

26 E. To the extent authorized by law, projects in brownfield opportunity  
27 areas designated pursuant to this section may receive a priority and  
28 preference when considered for financial assistance pursuant to any  
29 other state, federal or local law.

30 F. THE SECRETARY SHALL TAKE SUCH MEASURES AS MAY BE NECESSARY TO  
31 DETERMINE THE AVAILABILITY OF SUCH FINANCIAL AND OTHER ASSISTANCE AND TO  
32 SEEK COOPERATION WITH OTHER STATE, FEDERAL AND LOCAL OFFICIALS IN  
33 PROVIDING A PRIORITY AND PREFERENCE TO APPLICANTS PURSUANT TO THIS  
34 SUBDIVISION.

35 G. THE SECRETARY SHALL, IN CONSULTATION WITH OTHER STATE AGENCIES,  
36 ISSUE A BROWNFIELD OPPORTUNITY AREA PREFERENCE AND PRIORITY REPORT TO  
37 THE GOVERNOR, LEGISLATURE AND MEMBERS SERVING ON THE NEW YORK BROWN-  
38 FIELDS ADVISORY BOARD PURSUANT TO SECTION 27-1435 OF THE ENVIRONMENTAL  
39 CONSERVATION LAW WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION  
40 AND EACH SUBSEQUENT YEAR THEREAFTER, IDENTIFYING FUNDING PROGRAMS AND  
41 RESOURCES RELEVANT TO AND UTILIZED IN THE IMPLEMENTATION OF BROWNFIELD  
42 OPPORTUNITY AREAS. STATE AGENCIES SHALL PROVIDE INFORMATION ABOUT HOW  
43 THEY HAVE SOUGHT TO ACHIEVE PREFERENCE AND PRIORITY FOR PROJECTS BUILT  
44 CONSISTENT WITH A DESIGNATED BROWNFIELD OPPORTUNITY AREA IN FUNDING  
45 PROGRAMS IDENTIFIED IN THE REPORT, INCLUDING BUT NOT LIMITED TO, MODIFY-  
46 ING PROGRAM ELIGIBILITY AND RANKING CRITERIA TO PROVIDE FOR PREFERENCE  
47 AND PRIORITY FOR PROJECTS BUILT CONSISTENT WITH A DESIGNATED BROWNFIELD  
48 OPPORTUNITY AREA.

49 H. FOR TEN YEARS FOLLOWING NOTIFICATION OF FINANCIAL ASSISTANCE, MUNI-  
50 CIPALITIES, COMMUNITY BASED ORGANIZATIONS AND COMMUNITY BOARDS AWARDED  
51 FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION SHALL BE REQUIRED TO  
52 SUBMIT AN ANNUAL REPORT TO THE SECRETARY PROJECTING THE FUNDING,  
53 PROGRAMS AND ANY OTHER RESOURCES NEEDED OVER THE UPCOMING FIVE YEARS TO  
54 ADVANCE THEIR BROWNFIELD OPPORTUNITY AREA.

55 S 13. Subdivision 6 of section 970-r of the general municipal law, as  
56 added by section 1 of part F of chapter 1 of the laws of 2003, paragraph



1 a as amended by chapter 386 of the laws of 2007 and paragraph h as  
2 amended by section 1 of part F of chapter 577 of the laws of 2004, is  
3 amended to read as follows:

4 6. State assistance for [brownfield site assessments in] IMPLEMENTA-  
5 TION STRATEGIES FOR brownfield opportunity areas. a. Within the limits  
6 of appropriations therefor, the [commissioner, in consultation with the]  
7 secretary [of state,] is authorized to provide, on a competitive basis,  
8 financial assistance to municipalities, to community based organiza-  
9 tions, to community boards, or to municipalities and community based  
10 organizations acting in cooperation to conduct [brownfield site assess-  
11 ments] IMPLEMENTATION STRATEGIES in a brownfield opportunity area  
12 [designated pursuant to this section]. Such financial assistance shall  
13 not exceed ninety percent of the costs of such brownfield [site assess-  
14 ment] OPPORTUNITY AREA IMPLEMENTATION STRATEGIES.

15 b. [Brownfield sites eligible for such assistance must be owned by a  
16 municipality, or volunteer as such term is defined in section 27-1405 of  
17 the environmental conservation law.

18 c. Brownfield site assessment] IMPLEMENTATION STRATEGIES activities  
19 eligible for funding include, but are not limited to, (I) testing of  
20 properties to determine the nature and extent of the contamination  
21 (including soil and groundwater), environmental assessments IN CONFORM-  
22 ANCE WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER, the development  
23 of a proposed remediation strategy to address any identified contam-  
24 ination IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER,  
25 and any other activities deemed appropriate by the [commissioner in  
26 consultation with the] secretary [of state]. [Any environmental assess-  
27 ment shall be subject to the review and approval of such commissioner.

28 d.] BROWNFIELD SITES ELIGIBLE FOR SUCH ASSISTANCE MUST BE OWNED BY A  
29 MUNICIPALITY, OR VOLUNTEER AS SUCH TERM IS DEFINED IN SECTION 27-1405 OF  
30 THE ENVIRONMENTAL CONSERVATION LAW; (II) ACTIONS TO EFFECTUATE LOCAL  
31 LAND USE CHANGES, INCLUDING ZONING AND NECESSARY LOCAL LAW AMENDMENTS  
32 IDENTIFIED IN THE BROWNFIELD OPPORTUNITY AREA; (III) ESTABLISHING DESIGN  
33 STANDARDS AND DESIGN GUIDELINES, INCLUDING REQUIREMENTS FOR ENERGY EFFI-  
34 CIENCY, GREEN INFRASTRUCTURE AND WATER RE-USE AND OTHER SUSTAINABILITY  
35 AND GREEN DESIGN ELEMENTS; (IV) ACTIVITIES TO MARKET STRATEGIC SITES IN  
36 A BROWNFIELD OPPORTUNITY AREA AND OTHER ACTIVITIES TO ATTRACT DEVELOPER  
37 INTEREST; AND (V) PRE-DEVELOPMENT ACTIVITIES TO ADVANCE THE BROWNFIELD  
38 OPPORTUNITY AREA.

