

6839

2009-2010 Regular Sessions

I N A S S E M B L Y

March 13, 2009

Introduced by M. of A. SCOZZAFAVA -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the public lands law and the environmental conservation
law, in relation to the acquisition of real property by the office of
general services and the department of environmental conservation

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

1 Section 1. Subdivision 1 of section 27 of the public lands law, as
2 added by chapter 513 of the laws of 1989, is amended to read as follows:
3 1. [The] SUBJECT TO THE PROVISIONS OF SECTION TWENTY-SEVEN-A OF THIS
4 ARTICLE, THE commissioner of general services when moneys therefor have
5 been appropriated by the legislature or are otherwise available, may
6 acquire any real property which he deems necessary for the implementa-
7 tion or accomplishment of any statutory purpose, function, operation or
8 responsibility of the commissioner of general services or the office of
9 general services, by purchase or as provided in the eminent domain
10 procedure law. Title to such real property shall be taken in the name of
11 and be vested in the people of the state of New York. No real property
12 shall be so acquired by purchase unless the title thereto is approved by
13 the attorney general. The terms "property" or "real property" as used in
14 this section shall mean "real property" as defined by section one
15 hundred three of the eminent domain procedure law.
16 S 2. The public lands law is amended by adding a new section 27-a to
17 read as follows:
18 S 27-A. ACQUISITIONS OF REAL PROPERTY; REFERENDUM. ANY ACQUISITION OF
19 REAL PROPERTY LOCATED WITHIN THE STATE BY THE OFFICE OF GENERAL SERVICES
20 PURSUANT TO THE PROVISIONS OF SECTION TWENTY-SEVEN OF THIS ARTICLE,
21 SHALL BE SUBJECT TO PERMISSIVE REFERENDUM OF A MAJORITY OF THE VOTERS
22 RESIDING IN THE JUDICIAL DEPARTMENT OR DEPARTMENTS IN WHICH SUCH PROPER-
23 TY IS LOCATED, IN WHOLE OR IN PART.

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

LBD08526-01-9

1 1. AT LEAST ONE HUNDRED TWENTY DAYS PRIOR TO THE INITIATION OF NEGOTI-
2 ATIONS FOR THE ACQUISITION OF PROPERTY BY THE STATE OR THE COMMENCEMENT
3 BY THE STATE OF EMINENT DOMAIN PROCEEDINGS, THE STATE SHALL NOTIFY, IN
4 WRITING, THE CHIEF EXECUTIVE OFFICER OF EACH MUNICIPALITY IN WHICH SUCH
5 PROPERTY IS LOCATED, THAT SUCH NEGOTIATIONS OR PROCEEDINGS ARE COMMENC-
6 ING.

7 2. AT LEAST ONE HUNDRED TWENTY DAYS AFTER THE NOTICE REQUIRED BY
8 SUBDIVISION ONE OF THIS SECTION, THE STATE SHALL DELIVER TO THE CHIEF
9 EXECUTIVE OFFICER OF ALL MUNICIPAL GOVERNMENT OFFICES, INCLUDING ANY
10 AFFECTED OR LIKELY TO BE AFFECTED COUNTIES, TOWNS, VILLAGES, AND SCHOOL
11 DISTRICTS WHEREIN SUCH PROPERTY IS LOCATED, A WRITTEN DRAFT ECONOMIC,
12 CULTURAL AND ENVIRONMENTAL ASSESSMENT REPORT WHICH SETS FORTH THE ANTIC-
13 IPATED OUTCOMES OF ALL ALTERNATIVES RELATIVE TO THE STATE'S INTEREST,
14 AND THAT OF THE LOCALITY OR LOCALITIES IN WHICH THE PROPERTY IS LOCATED,
15 INCLUDING THE FOLLOWING:

16 A. A DESCRIPTION OF THE PROPOSED ACQUISITION;

17 B. THE ENVIRONMENTAL, ECONOMIC, AND CULTURAL IMPACT OF THE PROPOSED
18 ACQUISITION INCLUDING SHORT-TERM AND LONG TERM EFFECTS;

