

2526

2009-2010 Regular Sessions

I N S E N A T E

February 23, 2009

Introduced by Sens. LAVALLE, LARKIN, PADAVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, the environmental conservation law, the public authorities law, the agriculture and markets law, the real property tax law, the state finance law and the executive law, in relation to enacting the Smart Growth for the New Century Act

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

1 Section 1. Legislative findings and declarations. The legislature
2 hereby finds and declares that:
3 New York state has a history of leading the way in protecting the
4 environment, encouraging economic activity, and pursuing equity for all
5 of its citizens. However, planning and zoning actions of local govern-
6 ments and state infrastructure funding decisions have supported a
7 pattern of settlement and land use which necessitates expansive and
8 expensive infrastructure resulting in new roadways, water supplies,
9 sewer treatment facilities, utilities and other public facilities at
10 great cost to the taxpayer and ratepayer. With this pattern of dispersed
11 development, public investment in existing infrastructure located in
12 traditional main streets, downtown areas and established suburbs has
13 been underutilized and those areas have suffered economically.
14 Local governments need to focus on soundly planned growth, so called
15 smart growth, through a collaborative community based effort to arrive
16 at a workable plan generated by the community, which responds to the
17 economic, social and environmental needs of the municipality and the
18 region. Local governments should encourage and support development in
19 target areas that have previously been developed or in designated areas
20 that make economic, social and environmental sense as target areas for
21 new development.

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

LBD02969-01-9

1 Intelligent land use planning requires coordination and consistency
2 among all levels of government. In order to promote regional goals, it
3 is time for the state and local governments to work together to achieve
4 efficient and effective infrastructure investment, consistency and fair-
5 ness in land use decisions and the protection of New York's long history
6 of home rule.

7 The Smart Growth for the New Century Act sets out a process to achieve
8 an improved economy, a healthier environment and equity for the people
9 of New York.

10 S 2. Short title. This act shall be known and may be cited as the
11 "Smart Growth for the New Century Act".

12 S 3. Article 20 and sections 1000 and 1001 of the general municipal
13 law, as renumbered by chapter 84 of the laws of 1981, are renumbered
14 article 21 and sections 1100 and 1101 and a new article 20 is added to
15 read as follows:

16 ARTICLE 20

17 SMART GROWTH FOR THE NEW CENTURY ACT

18 SECTION 1000. SHORT TITLE.

19 1001. DEFINITIONS.

20 1002. SMART GROWTH PRINCIPLES.

21 1003. SMART GROWTH PLAN.

22 1004. SMART GROWTH COMPACT.

23 1005. SMART GROWTH REVIEW BOARD.

24 1006. POWERS AND DUTIES.

25 1007. CERTIFICATION PROCEDURE.

26 1008. STATE CONSISTENCY AND INCENTIVES.

27 1009. MUNICIPAL AUTHORIZATION INCENTIVES.

28 S 1000. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
29 THE "SMART GROWTH FOR THE NEW CENTURY ACT".

30 S 1001. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS
31 SHALL MEAN:

32 1. "SMART GROWTH PLAN" OR "PLAN" SHALL MEAN THE DOCUMENT MEETING THE
33 REQUIREMENTS OF SECTION ONE THOUSAND THREE OF THIS ARTICLE, INCLUDING A
34 PLAN PREPARED THROUGH THE COMPACT PROCESS PURSUANT TO SECTION ONE THOU-
35 SAND FOUR OF THIS ARTICLE, AND SUBMITTED FOR CERTIFICATION PURSUANT TO
36 SECTION ONE THOUSAND SEVEN OF THIS ARTICLE.

37 2. "LAND USE REGULATION" SHALL MEAN AN ORDINANCE OR LOCAL LAW ENACTED
38 BY A LOCAL GOVERNMENT FOR THE REGULATION OF ANY ASPECT OF LAND USE AND
39 COMMUNITY RESOURCE PROTECTION AND INCLUDES ANY ZONING, SUBDIVISION,
40 SPECIAL USE PERMIT OR SITE PLAN REGULATION OR ANY OTHER REGULATION WHICH
41 PRESCRIBES THE APPROPRIATE USE OF PROPERTY OR THE SCALE, LOCATION AND
42 INTENSITY OF DEVELOPMENT.

43 3. "GROWTH" SHALL MEAN COMMERCIAL, RESIDENTIAL, OR INDUSTRIAL DEVELOP-
44 MENT IN A PREVIOUSLY UNDEVELOPED AREA OR AREA WITH LIMITED DEVELOPMENT.

45 4. "REDEVELOPMENT" SHALL MEAN COMMERCIAL, RESIDENTIAL, OR INDUSTRIAL
46 DEVELOPMENT IN A PREVIOUSLY DEVELOPED AREA.

47 5. "PRESERVATION" SHALL MEAN MAINTAINING LANDS IN EXISTING USES, OR
48 USES THAT ARE COMPATIBLE WITH EXISTING USES AND WHICH DO NOT INCREASE
49 THE OVERALL DENSITY OF DEVELOPMENT IN AN AREA AND MAINTAIN SCENIC, OPEN
50 SPACE, WATER QUALITY, WETLANDS, AGRICULTURAL LANDS AND WILDLIFE CONDI-
51 TIONS IN AN AREA, OR RESTORING LANDS TO AN OPEN CONDITION.

52 6. "PUBLIC OPEN SPACE" MEANS PRESERVATION AREAS THAT ARE ACCESSIBLE TO
53 THE GENERAL PUBLIC FOR RECREATIONAL OR SCENIC USE, OR WHICH ARE RESERVED
54 FOR WILDLIFE.

55 7. "BOARD" SHALL MEAN THE SMART GROWTH REVIEW BOARD.

1 8. "SMART GROWTH COMPACT COUNCIL", "COMPACT COUNCIL" OR "COUNCIL"
2 SHALL MEAN A COUNCIL ESTABLISHED PURSUANT TO SECTION ONE THOUSAND FOUR
3 OF THIS ARTICLE.

4 9. "SMART GROWTH COMPACT AREA", "COMPACT AREA" OR "AREA" SHALL MEAN A
5 REGION DESIGNATED PURSUANT TO SECTION ONE THOUSAND FOUR OF THIS ARTICLE.

6 10. "PARTICIPATING COMMUNITY" SHALL MEAN A COUNTY, CITY, TOWN OR
7 VILLAGE IN A DESIGNATED AREA WITH A CERTIFIED COMPACT PLAN AND, IN THE
8 CASE OF A CITY, TOWN OR VILLAGE, APPROVED IMPLEMENTING LAND USE REGU-
9 LATIONS.

