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

3920

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Tourism, Arts and Sports Development

AN ACT to amend the parks, recreation and historic preservation law and the state finance law, in relation to providing for the establishment of the urban open space program and establishing the urban open space program fund; and making an appropriation therefor

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

Section 1. The parks, recreation and historic preservation law is amended by adding a new article 18 to read as follows:

ARTICLE 18
URBAN OPEN SPACE PROGRAM

SECTION 18.01 URBAN OPEN SPACE PROGRAM.

S 18.01 URBAN OPEN SPACE PROGRAM. 1. THE COMMISSIONER SHALL ESTABLISH WITHIN THE OFFICE AN URBAN OPEN SPACE PROGRAM (HEREINAFTER REFERRED TO IN THIS SECTION AS "UOS PROGRAM" OR "PROGRAM"). THE PURPOSE OF THE UOS PROGRAM SHALL BE TO PROVIDE FOR THE ACQUISITION, CREATION, ESTABLISHMENT, EXPANSION, IMPROVEMENT, CONSERVATION AND PROTECTION OF OPEN SPACE AREAS IN CITIES. THE PURPOSE OF SUCH OPEN SPACE AREAS SHALL BE TO ENHANCE THE URBAN ENVIRONMENT, THEREBY PROMOTING THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE STATE IN A VARIETY OF WAYS, SUCH AS: REDUCTION OF AIR POLLUTION, REDUCTION OF NOISE POLLUTION, MODIFICATION OF EXTREMES OF TEMPERATURE THEREBY REDUCING THE AMOUNT OF ENERGY CONSUMED IN HEATING AND COOLING MANY URBAN BUILDINGS AND HOMES, ASSISTING IN WATERSHED MANAGEMENT, PROVIDING HABITATS FOR DESIRABLE URBAN VEGETATION AND WILDLIFE, PROVISION OF SHADE, PRESERVATION OF NATURAL RESOURCES, ENHANCEMENT OF REAL ESTATE VALUES AND BEAUTIFICATION OF URBAN AREAS THROUGHOUT THE STATE.

2. THE UOS PROGRAM SHALL INCLUDE, BUT NOT BE LIMITED TO:

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

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(A) ACQUISITION, CREATION, ESTABLISHMENT, EXPANSION, IMPROVEMENT, CONSERVATION AND PROTECTION OF OPEN SPACE AREAS IN CITIES BY THE OFFICE FOR UOS PROGRAM PURPOSES; AND

(B) STATE AID TO CITIES FOR THE ACQUISITION, CREATION, ESTABLISHMENT, EXPANSION, IMPROVEMENT, CONSERVATION AND PROTECTION OF OPEN SPACE AREAS IN CITIES BY CITIES FOR UOS PROGRAM PURPOSES.

3. (A) REAL PROPERTY ACQUIRED BY THE OFFICE SHALL BE ACQUIRED PURSUANT TO SECTIONS 3.17 AND 3.19 OF THIS CHAPTER, AFTER CONSULTATION WITH THE STATE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION. MONEYS TO BE EXPENDED FOR THE COST OF SUCH ACQUISITION SHALL BE PAID ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON THE CERTIFICATE OF THE COMMISSIONER.

(B)(I) NO REAL PROPERTY SHALL BE ACQUIRED BY A CITY PURSUANT TO THIS SECTION UNLESS SUCH ACQUISITION SHALL HAVE BEEN APPROVED BY THE COMMISSIONER, AFTER CONSULTATION WITH THE STATE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION. (II) THE STATE SHARE OF THE COST OF SUCH ACQUISITION SHALL BE PAID ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON THE CERTIFICATE OF THE COMMISSIONER. (III) IN THE EVENT THAT A CITY SHALL FAIL TO PAY ITS SHARE, AS DETERMINED BY THE COMMISSIONER, OF THE COST OF SUCH ACQUISITION WITHIN SIX MONTHS OF THE CERTIFICATION TO THE CITY BY THE STATE COMPTROLLER OF THE AMOUNT OF SUCH COST, THE STATE COMPTROLLER SHALL CAUSE TO BE WITHHELD FROM THE STATE ASSISTANCE FUNDS TO WHICH SUCH CITY WOULD OTHERWISE BE ENTITLED, A SUM SUFFICIENT TO REIMBURSE THE STATE FOR ANY AMOUNT REMAINING UNPAID, TOGETHER WITH INTEREST ON ANY SUCH UNPAID AMOUNT AT THE RATE OF THREE PERCENT PER ANNUM FROM THE DATE OF SUCH CERTIFICATION. MONEYS SO WITHHELD SHALL BE CREDITED AGAINST THE AMOUNT OF PRINCIPAL AND INTEREST PAYABLE BY SUCH CITY FOR ITS SHARE OF THE COST OF ACQUISITION OF SUCH REAL PROPERTY. (IV) FOR THE PURPOSE OF COMPUTING THE GRANT OF AID MADE BY THE OFFICE TO A CITY TO ASSIST IN PAYING FOR THE COST OF ACQUIRING REAL PROPERTY PURSUANT TO THIS SECTION, THE COST OF ACQUISITION SHALL NOT BE MORE THAN THE AMOUNT SET FORTH IN THE APPLICATION FOR STATE AID MADE BY THE CITY AND APPROVED BY THE COMMISSIONER, PLUS ANY DIRECT INCIDENTAL COSTS APPROVED BY THE COMPTROLLER. (V) A CITY WHICH ACQUIRES REAL PROPERTY WITH FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION MAY ESTABLISH REASONABLE RULES AND REGULATIONS TO ENSURE PROPER ADMINISTRATION, MAINTENANCE, USE AND PROTECTION OF SUCH LANDS, PROVIDED THAT NO RULE OR REGULATION RESTRICTING THE USE OF SUCH PROPERTY TO THE RESIDENTS OF THE CITY SHALL BE EFFECTIVE WITHOUT THE EXPRESS APPROVAL OF THE COMMISSIONER.

