

1564

2009-2010 Regular Sessions

I N S E N A T E

February 3, 2009

Introduced by Sen. THOMPSON -- 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, the general municipal law, and the tax law, in relation to the brownfield cleanup program, the environmental restoration program, and the brownfield opportunity area program; and to amend the New York state urban development and research corporation act, in relation to the brownfields shovel-ready 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 subdivision 2 of section 27-1405
2 of the environmental conservation law, as amended by section 2 of part A
3 of chapter 577 of the laws of 2004, is amended to read as follows:
4 "Brownfield site" or "site" shall mean any real property[, the rede-
5 velopment or reuse of which may be complicated by] ON WHICH the presence
6 [or potential presence] of a contaminant IS KNOWN OR SUSPECTED. Such
7 term shall not include real property:
8 S 2. Paragraph (c) of subdivision 2 and subdivision 7-a of section
9 27-1405 of the environmental conservation law, paragraph (c) of subdivi-
10 sion 2 as amended and subdivision 7-a as added by section 2 of part A of
11 chapter 577 of the laws of 2004, are amended and a new subdivision 17-a
12 is added to read as follows:
13 (c) [subject to an enforcement action under title seven or nine of
14 this article, except] PERMITTED AS a treatment, storage or disposal
15 facility [subject to a permit]; provided, that nothing herein contained
16 shall be deemed otherwise to exclude from the scope of the term "brown-
17 field site" a hazardous waste treatment, storage or disposal facility
18 having interim status according to regulations promulgated by the
19 commissioner;
20 7-a. "Contaminant" shall mean hazardous waste and/or petroleum AND/OR
21 HISTORIC FILL MATERIAL as such terms are defined in this section.

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

LBD05618-01-9

1 17-A. "HISTORIC FILL MATERIAL" SHALL MEAN NON-INDIGENOUS MATERIAL,
2 DEPOSITED OR DISPOSED OF TO RAISE THE TOPOGRAPHIC ELEVATION OF A SITE
3 PRIOR TO JUNE FIRST, NINETEEN HUNDRED EIGHTY-FIVE, WHICH MAY HAVE BEEN
4 CONTAMINATED PRIOR TO EMPLACEMENT, AND IS IN NO WAY CONNECTED WITH THE
5 SUBSEQUENT OPERATIONS AT THE LOCATION OF THE EMPLACEMENT AND WHICH
6 INCLUDES, WITHOUT LIMITATION, CONSTRUCTION DEBRIS, DREDGE SPOILS, INCIN-
7 ERATOR RESIDUE, DEMOLITION DEBRIS, FLY ASH, AND NON-HAZARDOUS WASTE.
8 HISTORIC FILL MATERIAL DOES NOT INCLUDE ANY MATERIAL WHICH IS CHEMICAL
9 PRODUCTION WASTE OR WASTE FROM PROCESSING OF METAL OR MINERAL ORES,
10 RESIDUES, SLAG OR TAILINGS. IN ADDITION, HISTORIC FILL MATERIAL DOES NOT
11 INCLUDE A MUNICIPAL SOLID WASTE DISPOSAL SITE.

12 S 3. Subdivision 5 of section 56-0502 of the environmental conserva-
13 tion law, as amended by section 2 of part D of chapter 577 of the laws
14 of 2004, is amended to read as follows:

15 5. "Municipality", for purposes of this title, shall have the same
16 meaning as provided in subdivision fifteen of section 56-0101 of this
17 article, except that such term shall not refer to a municipality that
18 generated, transported, or disposed of, arranged for, or that caused the
19 generation, transportation, or disposal of contamination located at real
20 property proposed to be investigated or to be remediated under an envi-
21 ronmental restoration project. For purposes of this title, the term
22 municipality includes a [municipality] COMMUNITY BASED ORGANIZATION
23 acting in partnership AND PURSUANT TO A WRITTEN AGREEMENT with a [commu-
24 nity based organization] MUNICIPALITY.

25 S 4. Subdivision 1 of section 970-r of the general municipal law is
26 amended by adding a new paragraph j to read as follows:

27 J. "SECRETARY" SHALL MEAN THE SECRETARY OF STATE.

28 S 5. Paragraph a of subdivision 2, subdivisions 3, 5, 6, 7, 8 and 9 of
29 section 970-r of the general municipal law, as added by section 1 of
30 part F of chapter 1 of the laws of 2003, paragraph a of subdivision 2,
31 paragraphs a, b, g, h, i, the opening paragraph and subparagraph 6 of
32 paragraph f of subdivision 3 and subdivisions 7 and 9 as amended by
33 chapter 390 of the laws of 2008, paragraph f of subdivision 3 and para-
34 graph h of subdivision 6 as amended by section 1 of part F of chapter
35 577 of the laws of 2004 and paragraph a of subdivision 6 as amended by
36 chapter 386 of the laws of 2007, are amended to read as follows:

37 a. Within the limits of appropriations therefor, the secretary is
38 authorized to provide, on a competitive basis, financial assistance to
39 municipalities, to community based organizations, to community boards,
40 or to municipalities and community based organizations acting in cooper-
41 ation to prepare a pre-nomination study for a brownfield opportunity
42 area designation. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPRO-
43 PRIATED TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR SUCH
44 PURPOSE, THE COMMISSIONER SHALL SUBALLOCATE SUCH FUNDS TO THE SECRETARY.
45 Such financial assistance shall not exceed ninety percent of the costs
46 of such pre-nomination study for any such area.

47 3. State assistance for nominations to designate brownfield opportu-
48 nity areas.