10 S 1002. SMART GROWTH PRINCIPLES. THE SMART GROWTH PRINCIPLES SHALL
11 BE:

12 1. PUBLIC INVESTMENT. TO PLAN SO AS TO ACCOUNT FOR AND MINIMIZE THE
13 TRUE SOCIAL, ECONOMIC AND ENVIRONMENTAL COSTS OF NEW DEVELOPMENT,
14 INCLUDING INFRASTRUCTURE COSTS SUCH AS TRANSPORTATION, SEWERS AND WASTE-
15 WATER TREATMENT, WATER, SCHOOLS, RECREATION, AND OPEN SPACE;

16 2. ECONOMIC DEVELOPMENT. TO ENCOURAGE ECONOMIC DEVELOPMENT IN AREAS
17 WHERE TRANSPORTATION, WATER AND SEWER INFRASTRUCTURE ARE READILY AVAIL-
18 ABLE OR ECONOMICALLY PRACTICAL;

19 3. CONSERVATION. TO PROTECT, PRESERVE, AND ENHANCE THE STATE'S
20 RESOURCES, INCLUDING AGRICULTURAL LAND, FORESTS, SURFACE WATER AND
21 GROUNDWATER, RECREATION AND OPEN SPACE, SCENIC AREAS, AND SIGNIFICANT
22 HISTORIC AND ARCHAEOLOGICAL SITES;

23 4. COORDINATION. TO PROMOTE COORDINATION OF STATE AND LOCAL GOVERNMENT
24 DECISIONS AND COOPERATION AMONG COMMUNITIES TO WORK TOWARDS THE MOST
25 EFFICIENT, PLANNED, AND COST-EFFECTIVE DELIVERY OF GOVERNMENT SERVICES
26 BY, AMONG OTHER MEANS, FACILITATING COOPERATIVE AGREEMENTS AMONG ADJA-
27 CENT COMMUNITIES AND TO COORDINATE PLANNING TO ENSURE COMPATIBILITY OF
28 ONE COMMUNITY'S DEVELOPMENT WITH DEVELOPMENT OF NEIGHBORING COMMUNITIES;

29 5. COMMUNITY DESIGN. TO STRENGTHEN COMMUNITIES BY ADOPTING DEVELOPMENT
30 AND REDEVELOPMENT STRATEGIES, INCLUDING INTEGRATION OF ALL INCOME AND
31 AGE GROUPS, MIXED LAND USES AND COMPACT DEVELOPMENT, DOWNTOWN REVITALI-
32 ZATION, BROWNFIELD REDEVELOPMENT, ENHANCED BEAUTY IN PUBLIC SPACES, AND
33 DIVERSE AND AFFORDABLE HOUSING IN PROXIMITY TO PLACES OF EMPLOYMENT,
34 RECREATION AND COMMERCIAL DEVELOPMENT;

35 6. TRANSPORTATION. TO PROVIDE TRANSPORTATION CHOICES, INCLUDING
36 INCREASING PUBLIC TRANSIT, IN ORDER TO REDUCE AUTOMOBILE DEPENDENCY,
37 TRAFFIC CONGESTION AND AUTOMOBILE POLLUTION; AND

38 7. CONSISTENCY. TO ENSURE PREDICTABILITY IN BUILDING AND LAND USE
39 CODES.

40 S 1003. SMART GROWTH PLAN. 1. ANY VILLAGE, TOWN, CITY, COUNTY OR
41 SMART GROWTH COMPACT COUNCIL EXCEPT CITIES WITH A POPULATION OF ONE
42 MILLION OR MORE, MAY SUBMIT A SMART GROWTH PLAN TO THE BOARD. SUCH A
43 PLAN SHALL:

44 A. IMPLEMENT THE SMART GROWTH PRINCIPLES SET FORTH IN SECTION ONE
45 THOUSAND TWO OF THIS ARTICLE;

46 B. PRESENT A LONG-RANGE PLAN OF NO LESS THAN TWENTY YEARS WHICH SHALL
47 DETAIL GROWTH AND CONSERVATION GOALS, AS WELL AS INFRASTRUCTURE, CAPITAL
48 AND SERVICE REQUIREMENTS NEEDED TO MEET SUCH GOALS;

49 C. INCLUDE A MAP OR MAPS DELINEATING ALL AREAS DESIGNATED IN THE PLAN
50 FOR GROWTH, REDEVELOPMENT, PRESERVATION, PUBLIC OPEN SPACE, OR OTHER
51 DESIGNATIONS CONTAINED IN THE LONG-RANGE PLAN;

52 D. DEMONSTRATE THE MANNER IN WHICH EXISTING OR PLANNED LAND USE REGU-
53 LATIONS WILL ENSURE COMPLIANCE WITH THE PLAN; AND

54 E. DEMONSTRATE THE EXTENT OF PUBLIC PARTICIPATION IN THE CREATION OF
55 THE PLAN, AND THE MANNER IN WHICH PUBLIC PARTICIPATION WILL BE INCLUDED
56 IN THE IMPLEMENTATION OF THE PLAN.

1 2. A SMART GROWTH PLAN MAY CONSIST OF A COMPREHENSIVE PLAN OR ANY
2 OTHER DOCUMENT THAT SATISFIES THE ELEMENTS OF THIS SECTION AND THE
3 REQUIREMENTS OF THE BOARD.

4 3. IN ORDER TO ADOPT A SMART GROWTH PLAN OR AMENDMENT THERETO, THE
5 LOCAL LEGISLATIVE BODY OR BODIES SHALL:

6 A. CONVENE A SERIES OF CONSENSUS-BUILDING MEETINGS AND TECHNICAL
7 SESSIONS THAT MAY BE IN COORDINATION WITH FEDERAL, STATE, COUNTY, OTHER
8 LOCAL GOVERNMENTS, REGIONAL AND LOCAL PUBLIC CORPORATIONS, SPECIAL
9 DISTRICTS AND PRIVATE ORGANIZATIONS TO DISCUSS LOCAL IMPLEMENTATION OF
10 SMART GROWTH PRINCIPLES;

11 B. PREPARE OR CAUSE TO BE PREPARED A DRAFT PLAN OR AMENDMENT;

12 C. HOLD ONE OR MORE PUBLIC HEARINGS AND SUCH OTHER MEETINGS AS IT
13 DEEMS NECESSARY TO ASSURE FULL OPPORTUNITY FOR CITIZEN PARTICIPATION IN
14 THE REVIEW OF SUCH DRAFT PLAN OR AMENDMENT. THE HEARING RECORD FOR ANY
15 SUCH HEARING SHALL REMAIN OPEN FOR AT LEAST NINETY DAYS;