(C) REAL PROPERTY ACQUIRED BY THE OFFICE PURSUANT TO THIS SECTION OR BY A CITY WITH THE AID OF FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION, SHALL BE RETAINED BY THE OFFICE OR CITY, AS THE CASE MAY BE, AND SHALL NOT BE DISPOSED OF OR USED FOR OTHER THAN URBAN OPEN SPACE PURPOSES AS SET FORTH IN THIS SECTION WITHOUT THE EXPRESS AUTHORITY OF AN ACT OF THE LEGISLATURE.

4. IN IMPLEMENTING, MANAGING AND ADMINISTERING THE URBAN OPEN SPACE PROGRAM PURSUANT TO THE PROVISIONS OF THIS SECTION, THE COMMISSIONER MAY PERFORM SUCH ACTS AND PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE DEEMS NECESSARY, PROPER OR DESIRABLE TO CARRY OUT THE PURPOSES OF THIS SECTION. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE COMMISSIONER'S CONSULTATION WITH THE STATE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION. PROVIDED FURTHER THAT THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS CONCERNING THE STANDARDS FOR THE ELIGIBILITY OF A CITY FOR STATE AID

PURSUANT TO THIS SECTION AND THE FORM FOR APPLICATIONS FOR SUCH STATE AID.

S 2. The state finance law is amended by adding a new section 97-jjjj to read as follows:

S 97-JJJJ. URBAN OPEN SPACE PROGRAM FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION A SPECIAL FUND TO BE KNOWN AS THE "URBAN OPEN SPACE PROGRAM FUND".

2. SUCH FUND SHALL CONSIST OF ALL MONEYS CREDITED OR APPROPRIATED FOR TRANSFER THERETO FROM ANY SOURCE ACCORDING TO LAW.

3. MONEYS OF THE FUND SHALL BE AVAILABLE ONLY FOR THE PAYMENT OF COSTS ASSOCIATED WITH THE IMPLEMENTATION, MANAGEMENT AND ADMINISTRATION OF THE URBAN OPEN SPACE PROGRAM ESTABLISHED PURSUANT TO ARTICLE EIGHTEEN OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW, INCLUDING THE PAYMENT OF STATE AID PURSUANT TO THE PROVISIONS OF SUCH ARTICLE.

4. MONEYS OF THE FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMPTROLLER. ANY SUCH MONEYS IN THE FUND MAY, IN THE DISCRETION OF THE COMPTROLLER, BE INVESTED IN OBLIGATIONS IN WHICH THE COMPTROLLER IS AUTHORIZED TO INVEST PURSUANT TO SECTION NINETY-EIGHT-A OF THIS ARTICLE. ANY INCOME OR INTEREST FROM SUCH INVESTMENT SHALL BE CREDITED TO SUCH FUND.

5. ALL PAYMENTS OF MONEYS FROM THE FUND SHALL BE MADE ON THE AUDIT AND WARRANT OF THE COMPTROLLER.

S 3. The sum of ten million dollars ($10,000,000), or so much thereof as may be necessary, is hereby appropriated to the urban open space program fund from any moneys in the state treasury in the general fund to the credit of the state purposes account not otherwise appropriated for services and expenses of the office of parks, recreation and historic preservation for the purposes of carrying out the provisions of this act. Such sum shall be payable on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of the office of parks, recreation and historic preservation, or his duly designated representative in the manner provided by law. No expenditure shall be made from this appropriation until a certificate of approval of availability shall have been issued by the director of the budget and filed with the state comptroller and a copy filed with the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such certificate may be amended from time to time by the director of the budget and a copy of each such amendment shall be filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

S 4. This act shall take effect immediately.