49 a. Within the limits of appropriations therefor, the secretary is
50 authorized to provide, on a competitive basis, financial assistance to
51 municipalities, to community based organizations, to community boards,
52 or to municipalities and community based organizations acting in cooper-
53 ation to prepare a nomination for designation of a brownfield opportu-
54 nity area. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED
55 TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE PURPOSES OF THIS
56 SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH FUNDS TO THE SECRE-

TARY. Such financial assistance shall not exceed ninety percent of the costs of such nomination for any such area.

b. An application for such financial assistance shall include an indication of support from owners of brownfield sites in the proposed brownfield opportunity area. All residents and property owners in the proposed brownfield opportunity area shall receive notice OF THE APPLICATION in such form and manner as the secretary shall prescribe.

c. No application for such financial assistance shall be considered unless the applicant demonstrates that it has, to the maximum extent practicable, solicited and considered the views of residents of the proposed brownfield opportunity area, the views of state and local officials elected to represent such residents and the local organizations representing such residents.

d. Activities eligible to receive such financial assistance shall include the identification, preparation, creation, development and assembly of information and elements to be included in a BROWNFIELD OPPORTUNITY AREA PLAN AND nomination for designation of a brownfield opportunity area, [including but not limited to] SUCH PLAN SHALL INCLUDE, AT A MINIMUM:

- (1) the borders of the proposed brownfield opportunity area;
- (2) the location of each known or suspected brownfield site in the proposed brownfield opportunity area;
- (3) 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 PROPOSED BROWNFIELD OPPORTUNITY AREA PLAN;
- (4) 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;
- (5) local legislative or regulatory action which may be required to implement a plan for the redevelopment of the proposed brownfield opportunity area;
- (6) 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;
- (7) mapping of current and anticipated uses of the properties and groundwater in the proposed brownfield opportunity area;
- (8) 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;
- (9) known data about the environmental conditions of properties in the proposed brownfield opportunity area;
- (10) ownership of the properties in the proposed brownfield opportunity area;
- (11) 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.

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

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

(2) areas with concentrations of brownfield sites;

(3) areas for which the application demonstrates support from a municipality and a community based organization;

(4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and

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

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

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

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

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

(4) the manner and extent to which public or governmental agencies with jurisdiction over issues that will be addressed in the data gathering process will be involved in this process;

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

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

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

g. The secretary, upon the receipt of an application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the proposed brownfield opportunity area, shall request the municipal government to review and state the municipal government's support or lack of support. The municipal government's statement shall be considered a part of the application.

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

i. Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be executed between the department and the applicant or co-applicants. The

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

14 5. Priority and preference. The designation of a brownfield opportu-
15 nity area pursuant to this section is intended to serve as a planning
16 tool. It alone shall not impose any new obligations on any property or
17 property owner, BUT, RATHER, IS MEANT TO ASSIST PROPERTY OWNERS AND THE
18 LARGER COMMUNITY WITHIN A DESIGNATED BROWNFIELD OPPORTUNITY AREA BY
19 FACILITATING REVITALIZATION AND ATTRACTING PUBLIC AND PRIVATE
20 INVESTMENT. TO THIS END:

21 A. THE SECRETARY WILL SEEK COOPERATION FROM OTHER FEDERAL, STATE AND
22 LOCAL AGENCIES IN GATHERING INFORMATION ABOUT LAND USES AND CAPITAL
23 PROJECTS WITHIN THE BORDERS OF PRE-NOMINATED, NOMINATED OR DESIGNATED
24 BROWNFIELD OPPORTUNITY AREAS, INCLUDING, BUT NOT LIMITED TO: EXISTING
25 PLANS AND PLANNING DOCUMENTS; DEMOGRAPHIC AND OTHER DATA; LOCATION AND
26 DESCRIPTIONS OF EXISTING AND PROPOSED PUBLIC FACILITIES, INFRASTRUCTURE
27 AND PARKS; AND MAPS.

28 B. UPON THE AWARD OF A GRANT OR DESIGNATION OF A BROWNFIELD OPPORTU-
29 NITY AREA, THE SECRETARY SHALL NOTIFY THE DIVISION OF HOUSING AND COMMU-
30 NITY RENEWAL, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPART-
31 MENT OF TRANSPORTATION, THE DEPARTMENT OF PARKS, RECREATION AND HISTORIC
32 PRESERVATION, AND THE EMPIRE STATE DEVELOPMENT CORPORATION OF SUCH GRANT
33 OR DESIGNATION AND INCLUDE IN SUCH NOTIFICATION A DESCRIPTION OF THE
34 STUDY AREA IN THE CASE OF THE AWARD OF A GRANT OR COPY OF THE BROWNFIELD
35 OPPORTUNITY AREA PLAN IN THE CASE OF A DESIGNATION, AND A REQUEST FOR
36 RELEVANT INFORMATION CONCERNING, WITHOUT LIMITATION, LAND USES, CAPITAL
37 PROJECTS, AND PLANS RELATING TO PROPERTIES OR THE COMMUNITY WITHIN THE
38 BORDERS OF SUCH BROWNFIELD OPPORTUNITY AREA. SUCH DEPARTMENTS AND SUCH
39 CORPORATION SHALL PROVIDE SUCH INFORMATION, PREFERABLY IN THE CONTEXT OF
40 AN INTERAGENCY MEETING CALLED BY THE SECRETARY, WITHIN SIXTY DAYS OF
41 SUCH NOTIFICATION.

42 C. To the extent authorized by law, projects in brownfield opportunity
43 areas designated pursuant to this section shall receive a priority and
44 preference when considered for financial assistance pursuant to articles
45 fifty-four and fifty-six of the environmental conservation law. To the
46 extent authorized by law, projects in brownfield opportunity areas
47 designated pursuant to this section may receive a priority and prefer-
48 ence when considered for financial AND OTHER assistance pursuant to any
49 other state, federal or local law. THE SECRETARY SHALL TAKE SUCH MEAS-
50 URES AS MAY BE NECESSARY TO DETERMINE THE AVAILABILITY OF SUCH FINANCIAL
51 AND OTHER ASSISTANCE AND TO SEEK COOPERATION WITH OTHER STATE, FEDERAL
52 AND LOCAL OFFICIALS IN PROVIDING A PRIORITY AND PREFERENCE TO APPLICANTS
53 PURSUANT TO THIS SUBDIVISION.

54 6. State assistance for brownfield site [assessments] PRE-DEVELOPMENT
55 ACTIVITIES in brownfield opportunity areas. a. Within the limits of
56 appropriations therefor, the [commissioner, in consultation with the]

1 secretary [of state], is authorized to provide, on a competitive basis,
2 financial assistance to municipalities, to community based organiza-
3 tions, to community boards, or to municipalities and community based
4 organizations acting in cooperation to conduct brownfield site [assess-
5 ments] PRE-DEVELOPMENT ACTIVITIES in a brownfield opportunity area
6 designated pursuant to this section. TO THE EXTENT THAT THERE ARE UNEX-
7 PENDED FUNDS APPROPRIATED TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
8 TION FOR SUCH PURPOSES, THE COMMISSIONER OF THE DEPARTMENT OF ENVIRON-
9 MENTAL CONSERVATION SHALL SUBALLOCATE SUCH FUNDS TO THE SECRETARY. Such
10 financial assistance shall not exceed ninety percent of the costs of
11 such brownfield site [assessment] PRE-DEVELOPMENT ACTIVITIES.