16 D. PROVIDE NOTICE OF ANY PUBLIC HEARING PURSUANT TO THIS SECTION WHICH
17 SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICI-
18 PALITY OR MUNICIPALITIES AT LEAST TEN CALENDAR DAYS BUT NO MORE THAN
19 TWENTY DAYS IN ADVANCE OF THE HEARING;

20 E. MAKE AVAILABLE FOR PUBLIC REVIEW ANY PLAN OR AMENDMENT SUBJECT TO A
21 PUBLIC HEARING PURSUANT TO THIS SECTION AT A MUNICIPAL OFFICE AND AT ANY
22 OTHER APPROPRIATE PUBLIC PLACE, INCLUDING A PUBLIC LIBRARY, FROM THE
23 DATE OF NOTICE TO THE CLOSE OF THE PUBLIC HEARING RECORD;

24 F. HOLD ONE OR MORE PUBLIC HEARINGS PRIOR TO ADOPTION OF THE FINAL
25 PLAN. THE HEARING RECORD FOR ANY SUCH HEARING SHALL REMAIN OPEN FOR
26 THIRTY DAYS;

27 G. ADOPT SUCH PLAN OR AMENDMENT THERETO BY LOCAL LAW OR ORDINANCE;

28 H. SUBMIT THE FINAL ADOPTED PLAN OR AMENDMENT THERETO WITH COMPLETED
29 APPLICATION FORM TO THE BOARD FOR CERTIFICATION; AND

30 I. REVIEW THE SMART GROWTH PLAN NOT LESS THAN EVERY TEN YEARS AFTER
31 THE PLAN HAS RECEIVED FINAL CERTIFICATION AND, IF NECESSARY, MAKE AMEND-
32 MENTS PURSUANT TO THIS SECTION; IN NO EVENT SHALL A PLAN BE IN PLACE
33 WITH A REMAINING DURATION OF FEWER THAN EIGHT YEARS.

34 4. A SMART GROWTH PLAN SHALL BE ACCOMPANIED BY A GENERIC ENVIRONMENTAL
35 IMPACT STATEMENT PURSUANT TO ARTICLE EIGHT OF THE ENVIRONMENTAL CONSER-
36 VATION LAW AND SUCH REGULATIONS. UPON FINAL CERTIFICATION AND ADOPTION
37 OF THE GENERIC ENVIRONMENTAL IMPACT STATEMENT, NO FURTHER COMPLIANCE
38 WITH THE STATE ENVIRONMENTAL QUALITY REVIEW ACT SHALL BE REQUIRED FOR
39 SUBSEQUENT SITE SPECIFIC ACTIONS IN AREAS DESIGNATED FOR GROWTH OR REDE-
40 VELOPMENT THAT ARE IN CONFORMANCE WITH THE CONDITIONS AND THRESHOLDS
41 ESTABLISHED FOR SUCH ACTIONS IN THE GENERIC ENVIRONMENTAL IMPACT STATE-
42 MENT AND ITS FINDINGS.

43 5. A SMART GROWTH PLAN AND ANY AMENDMENTS THERETO, FOR A LOCAL GOVERN-
44 MENT CONTAINING ALL OR PART OF AN AGRICULTURAL DISTRICT OR LANDS RECEIV-
45 ING AGRICULTURAL ASSESSMENTS WITHIN ITS JURISDICTION, SHALL CONTINUE TO
46 BE SUBJECT TO THE PROVISIONS OF ARTICLE TWENTY-FIVE-AA OF THE AGRICUL-
47 TURE AND MARKETS LAW RELATING TO THE ENACTMENT AND ADMINISTRATION OF
48 LOCAL LAWS, ORDINANCES, RULES OR REGULATIONS. A SMART GROWTH PLAN OR
49 AMENDMENT THERETO, SHALL TAKE INTO CONSIDERATION APPLICABLE COUNTY AND
50 FARMLAND PROTECTION PLANS AS CREATED UNDER ARTICLE TWENTY-FIVE-AAA OF
51 THE AGRICULTURE AND MARKETS LAW.

52 S 1004. SMART GROWTH COMPACT. 1. SMART GROWTH COMPACT AREAS SHALL BE
53 ADJOINING GEOGRAPHIC REGIONS OR AREAS BASED ON ENVIRONMENTAL, ECONOMIC
54 AND SOCIAL FACTORS AGREED UPON PURSUANT TO AN ARTICLE FIVE-G AGREEMENT
55 AUTHORIZED BY THIS CHAPTER SIGNED BY THE CHIEF EXECUTIVE OFFICERS OF TWO

1 OR MORE MUNICIPALITIES. A COMPACT AREA MUST INCLUDE AT LEAST TWO MUNICI-
2 PALITIES.

3 2. FOR EACH SMART GROWTH COMPACT AREA, A COMPACT COUNCIL SHALL BE
4 ESTABLISHED TO CONSIST OF THE FOLLOWING VOTING MEMBERS: THE MAYOR,
5 SUPERVISOR, COUNTY EXECUTIVE OR OTHER CHIEF EXECUTIVE OFFICER FROM EACH
6 COUNTY, CITY, TOWN AND VILLAGE LOCATED IN WHOLE OR IN PART WITHIN THE
7 BOUNDARY OF THE COMPACT AREA. EACH EX-OFFICIO MEMBER MAY APPOINT A
8 DESIGNATED REPRESENTATIVE, BY OFFICIAL AUTHORITY FILED WITH THE COUNCIL,
9 TO EXERCISE HIS OR HER POWERS AND PERFORM HIS OR HER DUTIES, INCLUDING
10 THE RIGHT TO VOTE, ON THE COUNCIL. THE COUNCIL SHALL ELECT ONE OF ITS
11 MEMBERS AS CHAIRPERSON. A MAJORITY SHALL CONSTITUTE A QUORUM FOR THE
12 TRANSACTION OF ANY BUSINESS OR THE EXERCISE OF ANY POWER OR FUNCTION OF
13 THE COUNCIL. AN AFFIRMATIVE VOTE OF A MAJORITY SHALL BE REQUIRED TO PASS
14 A RESOLUTION OR OTHERWISE EXERCISE ANY FUNCTIONS OR POWERS OF THE COUN-
15 CIL, EXCEPT THE ADOPTION OF THE SMART GROWTH COMPACT PLAN WHICH REQUIRES
16 A UNANIMOUS VOTE OF THE COUNCIL. THE COUNCIL SHALL HOLD ITS INITIAL
17 MEETING WITHIN THIRTY DAYS OF THE EXECUTION OF THE AGREEMENT DESIGNATING
18 THE COMPACT AREA FOR WHICH THE COUNCIL WAS ESTABLISHED.