19 C. ANY ADVERSE ENVIRONMENTAL, ECONOMIC AND CULTURAL EFFECTS WHICH
20 CANNOT BE AVOIDED SHOULD THE PROPOSAL BE IMPLEMENTED;

21 D. ALTERNATIVES TO THE PROPOSED ACQUISITION;

22 E. ANY IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES WHICH
23 WOULD BE INVOLVED IN THE PROPOSED ACQUISITION SHOULD IT BE IMPLEMENTED;

24 F. MITIGATION MEASURES PROPOSED TO MINIMIZE THE ENVIRONMENTAL,
25 ECONOMIC AND CULTURAL IMPACT; AND

26 G. THE GROWTH INDUCING ASPECTS OF THE PROPOSED ACQUISITION, WHERE
27 APPLICABLE AND SIGNIFICANT.

28 3. WITHIN SIXTY DAYS OF THE DELIVERY REQUIRED BY SUBDIVISION TWO OF
29 THIS SECTION, THE STATE SHALL CONDUCT A PUBLIC HEARING OR HEARINGS IN
30 THE AFFECTED MUNICIPALITIES TO OUTLINE AND DISCUSS THE CRITERIA SET
31 FORTH IN SUBDIVISION TWO OF THIS SECTION. WITHIN FORTY-FIVE DAYS OF
32 SUCH HEARING THE STATE SHALL ISSUE TO SUCH SUBJECT MUNICIPALITIES ITS
33 ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT STATEMENT. SUCH STATEMENT
34 SHALL DESCRIBE THE PROPOSED ACTION AND REASONABLE ALTERNATIVES TO SUCH
35 ACTION AS SET FORTH IN SUBDIVISION TWO OF THIS SECTION.

36 4. THE DETERMINATION OF A STATE AGENCY TO ACQUIRE LANDS SHALL BE
37 SUBJECT TO A PERMISSIVE REFERENDUM. A DETERMINATION OF AN APPROPRIATE
38 STATE AGENCY TO ACQUIRE LAND SHALL NOT TAKE EFFECT UNTIL FORTY-FIVE DAYS
39 AFTER THE FILING OF ITS ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT
40 STATEMENT; NOR UNLESS IT IS APPROVED BY AN AFFIRMATIVE VOTE OF A MAJORI-
41 TY OF THE QUALIFIED ELECTORS OF THE JUDICIAL DEPARTMENTS WHERE SUCH LAND
42 IS LOCATED, IF WITHIN FORTY-FIVE DAYS AFTER ITS FILING THERE SHALL BE
43 FILED WITH THE COUNTY CLERK OF EACH COUNTY WHEREIN THE AFFECTED LANDS
44 LIE A PETITION SIGNED BY QUALIFIED ELECTORS OF THE COUNTY IN NUMBER NOT
45 LESS THAN TEN PER CENTUM OF THE TOTAL VOTE CAST FOR GOVERNOR IN SUCH
46 COUNTY AT THE LAST GENERAL ELECTION HELD FOR THE ELECTION OF STATE
47 OFFICERS. SUCH PETITION SHALL STATE THAT A REFERENDUM VOTE IS REQUESTED
48 ON SUCH PROPOSED ACQUISITION. THE PETITION MAY CONSIST OF SEPARATE
49 SHEETS AND SIGNATURES TO EACH SHEET SHALL BE AUTHENTICATED IN THE MANNER
50 PROVIDED BY THE ELECTION LAW FOR THE AUTHENTICATION OF A DESIGNATING
51 PETITION. THE SEVERAL SHEETS SO SIGNED AND AUTHENTICATED WHEN FASTENED
52 TOGETHER AND OFFERED FOR FILING SHALL BE DEEMED TO CONSTITUTE ONE PETI-
53 TION. THE COUNTY CLERK SHALL EXAMINE EACH SUCH PETITION SO FILED WITH
54 SUCH COUNTY CLERK AND SHALL NOT LATER THAN THIRTY DAYS AFTER THE DATE OF
55 ITS FILING TRANSMIT TO THE STATE A CERTIFICATE THAT HE OR SHE HAS EXAM-