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

15 c. Brownfield site [assessment] PRE-DEVELOPMENT activities eligible
16 for funding include, but are not limited to, testing of properties to
17 determine the nature and extent of the contamination (including soil and
18 groundwater), environmental assessments IN CONFORMANCE WITH APPLICABLE
19 REQUIREMENTS OF THE COMMISSIONER, the development of a proposed remedi-
20 ation strategy to address any identified contamination IN CONFORMANCE
21 WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER OF ENVIRONMENTAL
22 CONSERVATION, and any other activities deemed appropriate by the
23 [commissioner in consultation with the] secretary [of state. Any envi-
24 ronmental assessment shall be subject to the review and approval of such
25 commissioner].

26 d. Applications for such assistance shall be submitted to the [commis-
27 sioner] SECRETARY in a format, and containing such information, as
28 prescribed by the [commissioner in consultation with the] secretary [of
29 state].

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

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

35 (2) areas with concentrations of brownfield sites;

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

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

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

44 f. The [commissioner] SECRETARY, upon the receipt of an application
45 for such assistance from a community based organization not in cooper-
46 ation with the local government having jurisdiction over the proposed
47 brownfield opportunity area, shall request the municipal government to
48 review and state the municipal government's support or lack of support.
49 The municipal government's statement shall be considered a part of the
50 application.

51 g. Prior to making an award for assistance, the [commissioner] SECRE-
52 TARY shall notify the temporary president of the senate and the speaker
53 of the assembly.

54 h. Following notification to the applicant that assistance has been
55 awarded, and prior to disbursement of funds, a contract shall be
56 executed between the department and the applicant or co-applicants. The

1 [commissioner] SECRETARY shall establish terms and conditions for such
2 contracts as the [commissioner] SECRETARY deems appropriate [in consul-
3 tation with the secretary of state], including provisions to define:
4 applicant's work scope, work schedule, and deliverables; fiscal reports
5 on budgeted and actual use of funds expended; and requirements for
6 submission of a final fiscal report. The contract shall also require the
7 distribution of work products to the department, and, for community
8 based organizations, to the applicant's municipality. Applicants shall
9 be required to make the results publicly available. Such contract shall
10 further include a provision providing that if any responsible party
11 payments become available to the applicant, the amount of such payments
12 attributable to expenses paid by the award shall be paid to the depart-
13 ment by the applicant; provided that the applicant may first apply such
14 responsible party payments towards actual project costs incurred by the
15 applicant.

16 7. Amendments to designated area. Any proposed amendment to a brown-
17 field opportunity area designated pursuant to this section OR BROWNFIELD
18 OPPORTUNITY AREA PLAN APPROVED FOR SUCH BROWNFIELD OPPORTUNITY AREA
19 shall be proposed TO, and reviewed by the secretary, in the same manner
20 and using the same criteria set forth in this section and applicable to
21 an initial nomination for the designation of a brownfield opportunity
22 area.

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

27 (1) identification of the interested public and preparation of a
28 contact list;

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

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

33 (4) public notice and newspaper notice of (i) the intent of the muni-
34 cipality and/or community based organization to undertake a pre-nomi-
35 nation process or prepare a brownfield opportunity area plan, and (ii) the
36 availability of such application.

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

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

40 (2) a public meeting on a brownfield opportunity area draft applica-
41 tion.

42 C. APPLICATIONS FOR PRE-NOMINATION OR NOMINATION PURSUANT TO THIS
43 SECTION MAY BE SUBMITTED AT ANY TIME DURING THE CALENDAR YEAR.

44 9. Financial assistance; advance payment. Notwithstanding any other
45 law to the contrary, financial assistance pursuant to this section
46 provided by the [commissioner and the] secretary pursuant to an executed
47 contract may include an advance payment up to twenty-five percent of the
48 contract amount.

49 S 6. Section 970-r of the general municipal law is amended by adding a
50 new subdivision 10 to read as follows:

51 10. A. AN APPLICANT WHO RECEIVES AN AWARD FOR ASSISTANCE MAY REQUEST
52 THAT THE CHAIRMAN OF THE NEW YORK STATE URBAN DEVELOPMENT AND RESEARCH
53 CORPORATION CONSIDER A SITE WITHIN THE BROWNFIELD OPPORTUNITY AREA FOR
54 CONSIDERATION IN THE BROWNFIELDS SHOVEL-READY PROGRAM, PURSUANT TO
55 SECTION TWENTY-TWO-A OF THE NEW YORK STATE URBAN DEVELOPMENT AND
56 RESEARCH CORPORATION ACT.

1 B. SUCH APPLICANT SHALL PROVIDE TO THE CHAIRMAN OF THE NEW YORK STATE
2 URBAN DEVELOPMENT AND RESEARCH CORPORATION SUCH INFORMATION TO DEMON-
3 STRATE HOW THE SITE WILL STIMULATE ECONOMIC DEVELOPMENT, COMMUNITY REVI-
4 TALIZATION, OR THE SITING OF PUBLIC AMENITIES.

5 S 7. Subdivision 3 of section 27-1419 of the environmental conserva-
6 tion law, as amended by chapter 390 of the laws of 2008, is amended to
7 read as follows:

8 3. Upon receipt of the final engineering report, the department shall
9 review such report and the data submitted pursuant to the brownfield
10 site cleanup agreement as well as any other relevant information regard-
11 ing the brownfield site. Upon satisfaction of the commissioner that the
12 remediation requirements set forth in this title have been or will be
13 achieved in accordance with the timeframes, if any, established in the
14 remedial work plan, the commissioner shall issue a written certificate
15 of completion, such certificate shall include such information as deter-
16 mined by the department of taxation and finance, including but not
17 limited to the brownfield site boundaries included in the final engi-
18 neering report, the date of the brownfield site agreement pursuant to
19 section 27-1409 of this title, and the applicable percentages available
20 for that site for purposes of section twenty-one of the tax law, with
21 such percentages to be determined as follows with respect to such quali-
22 fied site for which the department has issued a notice to the taxpayer
23 after June twenty-third, two thousand eight that its request for partic-
24 ipation has been accepted under subdivision six of section 27-1407 of
25 this title:

26 (A) For the purposes of calculating the site preparation credit compo-
27 nent pursuant to paragraph two of subdivision (a) of section twenty-one
28 of the tax law, and the on-site groundwater remediation credit component
29 pursuant to paragraph four of subdivision (a) of section twenty-one of
30 the tax law, the applicable percentage shall be based on the level of
31 cleanup achieved pursuant to subdivision four of section 27-1415 of this
32 title and the level of cleanup of soils to contaminant-specific soil
33 cleanup objectives promulgated pursuant to subdivision six of section
34 27-1415 of this title, up to a maximum of fifty percent, as follows:

35 [(a)] (I) soil cleanup for unrestricted use, the protection of ground-
36 water or the protection of ecological resources, the applicable percent-
37 age shall be fifty percent;

38 [(b)] (II) soil cleanup for residential use, the applicable percentage
39 shall be forty percent, except for Track 4 which shall be [twenty-eight]
40 THIRTY-FIVE percent;

41 [(c)] (III) soil cleanup for commercial use, the applicable percentage
42 shall be thirty-three percent, except for Track 4 which shall be twen-
43 ty-five percent;

44 [(d)] (IV) soil cleanup for industrial use, the applicable percentage
45 shall be [twenty-seven] TWENTY percent, except for Track 4 which shall
46 be [twenty-two] FIFTEEN percent.

47 (B) FOR THE PURPOSES OF CALCULATING THE TANGIBLE PROPERTY CREDIT
48 COMPONENT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION
49 TWENTY-ONE OF THE TAX LAW, THE APPLICABLE PERCENTAGE SHALL BE FIFTEEN
50 PERCENT PLUS THE SUM OF THE FOLLOWING:

51 (I) TEN PERCENT FOR A SITE THAT IS LOCATED IN AN ENVIRONMENTAL ZONE;
52 AND

53 (II) FIVE PERCENT FOR A SITE THAT IS LOCATED IN A QUALIFIED CENSUS
54 TRACT AS THAT TERM IS DEFINED IN SECTION 42(D)(5)(C) OF THE INTERNAL
55 REVENUE CODE; AND

(III) TWENTY PERCENT WHERE THE SITE IS LOCATED IN A BROWNFIELD OPPORTUNITY AREA AND IS DEVELOPED IN CONFORMANCE WITH THE GOALS AND PRIORITIES ESTABLISHED FOR THAT APPLICABLE BROWNFIELD OPPORTUNITY AREA AS DESIGNATED PURSUANT TO SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW; AND

(IV) UP TO TEN PERCENT AS FOLLOWS: TWO AND ONE-HALF PERCENT FOR BUILDINGS THAT ARE CONSTRUCTED IN CONFORMANCE WITH GREEN BUILDING REGULATIONS PROMULGATED PURSUANT TO SECTION NINETEEN OF THE TAX LAW; FIVE PERCENT FOR BUILDINGS THAT UTILIZE EXISTING WATER OR SEWER DELIVERY SYSTEMS; AND TWO AND ONE-HALF PERCENT FOR DEVELOPMENT THAT IS LOCATED WITHIN A QUARTER MILE OF A ROUTE SERVED BY A PUBLIC TRANSIT SYSTEM FUNDED PURSUANT TO SECTION EIGHTEEN-B OF THE TRANSPORTATION LAW; PROVIDED, HOWEVER, THAT

(V) THE AMOUNT OF THE TAX CREDIT ALLOWED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW CANNOT EXCEED THE DOLLAR AMOUNT IN THAT SECTION.

(C) IN THE CASE OF A QUALIFIED SITE LOCATED IN A BROWNFIELD OPPORTUNITY AREA, THE SITE MUST BE DEVELOPED CONSISTENT WITH THE BROWNFIELD OPPORTUNITY PLAN, APPROVED BY THE SECRETARY OF STATE, PURSUANT TO SUBDIVISION FOUR OF SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, IN ORDER TO BE ELIGIBLE FOR THE TANGIBLE PROPERTY CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW.

S 8. Paragraphs 1 and 2 of subdivision (b) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, are amended to read as follows:

(1) Qualified site. A "qualified site" is a site with respect to which a certificate of completion has been issued to the taxpayer by the commissioner of environmental conservation pursuant to section 27-1419 of the environmental conservation law. SUCH TERM SHALL NOT INCLUDE A SITE WITHIN A BROWNFIELD OPPORTUNITY AREA, THE DEVELOPMENT OF WHICH IS INCONSISTENT WITH THE BROWNFIELD OPPORTUNITY AREA PLAN APPROVED BY THE SECRETARY OF STATE, PURSUANT TO SUBDIVISION FOUR OF SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW.

(2) Site preparation costs. The term "site preparation costs" shall mean all amounts properly chargeable to a capital account, (i) which are paid or incurred in connection with a site's qualification for a certificate of completion, and (ii) all other site preparation costs paid or incurred in connection with preparing a site for the erection of a building or a component of a building, or otherwise to establish a site as usable for its industrial, commercial (including the commercial development of residential housing), recreational or conservation purposes. Site preparation costs shall include, but not be limited to, the costs of excavation, temporary electric wiring, scaffolding, demolition [costs, and], DISPOSAL OF CONTAMINATED SOIL, CONSTRUCTION AND MAINTENANCE OF ENGINEERING BARRIERS, ASBESTOS AND LEAD PAINT ABATEMENT, PHASE I AND PHASE II SITE INVESTIGATION, REMEDIAL INVESTIGATION, REMEDIAL DESIGN, SAMPLING AND TESTING FOR THE DETECTION OR CONFIRMATION OF THE PRESENCE OF CONTAMINANTS IN SOIL, AIR OR WATER, the costs of fencing and security facilities, AND TRANSACTION COSTS ASSOCIATED WITH THE BROWNFIELD CONDITION, SUCH AS INSURANCE, LEGAL COUNSEL, AND ENVIRONMENTAL ENGINEERING. Site preparation costs shall not include the cost of acquiring the site and shall not include amounts included in the cost or other basis for federal income tax purposes of qualified tangible property, as described in paragraph three of this subdivision.