19 3. EVERY STATE, REGIONAL AND LOCAL AGENCY AND PUBLIC CORPORATION
20 HAVING JURISDICTION OF LAND OR WATER, HOUSING, ECONOMIC DEVELOPMENT,
21 TRANSPORTATION, PARKS OR OTHER PUBLIC FACILITIES OR INFRASTRUCTURE WITH-
22 IN THE COMPACT AREA OR OF PROGRAMS, PROJECTS AND/OR PLANS RELATING TO
23 THE PURPOSES AND GOALS OF THIS ARTICLE SHALL, TO THE FULLEST EXTENT
24 PRACTICABLE, OFFER FULL COOPERATION AND ASSISTANCE TO THE COUNCIL IN
25 CARRYING OUT THE PROVISIONS OF THIS ARTICLE.

26 4. EACH COUNCIL SHALL HAVE THE POWER:

27 A. TO PREPARE, ADOPT, ENFORCE AND ENSURE IMPLEMENTATION OF THE SMART
28 GROWTH PLAN, AFTER CONVENING A SERIES OF CONSENSUS-BUILDING MEETINGS AND
29 TECHNICAL SESSIONS AS PROVIDED IN PARAGRAPH A OF SUBDIVISION THREE OF
30 SECTION ONE THOUSAND THREE OF THIS ARTICLE;

31 B. TO SUE AND BE SUED;

32 C. TO MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS NECESSARY
33 OR CONVENIENT FOR THE EXERCISE OF ITS POWERS AND FUNCTIONS UNDER THIS
34 ARTICLE;

35 D. TO ESTABLISH AND MAINTAIN SUCH FACILITIES AS MAY BE NECESSARY FOR
36 THE TRANSACTING OF ITS BUSINESS;

37 E. TO APPOINT AN EXECUTIVE OFFICER, OFFICERS, AGENTS, EMPLOYEES, AND
38 PRESCRIBE THEIR DUTIES AND QUALIFICATIONS AND FIX THEIR COMPENSATION;

39 F. TO UTILIZE TO THE EXTENT FEASIBLE THE STAFF AND FACILITIES OF
40 EXISTING STATE AND COUNTY AGENCIES, PURSUANT TO AN AGREEMENT TO BE MADE
41 BY THE STATE OR BY THE APPROPRIATE COUNTY;

42 G. TO HOLD HEARINGS IN THE EXERCISE OF ITS POWERS, FUNCTIONS AND
43 DUTIES PROVIDED FOR BY THIS ARTICLE;

44 H. TO CONTRACT FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE;

45 I. TO CONTRACT FOR AND TO ACCEPT ANY ASSISTANCE, INCLUDING BUT NOT
46 LIMITED TO GIFTS, GRANTS OR LOANS OF FUNDS OR OF PROPERTY FROM THE
47 FEDERAL GOVERNMENT OR ANY AGENCY OR INSTRUMENTALITY THEREOF, OR FROM ANY
48 AGENCY OR INSTRUMENTALITY OF THE STATE, OR FROM ANY OTHER PUBLIC OR
49 PRIVATE SOURCE AND TO COMPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE,
50 WITH THE TERMS AND CONDITIONS THEREOF;

51 J. TO PROVIDE SCIENTIFIC AND TECHNICAL ASSISTANCE OR TO MAKE GRANTS TO
52 MUNICIPALITIES IN THE COMPACT AREA FOR REVISIONS OF LOCAL COMPREHENSIVE
53 PLANS, OR THE RELEVANT LAND USE REGULATIONS DESIGNED TO BRING SUCH PLANS
54 AND LAND USE REGULATIONS INTO CONFORMANCE WITH THE COMPACT PLAN PREPARED
55 AND ADOPTED BY THE COUNCIL. THE COUNCIL MAY MAKE SUCH GRANTS FROM ANY

1 FUNDS WHICH MAY BE APPROPRIATED OR OTHERWISE MADE AVAILABLE TO IT FOR
2 SUCH PURPOSE;

3 K. TO ESTABLISH AND MAINTAIN AN EDUCATION AND OUTREACH PROGRAM RELAT-
4 ING TO THE COUNCIL'S WORK;

5 L. TO CONVENE CONFERENCES, SEMINARS, MEETINGS, TECHNICAL SESSIONS ON
6 ITS OWN OR IN COORDINATION WITH FEDERAL, STATE, COUNTY, TOWN OR PRIVATE
7 ORGANIZATIONS AS DEEMED NECESSARY RELATIVE TO ITS RESPONSIBILITIES;

8 M. TO HAVE AND EXERCISE SUCH OTHER INCIDENTAL AND USUAL POWERS AS ARE
9 NECESSARY AND APPROPRIATE TO CARRY OUT ITS DUTIES.

10 5. WITHIN FIFTEEN MONTHS OF ITS FIRST MEETING, A COUNCIL SHALL PREPARE
11 OR CAUSE TO BE PREPARED A DRAFT SMART GROWTH PLAN FOR ITS DESIGNATED
12 COMPACT AREA. EACH SMART GROWTH PLAN SHALL MEET THE STANDARDS AND
13 REQUIREMENTS OF A SMART GROWTH PLAN PURSUANT TO THE PROVISIONS OF
14 SECTION ONE THOUSAND THREE OF THIS ARTICLE.