39 C. Applications for such assistance shall be submitted to the [commis-  
40 sioner] SECRETARY in a format, and containing such information, as  
41 prescribed by the [commissioner in consultation with the] secretary [of  
42 state].

43 [e.] D. Funding preferences shall be given to applications for such  
44 assistance that relate to areas having one or more of the following  
45 characteristics:

46 (1) areas for which the application is a partnered application by a  
47 municipality and a community based organization;

48 (2) areas with concentrations of brownfield sites;

49 (3) areas for which the application demonstrates support from a muni-  
50 cipality and a community based organization;

51 (4) areas showing indicators of economic distress including low resi-  
52 dent incomes, high unemployment, high commercial vacancy rates,  
53 depressed property values; and

54 (5) areas with brownfield sites presenting strategic opportunities to  
55 stimulate economic development, community revitalization or the siting  
56 of public amenities.

1 [f.] E. The [commissioner] SECRETARY, upon the receipt of an applica-  
2 tion for such assistance from a community based organization not in  
3 cooperation with the local government having jurisdiction over the  
4 [proposed] brownfield opportunity area, shall request the municipal  
5 government to review and state the municipal government's support or  
6 lack of support. The municipal government's statement shall be consid-  
7 ered a part of the application.

8 [g.] F. Prior to making an award for assistance, the [commissioner]  
9 SECRETARY shall notify the temporary president of the senate and the  
10 speaker of the assembly.

11 [h.] G. Following notification to the applicant that assistance has  
12 been awarded, and prior to disbursement of funds, a contract shall be  
13 executed between the department and the applicant or co-applicants. The  
14 [commissioner] SECRETARY shall establish terms and conditions for such  
15 contracts as the [commissioner] SECRETARY deems appropriate [in consul-  
16 tation with the secretary of state], including provisions to define:  
17 applicant's work scope, work schedule, and deliverables; fiscal reports  
18 on budgeted and actual use of funds expended; and requirements for  
19 submission of a final fiscal report. The contract shall also require the  
20 distribution of work products to the department, and, for community  
21 based organizations, to the applicant's municipality. Applicants shall  
22 be required to make the results publicly available. Such contract shall  
23 further include a provision providing that if any responsible party  
24 payments become available to the applicant, the amount of such payments  
25 attributable to expenses paid by the award shall be paid to the depart-  
26 ment by the applicant; provided that the applicant may first apply such  
27 responsible party payments towards actual project costs incurred by the  
28 applicant.

29 H. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE  
30 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE  
31 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH  
32 FUNDS TO THE SECRETARY.

33 S 14. Subdivision 7 of section 970-r of the general municipal law, as  
34 amended by chapter 390 of the laws of 2008, is amended to read as  
35 follows:

36 7. Amendments to designated area. Any proposed amendment to a brown-  
37 field opportunity area designated pursuant to this section shall be  
38 proposed TO, and reviewed by the secretary[, in the same manner and  
39 using the same criteria set forth in this section and applicable to an  
40 initial nomination for the designation of a brownfield opportunity  
41 area]. THE SECRETARY SHALL PROMULGATE RULES THAT CONTAIN CRITERIA AND  
42 TIMEFRAMES FOR REVIEW AND APPROVAL OF AMENDMENTS.

43 S 15. Subdivision 8 of section 970-r of the general municipal law, as  
44 added by section 1 of part F of chapter 1 of the laws of 2003, is  
45 amended to read as follows:

46 8. Applications. a. All applications for pre-nomination study assist-  
47 ance or applications for designation of a brownfield opportunity area  
48 shall demonstrate that the following community participation activities  
49 have been or will be performed by the applicant:

50 (1) identification of the interested public and preparation of a  
51 contact list;

52 (2) identification of major issues of public concern;

53 (3) provision [to] FOR access to the draft and final application for  
54 pre-nomination assistance and brownfield opportunity area designation  
55 supporting documents in a manner convenient to the public;

1 (4) public notice and newspaper notice of (i) the intent of the muni-  
2 cipality and/or community based organization to undertake a pre-nomina-  
3 tion process or prepare a brownfield opportunity area plan, and (ii) the  
4 availability of such application.

5 b. Application for nomination of a brownfield opportunity area shall  
6 provide the following minimum community participation activities:

7 (1) a comment period of at least thirty days on a draft application;

8 (2) a public meeting on a brownfield opportunity area draft applica-  
9 tion.

10 C. AN APPLICANT THAT HAS SATISFACTORILY SUBMITTED INFORMATION EQUIV-  
11 ALENT TO A PRE-NOMINATION STUDY MAY FORGO A PRE-NOMINATION STUDY AND IS  
12 ELIGIBLE TO APPLY FOR STATE ASSISTANCE FOR NOMINATIONS TO DESIGNATE A  
13 BROWNFIELD OPPORTUNITY AREA.

14 D. APPLICATIONS FOR PRE-NOMINATION OR NOMINATION PURSUANT TO THIS  
15 SECTION MAY BE SUBMITTED TO THE SECRETARY AT ANY TIME DURING THE CALEN-  
16 DAR YEAR.

17 S 16. This act shall take effect immediately.