S 9. The tax law is amended by adding a new section 23-a to read as follows:

1 S 23-A. BROWNFIELD CREDIT REPORT. (A) THE DEPARTMENT MUST PUBLISH A
2 BROWNFIELD CREDIT REPORT ANNUALLY BY JANUARY THIRTY-FIRST. THE FIRST
3 REPORT MUST BE PUBLISHED BY JANUARY THIRTY-FIRST, TWO THOUSAND ELEVEN.

4 (B)(1) THE BROWNFIELD CREDIT REPORT MUST CONTAIN THE FOLLOWING INFOR-
5 MATION ABOUT THE CREDITS CLAIMED UNDER SECTIONS TWENTY-ONE, TWENTY-TWO
6 AND TWENTY-THREE OF THIS ARTICLE DURING THE PREVIOUS CALENDAR YEAR:

7 (A) THE NAME OF EACH TAXPAYER CLAIMING A CREDIT;

8 (B) THE AMOUNT OF EACH CREDIT EARNED BY EACH TAXPAYER;

9 (C) THE TAXPAYER'S TAX LIABILITY BEFORE THE APPLICATION OF ANY CREDITS
10 AND THE TAXPAYER'S TAX LIABILITY AFTER THE APPLICATION OF ANY CREDITS;

11 (D) INFORMATION IDENTIFYING THE PROJECT FOR WHICH A CERTIFICATE OF
12 COMPLETION WAS ISSUED AND THE CREDIT CLAIMED UNDER SECTION TWENTY-ONE,
13 TWENTY-TWO OR TWENTY-THREE OF THIS ARTICLE.

14 (2) IF THE TAXPAYER CLAIMS A CREDIT UNDER SECTION TWENTY-ONE, TWENTY-
15 TWO OR TWENTY-THREE OF THIS ARTICLE BECAUSE THE TAXPAYER IS A MEMBER OF
16 A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER
17 IN A SUBCHAPTER S CORPORATION, THE NAME OF EACH LIMITED LIABILITY COMPA-
18 NY, PARTNERSHIP OR SUBCHAPTER S CORPORATION EARNING ANY OF THOSE CREDITS
19 AND THE AMOUNT OF CREDIT EARNED BY EACH ENTITY MUST BE INCLUDED IN THE
20 REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIMING THE CREDIT. IN
21 THAT INSTANCE, INFORMATION REGARDING THE TAXPAYER'S TAX LIABILITY WILL
22 NOT BE INCLUDED IN THE REPORT.

23 (C) THE INFORMATION INCLUDED IN THE BROWNFIELD CREDIT REPORT WILL BE
24 BASED ON THE INFORMATION FILED WITH THE DEPARTMENT DURING THE PREVIOUS
25 CALENDAR YEAR, TO THE EXTENT THAT IT IS PRACTICABLE TO USE THAT INFORMA-
26 TION.

27 (D) THE BROWNFIELD CREDIT REPORT WILL NOT INCLUDE ANY INFORMATION
28 REGARDING ANY CREDIT CLAIMED UNDER SECTION TWENTY-ONE, TWENTY-TWO, OR
29 TWENTY-THREE OF THIS ARTICLE WITH RESPECT TO ANY QUALIFIED SITE WHERE
30 THE TAXPAYER HAS RECEIVED APPROVAL OF A REMEDIAL WORK PLAN BY THE
31 COMMISSIONER OF ENVIRONMENTAL CONSERVATION UNDER SECTION 27-1411 OF THE
32 ENVIRONMENTAL CONSERVATION LAW BEFORE THE EFFECTIVE DATE OF THIS
33 SECTION, OR WHERE THE TAXPAYER RECEIVED A CERTIFICATE OF COMPLETION FROM
34 ANOTHER TAXPAYER UNDER SECTION 27-1419 OF THE ENVIRONMENTAL CONSERVATION
35 LAW BEFORE THE EFFECTIVE DATE OF THIS SECTION.

36 S 10. Subdivision 1 of section 27-1407 of the environmental conserva-
37 tion law, as amended by section 3 of part A of chapter 577 of the laws
38 of 2004, is amended to read as follows:

39 1. A person who seeks to participate in this program shall submit a
40 request to the department on a form provided by the department. Such
41 form shall include (A) SUCH information [to be determined by the depart-
42 ment sufficient to allow] WHICH THE DEPARTMENT DETERMINES IS NECESSARY
43 TO ENABLE the department to determine eligibility and the current,
44 intended and reasonably anticipated future land use of the site pursuant
45 to section 27-1415 of this title; AND (B) AN ESTIMATE ON THE BASIS OF
46 INFORMATION AVAILABLE AT THE TIME OF THE SUBMISSION OF THE REQUEST FOR
47 PARTICIPATION OF THE AMOUNTS DESCRIBED IN SECTION 27-1432 OF THIS TITLE
48 IN SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE.

49 S 11. Subdivision 2 of section 27-1411 of the environmental conserva-
50 tion law, as amended by section 5 of part A of chapter 577 of the laws
51 of 2004, is amended to read as follows:

52 2. A remedial work plan shall provide for the development and imple-
53 mentation of a remedial program for such contamination within the bound-
54 aries of such brownfield site; provided, however, that a participant
55 shall also be required to provide in such work plan for the development
56 and implementation of a remedial program for contamination that has

emanated from such site. THE REMEDIAL WORK PLAN MUST BE ACCOMPANIED BY A STATEMENT PREPARED BY THE APPLICANT WHICH SETS FORTH, ON THE BASIS OF INFORMATION AVAILABLE AT THE TIME OF THE SUBMISSION OF THE WORK PLAN, THE AMOUNTS DESCRIBED IN SECTION 27-1432 OF THIS TITLE IN SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE.

S 12. Section 27-1419 of the environmental conservation law is amended by adding a new subdivision 2-a to read as follows:

2-A. THE FINAL ENGINEERING REPORT MUST BE ACCOMPANIED BY A STATEMENT PREPARED BY THE APPLICANT WHICH SETS FORTH, ON THE BASIS OF INFORMATION AVAILABLE AT THE TIME OF THE SUBMISSION OF THE FINAL ENGINEERING REPORT, THE AMOUNTS DESCRIBED IN SECTION 27-1432 OF THIS TITLE IN SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE.

S 13. The environmental conservation law is amended by adding a new section 27-1432 to read as follows:

S 27-1432. FINANCIAL DISCLOSURE.