15 6. FOLLOWING THE CONSENSUS-BUILDING MEETINGS AND WITHIN THE FIFTEEN
16 MONTH PERIOD ESTABLISHED THEREFOR, THE COUNCIL SHALL PUBLISH THE DRAFT
17 SMART GROWTH PLAN AND DRAFT GENERIC IMPACT STATEMENT. WITHIN SIX MONTHS
18 OF SUCH PUBLICATION, THE COUNCIL SHALL HOLD PUBLIC INFORMATIONAL MEET-
19 INGS WITH AT LEAST ONE PUBLIC HEARING WITHIN EACH OF THE COUNTIES,
20 CITIES, TOWNS AND VILLAGES WITHIN THE COMPACT AREA. DURING THIS PERIOD
21 THE COUNCIL SHALL RECEIVE AND REVIEW COMMENTS ON THE DRAFT PLAN AND
22 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT FROM STATE AND LOCAL
23 GOVERNMENTS AND THE PUBLIC. WITHIN THREE MONTHS OF THE LAST PUBLIC HEAR-
24 ING REQUIRED BY THIS SECTION, THE COUNCIL SHALL COMPLETE AND RECOMMEND
25 FOR RATIFICATION A FINAL SMART GROWTH PLAN AND FINAL GENERIC ENVIRON-
26 MENTAL IMPACT STATEMENT TO THE LOCAL LEGISLATIVE BODY OF EACH COUNTY,
27 CITY, TOWN AND VILLAGE WITHIN THE COMPACT AREA FOR THEIR RATIFICATION
28 AND ADOPTION OF THE STATEMENT OF FINDINGS PURSUANT TO ARTICLE EIGHT OF
29 THE ENVIRONMENTAL CONSERVATION LAW. SUCH RATIFICATION AND ADOPTION SHALL
30 REPRESENT COMMITMENT TO IMPLEMENTATION OF THE PROVISIONS CONTAINED THER-
31 EIN. UPON RATIFICATION AND ADOPTION BY ALL SUCH LOCAL LEGISLATIVE
32 BODIES, THE COUNCIL ITSELF SHALL FORMALLY ADOPT THE SMART GROWTH PLAN
33 AND GENERIC ENVIRONMENTAL IMPACT STATEMENT, AND SHALL SUBMIT THE PLAN
34 AND GENERIC ENVIRONMENTAL IMPACT STATEMENT TO THE SMART GROWTH REVIEW
35 BOARD FOR CERTIFICATION PURSUANT TO THE PROVISIONS OF SECTION ONE THOU-
36 SAND SEVEN OF THIS ARTICLE.

37 7. WITHIN ONE YEAR AFTER A PLAN HAS BEEN CERTIFIED BY THE SMART GROWTH
38 REVIEW BOARD, EACH CITY LEGISLATIVE BODY, TOWN BOARD AND VILLAGE BOARD
39 WITH JURISDICTION WITHIN THE APPLICABLE COMPACT AREA SHALL ADOPT AND
40 AMEND AS NECESSARY LAND USE REGULATIONS, BY LOCAL LAW OR ORDINANCE, RULE
41 OR REGULATION TO CONFORM ITS LAND USE REGULATIONS TO THE PLAN. SUCH
42 ACTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF ARTICLE EIGHT OF THE
43 ENVIRONMENTAL CONSERVATION LAW IF IT IS IN CONFORMANCE WITH THE CONDI-
44 TIONS AND THRESHOLDS OF THE PLAN. AT LEAST SIXTY DAYS BEFORE ADOPTION
45 THEREOF, THE CITY LEGISLATIVE BODY, TOWN OR VILLAGE BOARD SHALL SUBMIT
46 THE PROPOSED REGULATIONS TO THE COMPACT COUNCIL FOR ITS REVIEW AND
47 APPROVAL. WITHIN TEN DAYS OF RECEIPT OF SUCH PROPOSED REGULATIONS, THE
48 COUNCIL SHALL REVIEW AND APPROVE SUCH PROPOSED REGULATIONS, OR IF IT
49 DOES NOT APPROVE THEM, RETURN THEM WITH COMMENTS ON WHAT NEEDS TO BE
50 DONE TO MAKE THEM APPROVABLE. FOR EACH JURISDICTION, THE PLAN SHALL BE
51 DEEMED TO BE IMPLEMENTED UPON ADOPTION BY THE CITY LEGISLATIVE BODY,
52 TOWN OR VILLAGE BOARD OF APPROVED LAND USE REGULATIONS. UPON RECEIPT OF
53 SUCH APPROVAL, A COUNTY, CITY, TOWN OR VILLAGE SHALL BE DEEMED TO BE A
54 PARTICIPATING COMMUNITY. ONLY A PARTICIPATING COMMUNITY OR A LOCAL
55 GOVERNMENT WITH ITS OWN CERTIFIED SMART GROWTH PLAN SHALL QUALIFY FOR
56 STATE PRIORITY INCENTIVE FUNDING UNDER THIS ARTICLE. AFTER CITY, TOWN OR

1 VILLAGE LAND USE REGULATIONS HAVE BEEN APPROVED AND UPON A FINDING BY
2 THE COMPACT COUNCIL THAT A CITY, TOWN OR VILLAGE HAS CHANGED SUCH REGU-
3 LATIONS IN A MANNER SUBSTANTIALLY INCONSISTENT WITH THE PLAN OR HAS
4 ADMINISTERED ITS APPROVED LAND USE REGULATIONS IN A MANNER SUBSTANTIALLY
5 INCONSISTENT WITH THE PLAN, THE COMPACT COUNCIL SHALL WITHDRAW APPROVAL
6 OF SUCH LAND USE REGULATIONS. SUCH WITHDRAWAL OF APPROVAL SHALL BE MADE
7 NOT BEFORE FOURTEEN DAYS AFTER THE COUNCIL HOLDS A PUBLIC HEARING IN THE
8 AFFECTED CITY, TOWN OR VILLAGE ON THE PROPOSED WITHDRAWAL. NOTICE OF
9 SUCH HEARING SHALL BE PUBLISHED IN A NEWSPAPER HAVING GENERAL CIRCUL-
10 LATION IN THE COMPACT AREA AND NOTICE OF SUCH HEARING SHALL ALSO BE
11 GIVEN BY REGISTERED MAIL TO THE AFFECTED SUPERVISOR OR MAYOR. A CITY,
12 TOWN OR VILLAGE THAT HAS HAD SUCH APPROVAL WITHDRAWN SHALL NO LONGER BE
13 DEEMED TO BE A PARTICIPATING COMMUNITY.