1 INED IT AND HAS FOUND THAT IT DOES OR DOES NOT COMPLY, AS THE CASE MAY
2 BE, WITH ALL THE REQUIREMENTS OF LAW.

3 5. PROCEEDINGS MAY BE INSTITUTED AND MAINTAINED TO CONTEST THE SUFFI-
4 CIENCY AND VALIDITY OF ANY PETITION PROVIDED FOR IN THIS SECTION, IN THE
5 MANNER PROVIDED FOR IN THE ELECTION LAW, AS THOUGH SUCH PETITION WERE A
6 DESIGNATING PETITION. IF THE PETITION BE SUFFICIENT AND VALID, A PROPO-
7 SITION FOR THE APPROVAL OF SUCH RESOLUTION SHALL BE SUBMITTED AT THE
8 NEXT GENERAL ELECTION TO THE VOTERS OF THE JUDICIAL DEPARTMENT OR
9 DEPARTMENTS IN WHICH THE SAID LANDS ARE LOCATED.

10 S 3. Subdivision 1 of section 3-0305 of the environmental conservation
11 law, as added by chapter 727 of the laws of 1978, is amended to read as
12 follows:

13 1. [The] SUBJECT TO THE PROVISIONS OF SECTION 3-0308 OF THIS TITLE,
14 THE commissioner when moneys therefor have been appropriated by the
15 legislature or are otherwise available, may acquire any real property
16 which he OR SHE deems necessary for any of the purposes or functions of
17 the department, by purchase or as provided in the eminent domain proce-
18 dure law. Title to such real property shall be taken in the name of and
19 be vested in the people of the state of New York. No real property
20 shall be so acquired by purchase unless the title thereto is approved by
21 the attorney general. The terms "property" or "real property" as used
22 in this section shall mean "real property" as defined by section one
23 hundred three of the eminent domain procedure law.

24 S 4. The environmental conservation law is amended by adding a new
25 section 3-0308 to read as follows:

26 S 3-0308. ACQUISITIONS OF REAL PROPERTY; REFERENDUM.

27 ANY ACQUISITION OF REAL PROPERTY LOCATED WITHIN THE STATE BY THE
28 DEPARTMENT PURSUANT TO THE PROVISIONS OF SECTION 3-0305 OF THIS TITLE,
29 SHALL BE SUBJECT TO PERMISSIVE REFERENDUM OF A MAJORITY OF THE VOTERS
30 RESIDING IN THE JUDICIAL DEPARTMENT OR DEPARTMENTS IN WHICH SUCH PROPER-
31 TY IS LOCATED, IN WHOLE OR IN PART.

32 1. AT LEAST ONE HUNDRED TWENTY DAYS PRIOR TO THE INITIATION OF NEGOTI-
33 ATIONS FOR THE ACQUISITION OF PROPERTY BY THE STATE OR THE COMMENCEMENT
34 BY THE STATE OF EMINENT DOMAIN PROCEEDINGS, THE STATE SHALL NOTIFY, IN
35 WRITING, THE CHIEF EXECUTIVE OFFICER OF EACH MUNICIPALITY IN WHICH SUCH
36 PROPERTY IS LOCATED, THAT SUCH NEGOTIATIONS OR PROCEEDINGS ARE COMMENC-
37 ING.

38 2. AT LEAST ONE HUNDRED TWENTY DAYS AFTER THE NOTICE REQUIRED BY
39 SUBDIVISION ONE OF THIS SECTION, THE STATE SHALL DELIVER TO THE CHIEF
40 EXECUTIVE OFFICER OF ALL MUNICIPAL GOVERNMENT OFFICES, INCLUDING ANY
41 AFFECTED OR LIKELY TO BE AFFECTED COUNTIES, TOWNS, VILLAGES, AND SCHOOL
42 DISTRICTS WHEREIN SUCH PROPERTY IS LOCATED, A WRITTEN DRAFT ECONOMIC,
43 CULTURAL AND ENVIRONMENTAL ASSESSMENT REPORT WHICH SETS FORTH THE ANTIC-
44 IPATED OUTCOMES OF ALL ALTERNATIVES RELATIVE TO THE STATE'S INTEREST,
45 AND THAT OF THE LOCALITY OR LOCALITIES IN WHICH THE PROPERTY IS LOCATED,
46 INCLUDING THE FOLLOWING:

47 A. A DESCRIPTION OF THE PROPOSED ACQUISITION;

48 B. THE ENVIRONMENTAL, ECONOMIC, AND CULTURAL IMPACT OF THE PROPOSED
49 ACQUISITION INCLUDING SHORT-TERM AND LONG TERM EFFECTS;

50 C. ANY ADVERSE ENVIRONMENTAL, ECONOMIC AND CULTURAL EFFECTS WHICH
51 CANNOT BE AVOIDED SHOULD THE PROPOSAL BE IMPLEMENTED;

52 D. ALTERNATIVES TO THE PROPOSED ACQUISITION;

53 E. ANY IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES WHICH
54 WOULD BE INVOLVED IN THE PROPOSED ACQUISITION SHOULD IT BE IMPLEMENTED;

55 F. MITIGATION MEASURES PROPOSED TO MINIMIZE THE ENVIRONMENTAL,
56 ECONOMIC AND CULTURAL IMPACT; AND

1 G. THE GROWTH INDUCING ASPECTS OF THE PROPOSED ACQUISITION, WHERE
2 APPLICABLE AND SIGNIFICANT.

3 3. WITHIN SIXTY DAYS OF THE DELIVERY REQUIRED BY SUBDIVISION TWO OF
4 THIS SECTION, THE STATE SHALL CONDUCT A PUBLIC HEARING OR HEARINGS IN
5 THE AFFECTED MUNICIPALITIES TO OUTLINE AND DISCUSS THE CRITERIA SET
6 FORTH IN SUBDIVISION TWO OF THIS SECTION. WITHIN FORTY-FIVE DAYS OF
7 SUCH HEARING THE STATE SHALL ISSUE TO SUCH SUBJECT MUNICIPALITIES ITS
8 ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT STATEMENT. SUCH STATEMENT
9 SHALL DESCRIBE THE PROPOSED ACTION AND REASONABLE ALTERNATIVES TO SUCH
10 ACTION AS SET FORTH IN SUBDIVISION TWO OF THIS SECTION.

11 4. THE DETERMINATION OF A STATE AGENCY TO ACQUIRE LANDS SHALL BE
12 SUBJECT TO A PERMISSIVE REFERENDUM. A DETERMINATION OF AN APPROPRIATE
13 STATE AGENCY TO ACQUIRE LAND SHALL NOT TAKE EFFECT UNTIL FORTY-FIVE DAYS
14 AFTER THE FILING OF ITS ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT
15 STATEMENT; NOR UNLESS IT IS APPROVED BY AN AFFIRMATIVE VOTE OF A MAJORI-
16 TY OF THE QUALIFIED ELECTORS OF THE JUDICIAL DEPARTMENTS WHERE SUCH LAND
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31 AND HAS FOUND THAT IT DOES OR DOES NOT COMPLY, AS THE CASE MAY BE, WITH
32 ALL THE REQUIREMENTS OF LAW.

33 5. PROCEEDINGS MAY BE INSTITUTED AND MAINTAINED TO CONTEST THE SUFFI-
34 CIENCY AND VALIDITY OF ANY PETITION PROVIDED FOR IN THIS SECTION, IN THE
35 MANNER PROVIDED FOR IN THE ELECTION LAW, AS THOUGH SUCH PETITION WERE A
36 DESIGNATING PETITION. IF THE PETITION BE SUFFICIENT AND VALID, A PROPO-
37 SITION FOR THE APPROVAL OF SUCH RESOLUTION SHALL BE SUBMITTED AT THE
38 NEXT GENERAL ELECTION TO THE VOTERS OF THE JUDICIAL DEPARTMENT OR
39 DEPARTMENTS IN WHICH THE SAID LANDS ARE LOCATED.

40 S 5. This act shall take effect on the thirtieth day after it shall
41 have become a law and shall apply to acquisitions of real property by
42 the office of general services and the department of environmental
43 conservation occurring on or after such effective date.