THE DEPARTMENT MAY REQUIRE ANY PERSON TO FURNISH THE FOLLOWING INFORMATION TO THE DEPARTMENT, IN A FORM AND MANNER AS PRESCRIBED BY THE DEPARTMENT:

1. TOTAL COSTS INCURRED, IF ANY, ON OR AFTER THE EFFECTIVE DATE OF THE BROWNFIELD SITE CLEANUP AGREEMENT, WHICH MAY QUALIFY FOR THE SITE PREPARATION COMPONENT OF A BROWNFIELD REDEVELOPMENT TAX CREDIT, TANGIBLE PROPERTY COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT, ON-SITE GROUNDWATER COMPONENT OF THE BROWNFIELD REDEVELOPMENT CREDIT, AND THE ENVIRONMENTAL REMEDIATION INSURANCE CREDIT;

2. ESTIMATED FUTURE COSTS TO BE INCURRED AFTER THE EFFECTIVE DATE OF THE BROWNFIELD SITE CLEANUP AGREEMENT WHICH MAY QUALIFY FOR THE SITE PREPARATION COMPONENT OF A BROWNFIELD REDEVELOPMENT TAX CREDIT, TANGIBLE PROPERTY COMPONENT OF A BROWNFIELD REDEVELOPMENT TAX CREDIT, ON-SITE GROUNDWATER COMPONENT OF A BROWNFIELD REDEVELOPMENT CREDIT, AND ENVIRONMENTAL REMEDIATION INSURANCE CREDIT;

3. ESTIMATED AVERAGE NUMBER OF FULL-TIME EMPLOYEES TO BE EMPLOYED BY THE APPLICANT, PLUS THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES TO BE EMPLOYED BY A LESSEE OR LESSEES OF A PORTION OF THE BROWNFIELD SITE DURING THE FIRST TAXABLE YEAR FOLLOWING ISSUANCE OF THE CERTIFICATE OF COMPLETION;

4. THE ELIGIBLE REAL PROPERTY TAXES PROJECTED TO BE IMPOSED UPON THE BROWNFIELD SITE IN THE FIRST CALENDAR YEAR FOLLOWING ISSUANCE OF THE CERTIFICATE OF COMPLETION;

5. THE ESTIMATED REMEDIATED BROWNFIELD CREDIT FOR REAL PROPERTY TAXES WHICH CAN BE CLAIMED IN THE FIRST TAXABLE YEAR FOLLOWING ISSUANCE OF THE CERTIFICATE OF COMPLETION;

6. THE ESTIMATED CREDITS FOR THE SITE PREPARATION COMPONENT OF A BROWNFIELD REDEVELOPMENT TAX CREDIT, THE TANGIBLE PROPERTY COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT, THE ON-SITE GROUNDWATER COMPONENT OF THE BROWNFIELD REDEVELOPMENT CREDIT, AND/OR THE ENVIRONMENTAL REMEDIATION INSURANCE CREDIT THAT MAY BE CLAIMED IN EACH YEAR FOLLOWING ISSUANCE OF THE CERTIFICATE OF COMPLETION; AND

7. ANY OTHER INFORMATION THE DEPARTMENT MAY DEEM NECESSARY AND APPROPRIATE TO CARRY OUT THE PURPOSES OF THIS TITLE.

S 14. Chapter 173 of the laws of 1968, constituting the New York state urban development and research corporation act, is amended by adding a new section 22-a to read as follows:

S 22-A. BROWNFIELDS SHOVEL-READY PROGRAM. 1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT OR ANY OTHER LAW TO THE CONTRARY, THE PROVISIONS OF THIS SECTION SHALL GOVERN ANY PROJECT UNDER THE AUSPICES OF THE CORPORATION FOR URBAN DEVELOPMENT AND RESEARCH OF NEW YORK OR ITS

SUCCESSOR IN INTEREST. IT IS THE INTENT OF THE LEGISLATURE AND THE PURPOSE OF THIS LEGISLATION TO STIMULATE ECONOMIC DEVELOPMENT, AFFORDABLE HOUSING, COMMUNITY REVITALIZATION, AND THE SITING OF PUBLIC AMENITIES ON BROWNFIELD SITES IN DISTRESSED URBAN AREAS.

2. THE CHAIRMAN, IN COOPERATION WITH THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, AND THE SECRETARY OF STATE, SHALL DEVELOP A PROGRAM TO PRODUCE NEW JOBS, AFFORDABLE HOUSING AND PUBLIC AMENITIES ON BROWNFIELD SITES IN DISTRESSED URBAN AREAS, THE "BROWNFIELDS SHOVEL-READY PROGRAM". THE CHAIRMAN IS AUTHORIZED TO CARRY OUT A PROGRAM WHICH WILL INCLUDE THE ACQUISITION ASSESSMENT, DEMOLITION, CLEANUP, AND OTHER SITE PREPARATION COSTS NECESSARY TO ACHIEVE THE REUSE FOR THESE PURPOSES BY THE URBAN DEVELOPMENT CORPORATION.

3. ELIGIBLE SITES ARE LIMITED TO BROWNFIELD SITES, AS SUCH TERM IS DEFINED IN SECTION 27-1405 OF THE ENVIRONMENTAL CONSERVATION LAW; AND

A. SITES THAT ARE PART OF A BROWNFIELD OPPORTUNITY AREA OR BROWNFIELD OPPORTUNITY STUDY AREA PURSUANT TO SECTION 970-R OF THE GENERAL MUNICIPAL LAW. THE DEVELOPMENT AND FUTURE USE OF SUCH SITE SHALL BE LIMITED TO USES CONSISTENT WITH AN ADOPTED BROWNFIELD OPPORTUNITY AREA PLAN; OR

B. SITES IDENTIFIED BY THE CHAIRMAN WHICH HAVE NOT ATTRACTED PRIVATE REDEVELOPMENT INTEREST DUE TO THE DEGREE OF CONTAMINATION AND COST OF CORRECTION, PROVIDED THAT SUCH ACQUISITION AND REDEVELOPMENT IS CONSISTENT WITH USES ESTABLISHED, THROUGH A LOCAL PROCESS AND ANY RESTRICTIONS OR LIMITATIONS REGARDING SUCH USES.