14 8. A COUNCIL SHALL HAVE JURISDICTION TO REVIEW AND APPROVE ALL
15 PROPOSED DEVELOPMENT OUTSIDE OF AREAS DESIGNATED FOR GROWTH OR REDEVEL-
16 OPMENT AND DEVELOPMENTS OF REGIONAL SIGNIFICANCE AS IDENTIFIED IN A PLAN
17 AND PROPOSED DEVELOPMENTS FOUND BY THE COUNCIL AFTER PETITION BY A
18 MEMBER THEREOF TO HAVE SIGNIFICANT ADVERSE IMPACT ON THE PLAN. ANY SUCH
19 MEMBER MAY PETITION THE COUNCIL TO ASSERT REVIEW JURISDICTION OVER A
20 PROPOSED DEVELOPMENT WHICH HAS A SIGNIFICANT ADVERSE IMPACT ON THE GOALS
21 OF THE PLAN. IF THE COUNCIL BY MAJORITY VOTE ASSERTS JURISDICTION, SUCH
22 PROJECT OR ACTION SHALL BE SUBJECT TO REVIEW BY THE COUNCIL. FOR THE
23 PURPOSES OF REVIEW AND IDENTIFICATION OF PROJECTS COMING UNDER THE
24 JURISDICTION OF THE COUNCIL, THE COUNCIL SHALL DESIGNATE THE RESPONSIBLE
25 PLANNING ENTITY OR STAFF FOR THE PURPOSES OF ADVISING THE COUNCIL WITH
26 RESPECT TO SUCH APPLICATIONS OR PROJECTS. TO THE FULLEST EXTENT POSSI-
27 BLE, THE COUNCIL SHALL CONSOLIDATE AND COORDINATE ITS REVIEW WITH THE
28 APPROPRIATE LOCAL GOVERNMENT. AN APPLICANT FOR DEVELOPMENT OUTSIDE AN
29 AREA DESIGNATED FOR GROWTH OR REDEVELOPMENT OR DEVELOPMENT OF REGIONAL
30 SIGNIFICANCE SHALL APPLY TO THE COUNCIL FOR APPROVAL OF THE DEVELOPMENT.
31 APPLICATIONS SHALL BE MADE TO THE COUNCIL ON FORMS AND IN SUCH MANNER AS
32 THE PLAN AND COUNCIL SHALL DESIGNATE. AFTER HOLDING A PUBLIC HEARING
33 WITHIN THE CITY, TOWN OR VILLAGE WHERE SUCH DEVELOPMENT IS PROPOSED TO
34 BE LOCATED, ALL COMPLETED APPLICATIONS SHALL, UNLESS MUTUALLY AGREED
35 OTHERWISE, BE ACTED UPON WITHIN ONE HUNDRED TWENTY DAYS.

36 9. SUBSEQUENT TO THE ADOPTION OF A PLAN, THE PROVISIONS OF ANY OTHER
37 LAW, ORDINANCE, RULE OR REGULATION TO THE CONTRARY NOTWITHSTANDING, NO
38 APPLICATION FOR DEVELOPMENT WITHIN THE COMPACT AREA SUBJECT TO THE PLAN
39 SHALL BE APPROVED BY ANY MUNICIPALITY OR COUNTY OR AGENCY THEREOF OR THE
40 COUNCIL, AND NO STATE APPROVAL, CERTIFICATE, LICENSE, CONSENT, PERMIT,
41 OR FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF ANY STRUCTURE OR THE
42 DISTURBANCE OF ANY LAND WITHIN SUCH AREA SHALL BE GRANTED, UNLESS SUCH
43 APPROVAL OR GRANT CONFORMS TO THE PROVISIONS OF SUCH PLAN; PROVIDED,
44 HOWEVER, THAT THE COUNCIL BY MAJORITY VOTE IS HEREBY AUTHORIZED TO WAIVE
45 STRICT COMPLIANCE WITH SUCH PLAN OR WITH ANY ELEMENT OR STANDARD
46 CONTAINED THEREIN, UPON FINDING THAT SUCH WAIVER IS NECESSARY TO ALLEVI-
47 ATE EXTRAORDINARY HARDSHIP OR MEET COMPELLING PUBLIC NEED.

48 10. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS IN ARTICLE EIGHT OF
49 THE ENVIRONMENTAL CONSERVATION LAW, WITHIN PARTICIPATING COMMUNITIES,
50 ACTIONS WHOLLY WITHIN THE AREAS DESIGNATED FOR GROWTH OR REDEVELOPMENT
51 IN THE COMPACT AREA IN CONFORMANCE WITH THE PLAN AND THE GENERIC ENVI-
52 RONMENTAL IMPACT STATEMENT THEREOF, SHALL REQUIRE NO FURTHER ENVIRON-
53 MENTAL IMPACT STATEMENT WITH RESPECT TO IMPACTS ADDRESSED IN SUCH GENER-
54 IC ENVIRONMENTAL IMPACT STATEMENT. FURTHER PROJECT-SPECIFIC COMPLIANCE
55 WITH ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW MAY BE REQUIRED
56 IN THE FORM OF A SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT.

1 11. EACH PARTICIPATING COMMUNITY SHALL BE DEEMED TO BE A MUNICIPALITY
2 THAT HAS ADOPTED A SMART GROWTH PLAN PURSUANT TO THIS ARTICLE.

3 S 1005. SMART GROWTH REVIEW BOARD. 1. THERE IS HEREBY ESTABLISHED A
4 SMART GROWTH REVIEW BOARD. SUCH BOARD SHALL BE COMPOSED OF MEMBERS WHO
5 SHALL INCLUDE THE SECRETARY OF STATE, THE COMMISSIONER OF ENVIRONMENTAL
6 CONSERVATION, THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION, THE
7 SPEAKER OF THE ASSEMBLY, AND THE TEMPORARY PRESIDENT OF THE SENATE.

8 2. A MEMBER MAY APPOINT A DESIGNATED REPRESENTATIVE, WHO SHALL SERVE
9 AT THE PLEASURE OF THE APPOINTING MEMBER, TO EXERCISE HER OR HIS POWERS
10 AND PERFORM HER OR HIS DUTIES, INCLUDING THE RIGHT TO VOTE, ON THE
11 BOARD. THE SECRETARY OF STATE SHALL SERVE AS CHAIRPERSON. A MAJORITY
12 SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY BUSINESS OR THE
13 EXERCISE OF ANY POWER OR FUNCTION OF THE BOARD, EXCEPT THE CERTIFICATION
14 OF A SMART GROWTH PLAN WHICH REQUIRES A UNANIMOUS VOTE OF THE BOARD.

15 3. IN THE EVENT OF A VACANCY OCCURRING IN THE OFFICE OF ANY MEMBER,
16 SUCH VACANCY SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINT-
17 MENT.

18 4. THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, EXCEPT
19 THAT MEMBERS SHALL BE ALLOWED THEIR NECESSARY AND ACTUAL EXPENSES
20 INCURRED IN THE PERFORMANCE OF THEIR DUTIES UNDER THIS ARTICLE.

21 5. THE BOARD SHALL MEET AT THE CALL OF THE CHAIRPERSON AND SHALL MEET
22 AT LEAST QUARTERLY.

23 6. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF ANY GENERAL, SPECIAL
24 OR LOCAL LAW, ORDINANCE, RESOLUTION OR CHARTER, NO OFFICER, MEMBER OR
25 EMPLOYEE OF THE STATE, THE CITY, ANY OTHER MUNICIPALITY, OR ANY PUBLIC
26 BENEFIT CORPORATION, SHALL BE DEEMED TO HAVE FORFEITED OR SHALL FORFEIT
27 HIS OR HER OFFICE OR EMPLOYMENT OR ANY BENEFITS PROVIDED UNDER THE
28 RETIREMENT AND SOCIAL SECURITY LAW BY REASON OF HIS OR HER ACCEPTANCE OF
29 APPOINTMENT AS A MEMBER, OFFICER, AGENT OR EMPLOYEE OF THE BOARD, NOR
30 SHALL SERVICE AS SUCH MEMBER, OFFICER, AGENT OR EMPLOYEE BE DEEMED
31 INCOMPATIBLE OR IN CONFLICT WITH SUCH OFFICE, MEMBERSHIP OR EMPLOYMENT.

32 S 1006. POWERS AND DUTIES. 1. THE SMART GROWTH REVIEW BOARD SHALL
33 HAVE THE POWER TO:

34 A. REVIEW PLAN APPLICATIONS;

35 B. CERTIFY OR WITHDRAW CERTIFICATION OF SMART GROWTH PLANS;

36 C. SUE AND BE SUED;

37 D. MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS NECESSARY OR
38 CONVENIENT FOR THE EXERCISE OF ITS POWERS AND FUNCTIONS UNDER THIS ARTI-
39 CLE;

40 E. ESTABLISH AND MAINTAIN SUCH FACILITIES AS MAY BE NECESSARY FOR THE
41 TRANSACTING OF ITS BUSINESS;

42 F. APPOINT AN EXECUTIVE OFFICER, OFFICERS, AGENTS, EMPLOYEES, AND
43 PRESCRIBE THEIR DUTIES AND QUALIFICATIONS AND FIX THEIR COMPENSATION;

44 G. UTILIZE TO THE EXTENT FEASIBLE THE STAFF AND FACILITIES OF EXISTING
45 STATE AND COUNTY AGENCIES, PURSUANT TO AN AGREEMENT TO BE MADE BY THE
46 STATE;

47 H. CONTRACT FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE;

48 I. CONTRACT FOR AND TO ACCEPT ANY ASSISTANCE, INCLUDING BUT NOT
49 LIMITED TO GIFTS, GRANTS OR LOANS OF FUNDS OR OF PROPERTY FROM THE
50 FEDERAL GOVERNMENT OR ANY AGENCY OR INSTRUMENTALITY THEREOF, OR FROM ANY
51 AGENCY OR INSTRUMENTALITY OF THE STATE, OR FROM ANY OTHER PUBLIC OR
52 PRIVATE SOURCE AND TO COMPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE,
53 WITH THE TERMS AND CONDITIONS THEREOF;

54 J. REPORT PERIODICALLY TO THE LEGISLATURE AND THE SMART GROWTH LOCAL
55 ASSISTANCE OFFICE ON THE CONDUCT OF ITS ACTIVITIES NOT LESS THAN ONCE A
56 YEAR; AND

1 K. HAVE AND EXERCISE SUCH OTHER INCIDENTAL AND USUAL POWERS AS ARE
2 NECESSARY AND APPROPRIATE TO CARRY OUT ITS DUTIES.

3 2. THE BOARD SHALL PREPARE APPLICATION FORMS.

4 3. THE BOARD SHALL NOT BE AUTHORIZED TO ISSUE BONDS, NOTES OR OTHER
5 SIMILAR OBLIGATIONS, WHETHER OR NOT NEGOTIABLE OR TO CONTRACT TO PAY
6 DEBT SERVICE ON SUCH OBLIGATIONS ISSUED BY ANY OTHER ENTITY. THE BOARD
7 SHALL NOT HAVE THE POWER OF EMINENT DOMAIN AND SHALL NOT BE AUTHORIZED
8 TO ACQUIRE OR HOLD TITLE TO REAL PROPERTY. THE BOARD SHALL NOT PROVIDE
9 FINANCIAL ASSISTANCE TO ATTRACT, EXPAND OR RETAIN BUSINESS.

10 S 1007. CERTIFICATION PROCEDURE. 1. THE BOARD SHALL REVIEW APPLICA-
11 TIONS FOR CERTIFICATION WHICH SHALL INCLUDE A COMPLETED APPLICATION FORM
12 AND A COPY OF A SMART GROWTH PLAN.

13 2. THE BOARD SHALL HAVE NINETY DAYS TO ISSUE ITS CERTIFICATION OR
14 DISAPPROVAL. WHEN DISAPPROVING AN APPLICATION, THE BOARD SHALL PROVIDE
15 AN EXPLANATION IN WRITING.

16 3. WITHIN ONE YEAR AFTER CERTIFICATION HAS BEEN GRANTED, THE MUNICI-
17 PALITY SHALL PROVIDE DOCUMENTATION TO THE BOARD MEMBERS THAT LAND USE
18 REGULATIONS ARE CONSISTENT WITH THE SMART GROWTH PLAN.

19 4. THE BOARD SHALL WITHDRAW CERTIFICATION OF A PLAN IF, ON ITS OWN OR
20 UPON NOTIFICATION BY A MUNICIPALITY OR OTHER PERSON, IT FINDS THAT THE
21 PLAN OR ANY LAND USE REGULATION NO LONGER COMPLIES WITH SMART GROWTH
22 REQUIREMENTS OR PRINCIPLES OR THAT THERE HAS BEEN A VIOLATION OF SUCH
23 PLAN OR ANY LAND USE REGULATION.

24 S 1008. STATE CONSISTENCY AND INCENTIVES. 1. EVERY STATE AGENCY,
25 PUBLIC BENEFIT CORPORATION AND AUTHORITY CONDUCTING, FUNDING OR APPROV-
26 ING ACTIVITIES AFFECTING LOCAL PLANNING AND/OR INFRASTRUCTURE SHALL:

27 A. CONDUCT OR SUPPORT ITS ACTIVITIES IN A MANNER WHICH IS, TO THE
28 MAXIMUM EXTENT PRACTICABLE, CONSISTENT WITH SMART GROWTH PRINCIPLES AS
29 DEFINED IN THIS ARTICLE AND SHALL CONSULT AND COOPERATE WITH, AND COOR-
30 DINATE ITS ACTIVITIES WITH THE SMART GROWTH LOCAL ASSISTANCE OFFICE
31 CREATED PURSUANT TO SECTION ONE HUNDRED SEVENTY-EIGHT OF THE EXECUTIVE
32 LAW;

33 B. REPORT TO THE SMART GROWTH LOCAL ASSISTANCE OFFICE CREATED PURSUANT
34 TO SECTION ONE HUNDRED SEVENTY-EIGHT OF THE EXECUTIVE LAW FOR THE
35 PURPOSE OF IDENTIFYING ALL STATE CONTROLLED AND ADMINISTERED FUNDS WHICH
36 MAY BE USED AS INCENTIVES TO ENCOURAGE PARTICIPATION IN SMART GROWTH
37 PLANS; AND

38 C. GIVE PRIORITY IN FUNDING, TO THE FULLEST EXTENT PRACTICABLE, TO
39 MUNICIPALITIES WHICH HAVE SMART GROWTH PLANS CERTIFIED BY THE BOARD.