4. THE CHAIRMAN SHALL GIVE PRIORITY TO:

A. SITES LOCATED WITHIN A BROWNFIELDS OPPORTUNITY AREA, PURSUANT TO SECTION 970-R OF THE GENERAL MUNICIPAL LAW. SPECIFICALLY, THE CHAIRMAN WILL GIVE PRIORITY TO THE CONSIDERATION OF SITES REFERRED PURSUANT TO SUBDIVISION 10 OF SECTION 970-R OF THE GENERAL MUNICIPAL LAW; AND

B. PROJECTS IN WHICH THE END USE WILL BE LOW- AND MODERATE-INCOME RESIDENTIAL PROPERTY.

5. EMINENT DOMAIN RESTRICTIONS. A. FOR SITES LOCATED WITHIN A BROWNFIELDS OPPORTUNITY AREA, PURSUANT TO SECTION 970-R OF THE GENERAL MUNICIPAL LAW, THE CHAIRMAN SHALL ONLY USE EMINENT DOMAIN POWERS IF THE USE OF SUCH POWER HAS BEEN SPECIFICALLY DISCUSSED AND SUPPORTED BY THE LOCAL COMMUNITY THROUGH THE COMPREHENSIVE BROWNFIELD OPPORTUNITY AREA PLANNING PROCESS, AND IDENTIFIED IN A DESIGNATED BROWNFIELD OPPORTUNITY AREA.

B. FOR ALL OTHER PROJECTS THE CHAIRMAN SHALL NOT EXERCISE ANY EMINENT DOMAIN POWERS PROVIDED FOR IN THIS ACT.

6. THE CHAIRMAN IS AUTHORIZED TO ENTER INTO CONTRACTS TO PREPARE THE SITE; INCLUDING THE SITE ASSESSMENT, DEMOLITION, CLEANUP AND OTHER SITE PREPARATION NECESSARY TO ACHIEVE THE SATISFACTION OF THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION.

7. BY DECEMBER 31, 2009, THE CHAIRMAN SHALL DEVELOP REGULATIONS FOR THE IMPLEMENTATION OF THIS PROGRAM. AT A MINIMUM, SUCH REGULATIONS SHALL INCLUDE PROVISIONS STIPULATING:

A. THAT TO ACHIEVE THE PREPARATION AND REMEDIATION OF BROWNFIELD SITES TO BE OFFERED TO DEVELOPERS OR MANUFACTURERS FOR ONE DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATION. SUCH SITES MAY BE SUBDIVIDED PRIOR TO BEING OFFERED.

B. IN RETURN FOR A REMEDIATED SITE SOLD FOR ONE DOLLAR, DEVELOPERS WOULD AGREE TO:

I. BUILD QUALITY BUILDINGS AT A MINIMUM COST OF THIRTY-EIGHT DOLLARS PER SQUARE FOOT,

II. MEET THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) GREEN BUILDING RATING SYSTEM IN THE BUILDING CONSTRUCTION,

1 III. PROVIDE A MINIMUM OF ONE NEW JOB PER ONE THOUSAND SQUARE FEET OF
2 BUILDING SPACE,

3 IV. PAY A MINIMUM OF TEN DOLLARS AND FIFTY CENTS PER HOUR PLUS BENE-
4 FITS,

5 V. HIRE AT LEAST SEVENTY PERCENT OF ITS WORKFORCE FROM THE LOCAL
6 COMMUNITY,

7 VI. ALL REASONABLE RESTRICTIONS AND LIMITATIONS ESTABLISHED BY THE
8 CORPORATION FOR THE BROWNFIELD SITE IDENTIFIED IN THE CITIZEN PARTIC-
9 IPATION ACTIVITIES.

10 C. IN THE CASE THAT A REMEDIATED SITE IS SOLD TO AN AFFORDABLE HOUSING
11 DEVELOPER, THE DEVELOPER SHALL BUILD HOUSING UNITS IN ACCORDANCE WITH
12 THE STATE'S AFFORDABILITY GUIDELINES.

13 D. THE CORPORATION'S CITIZEN PARTICIPATION PLAN. THE CITIZEN PARTIC-
14 IPATION PLAN SHALL CONSIDER THE LEVEL OF CITIZEN INVOLVEMENT; LOCAL
15 INTEREST AND HISTORY, AND OTHER RELEVANT FACTORS. WHILE RETAINING FLEXI-
16 BILITY, CITIZEN PARTICIPATION PLANS SHALL EMBODY THE FOLLOWING PRINCI-
17 PLES OF MEANINGFUL CITIZEN PARTICIPATION, AND AT A MINIMUM SHALL
18 INCLUDE:

19 I. AN IDENTIFICATION OF THE INTERESTED PUBLIC AND PREPARATION OF A
20 BROWNFIELD SITE CONTACT LIST;

21 II. IDENTIFICATION OF MAJOR ISSUES OF PUBLIC CONCERN RELATED TO THE
22 BROWNFIELD SITE;

23 III. A DESCRIPTION AND SCHEDULE OF ANY ADDITIONAL PUBLIC PARTICIPATION
24 ACTIVITIES NEEDED TO ADDRESS PUBLIC CONCERNS;

25 IV. PROVISIONS FOR NOTICE WITH RESPECT TO THE ACQUISITION, ASSESSMENT,
26 DEMOLITION, CLEANUP, AND OTHER SITE PREPARATION COSTS AND INTENDED REUSE
27 OF A SITE;

28 V. SPECIFIC CONSULTATION REGARDING SUPPORT FOR THE CORPORATION'S
29 ACQUIRING THE BROWNFIELD SITE, INTENDED REUSE AND ANY REASONABLE LIMITA-
30 TIONS OR CONDITIONS ON THE REDEVELOPMENT OF THE BROWNFIELD SITE; AND

31 VI. PROVISIONS TO PROVIDE SEPARATE NOTICE OF ALL REASONABLE LIMITA-
32 TIONS OR CONDITIONS IDENTIFIED IN THE PUBLIC PARTICIPATION THAT THE
33 CORPORATION HAS, WILL BE REQUIRED FOR THE DEVELOPMENT OF THE BROWNFIELD
34 SITE.

35 S 15. Paragraph 5 of subdivision (a) of section 21 of the tax law, as
36 amended by section 1 of part H of chapter 577 of the laws of 2004, is
37 amended to read as follows:

38 (5) Applicable percentage. [For] (A) WITH RESPECT TO ANY QUALIFIED
39 SITE WHICH SUBMITTED A REQUEST FOR PARTICIPATION PURSUANT TO SUBDIVISION
40 ONE OF SECTION 27-1407 OF THE ENVIRONMENTAL CONSERVATION LAW ON OR
41 BEFORE THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND
42 EIGHT WHICH AMENDED THIS PARAGRAPH, OR WHERE THE TAXPAYER HAS EITHER
43 BEEN ISSUED OR RECEIVED A CERTIFICATE OF COMPLETION FROM ANOTHER TAXPAY-
44 ER UNDER SECTION 27-1419 OF THE ENVIRONMENTAL CONSERVATION LAW ON OR
45 BEFORE THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND
46 NINE WHICH AMENDED THIS PARAGRAPH, THE APPLICABLE PERCENTAGE FOR
47 purposes of paragraphs two, three and four of this subdivision, [the
48 applicable percentage] shall be twelve percent in the case of credits
49 claimed under article nine, nine-A, thirty-two or thirty-three of this
50 chapter, and ten percent in the case of credits claimed under article
51 twenty-two of this chapter, except that where at least fifty percent of
52 the area of the qualified site relating to the credit provided for in
53 this section is located in an environmental zone as defined in paragraph
54 six of subdivision (b) of this section, the applicable percentage shall
55 be increased by an additional eight percent. Provided, however, as
56 afforded in section 27-1419 of the environmental conservation law, if

1 the certificate of completion indicates that the qualified site has been
2 remediated to Track 1 as that term is described in subdivision four of
3 section 27-1415 of the environmental conservation law, the applicable
4 percentage set forth in the first sentence of this [paragraph] SUBPARA-
5 GRAPH shall be increased by an additional two percent.

6 (B) WITH RESPECT TO ANY QUALIFIED SITE WHICH SUBMITTED A REQUEST FOR
7 PARTICIPATION PURSUANT TO SUBDIVISION ONE OF SECTION 27-1407 OF THE
8 ENVIRONMENTAL CONSERVATION LAW AFTER THE EFFECTIVE DATE OF THE CHAPTER
9 OF THE LAWS OF TWO THOUSAND NINE WHICH AMENDED THIS PARAGRAPH, THE
10 APPLICABLE PERCENTAGE SHALL BE AS DETERMINED PURSUANT TO SECTION 27-1419
11 OF THE ENVIRONMENTAL CONSERVATION LAW AND INCORPORATED INTO THE TAXPAY-
12 ER'S CERTIFICATE OF COMPLETION, PROVIDED THAT, FOR PURPOSES OF PARAGRAPH
13 THREE OF THIS SUBDIVISION, THE TOTAL AMOUNT OF THE TANGIBLE PROPERTY
14 CREDIT COMPONENT THAT IS ALLOWED WITH RESPECT TO THAT QUALIFIED SITE
15 SHALL NOT EXCEED TWENTY-FIVE MILLION DOLLARS. PROVIDED, HOWEVER THAT A
16 PARTICIPANT AS DEFINED IN SECTION 27-1405 OF THE ENVIRONMENTAL CONSERVA-
17 TION LAW SHALL NOT BE ELIGIBLE FOR THE TANGIBLE PROPERTY CREDIT COMPO-
18 NENT. PROVIDED, FURTHER, THAT UPON REQUEST BY AN APPLICANT AND PROVISION
19 OF THE FINANCIAL INFORMATION REQUIRED PURSUANT TO SECTION 27-1432 OF THE
20 ENVIRONMENTAL CONSERVATION LAW AND UPON PERFORMANCE OF A COST BENEFIT
21 ANALYSIS, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN CONSULTATION
22 WITH THE DEPARTMENT, THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE
23 URBAN DEVELOPMENT CORPORATION SHALL DETERMINE WHETHER THE LIMITATION ON
24 THE TOTAL AMOUNT OF THE TANGIBLE PROPERTY CREDIT COMPONENT SHALL APPLY.
25 "COST BENEFIT ANALYSIS" SHALL MEAN A METHOD OF DETERMINING WHETHER TO
26 PROVIDE AN INCREASE TO AN APPLICANT ABOVE THE TOTAL AMOUNT OF THE MAXI-
27 MUM TANGIBLE PROPERTY CREDIT COMPONENT AUTHORIZED IN THIS PARAGRAPH AND
28 SHALL BE A RATIO OF AT LEAST 20:1, THE NUMERATOR OF WHICH IS THE SUM OF
29 (I) THE ESTIMATED VALUE OF ALL WAGES AND BENEFITS PAID FOR THE FIRST
30 FIVE YEARS AFTER RECEIPT OF THE CERTIFICATE OF COMPLETION TO ALL EXIST-
31 ING AND PROJECTED EMPLOYEES OF THE APPLICANT AT THE SITE AND (II) THE
32 VALUE OF CAPITAL INVESTMENT FOR THE FIRST FIVE YEARS AFTER RECEIPT OF
33 THE CERTIFICATE OF COMPLETION, AND THE DENOMINATOR OF WHICH IS THE
34 AMOUNT OF TAX CREDITS THAT MAY BE CLAIMED FOR THE FIRST FIVE YEARS AFTER
35 RECEIPT OF THE CERTIFICATE OF COMPLETION PURSUANT TO THIS SECTION AND
36 SECTIONS TWENTY-TWO AND TWENTY-THREE OF THIS ARTICLE PROVIDED HOWEVER,
37 THAT THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, THE COMMISSIONER
38 AND THE COMMISSIONER OF ECONOMIC DEVELOPMENT MAY TAKE INTO ACCOUNT IN
39 THE DECISION FOR APPROVAL NON-QUANTIFIABLE FACTORS WHICH SHALL INCLUDE
40 THE EXTENT AND DIFFICULTY OF REMEDIATION; THE ANTICIPATED IMPACT OF
41 REMEDIATION ON THE VALUE OF THE REAL PROPERTY; ANTICIPATED COST OF
42 ON-SITE REMEDIATION; AND THE HISTORY OF THE SITE.

43 S 16. This act shall take effect immediately; provided that the amend-
44 ment to paragraph a of subdivision 2, paragraphs a, b, g, h and i of
45 subdivision 3, the opening paragraph and subparagraph 6 of paragraph f
46 of subdivision 3 and subdivisions 7 and 9 of section 970-r of the gener-
47 al municipal law made by section five of this act shall take effect on
48 the same date as sections seven, eight, nine, ten, eleven and twelve of
49 chapter 390 of the laws of 2008, takes effect.