40 2. SPECIFIC INCENTIVES AVAILABLE TO LOCAL GOVERNMENTS WITH CERTIFIED
41 SMART GROWTH PLANS SHALL INCLUDE, BUT NOT BE LIMITED TO:

42 A. PRIORITY STATUS FOR OPEN SPACE LAND ACQUISITION AND EASEMENTS BY
43 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION OR THE OFFICE OF PARKS,
44 RECREATION AND HISTORIC PRESERVATION IN AREAS LOCATED OUTSIDE GROWTH OR
45 REDEVELOPMENT AREAS IN CERTIFIED SMART GROWTH PLANS PURSUANT TO SECTIONS
46 54-0303 AND 56-0307 OF THE ENVIRONMENTAL CONSERVATION LAW;

47 B. RESTRICTION ON INDUSTRIAL DEVELOPMENT AUTHORITY PROJECT FUNDING TO
48 LOCAL GOVERNMENTS WHICH HAVE CERTIFIED SMART GROWTH PLANS, WHERE A MUNI-
49 CIPALITY WITHIN AN INDUSTRIAL DEVELOPMENT AUTHORITY'S JURISDICTION HAS
50 APPLIED FOR AND RECEIVED SMART GROWTH PLAN CERTIFICATION PURSUANT TO
51 SECTION EIGHT HUNDRED SIXTY-TWO OF THIS CHAPTER;

52 C. ENERGY ASSISTANCE PURSUANT TO SECTION ONE THOUSAND FIVE AND EIGH-
53 TEEN HUNDRED FIFTY-FOUR OF THE PUBLIC AUTHORITIES LAW;

54 D. PRIORITY FUNDING FOR AGRICULTURAL PROTECTION PURSUANT TO SECTION
55 THREE HUNDRED TWENTY-FIVE OF THE AGRICULTURE AND MARKETS LAW;

1 E. WITHIN THE LIMITS OF ANY APPROPRIATIONS THEREFOR, GRANTS TO ANY
2 LOCAL GOVERNMENT AGENCY FOR DESIGN OR OTHER ACTIVITIES TO FACILITATE
3 CONSTRUCTION PROJECTS PROVIDED FOR IN A CERTIFIED SMART GROWTH PLAN,
4 PROVIDED THAT SUCH GRANT SHALL NOT EXCEED TEN PERCENT OF THE ESTIMATED
5 COST OF SUCH CONSTRUCTION PROJECT;

6 F. WITHIN THE LIMITS OF ANY APPROPRIATIONS THEREFOR, GRANTS FOR THE
7 PURCHASE OF HOMES IN OLDER URBAN NEIGHBORHOODS, HOMES EXISTING AS OF THE
8 EFFECTIVE DATE OF THIS ARTICLE AND HOMES WITHIN CLOSE PROXIMITY TO PLAC-
9 ES OF WORK;

10 G. THERE MAY BE DEFENSE BY AND SHALL BE INDEMNITY FROM THE STATE IN
11 THE EVENT OF LEGAL ACTIONS OR PROCEEDINGS BROUGHT AGAINST ANY LOCAL
12 GOVERNMENT, COUNCIL OR ITS AGENTS, SERVANTS, OFFICIALS OR EMPLOYEES THAT
13 MAY RESULT FROM THE IMPLEMENTATION OF A CERTIFIED SMART GROWTH PLAN.
14 INDEMNITY SHALL NOT APPLY TO ANY SUCH CLAIM IN WHICH A FINAL COURT
15 DETERMINATION RESULTS IN A FINDING OF INCONSISTENCY WITH A CERTIFIED
16 SMART GROWTH PLAN OR INTENTIONAL WRONGDOING, RECKLESSNESS, OR AN UNLAW-
17 FUL DISCRIMINATORY PRACTICE INCLUDING THE FINDING THAT ANY LAND USE
18 CONTROL WAS INTENDED TO EXCLUDE A PARTICULAR GROUP OR INDIVIDUAL, OR
19 GROSS NEGLIGENCE ON THE PART OF SUCH MUNICIPALITY OR ITS AGENTS, SERV-
20 ANTS, OFFICIALS, OR EMPLOYEES. ACTIONS OR PROCEEDINGS BROUGHT UNDER
21 SUBDIVISIONS TWO, TWO-A, THREE-B, FOUR, PARAGRAPHS (A) AND (B) OF SUBDI-
22 VISION FIVE AND SUBDIVISIONS SIX, SEVEN, FOURTEEN, AND EIGHTEEN OF
23 SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND 42 U.S.C.
24 SECTIONS 1981, 1983, AND 1988 SHALL BE INDEMNIFIED BY THE STATE ONLY SO
25 FAR AS THE GRIEVANCE ALLEGED IN SUCH ACTION OR PROCEEDING WAS THE RESULT
26 OF AN ACT CONSISTENT WITH THIS ARTICLE OR THE PLAN. SUCH INDEMNITY SHALL
27 BE CONDITIONED UPON (I) THE DELIVERY BY THE GOVERNING BODY OR ITS AGENT
28 AGAINST WHOM THE LEGAL ACTION OR PROCEEDING WAS COMMENCED TO THE ATTOR-
29 NEY GENERAL OR AN ASSISTANT ATTORNEY GENERAL AT AN OFFICE OF THE DEPART-
30 MENT OF LAW IN THE STATE THE ORIGINAL OR A COPY OF ANY SUMMONS,
31 COMPLAINT, PROCESS, NOTICE, DEMAND OR PLEADING WITHIN FIFTEEN DAYS AFTER
32 SUCH DOCUMENT IS SERVED UPON SUCH GOVERNING BODY OR ITS AGENT, AND (II)
33 THE FULL COOPERATION OF THE GOVERNING BODY OR ITS AGENTS AGAINST WHOM
34 THE ACTION OR PROCEEDING WAS COMMENCED IN THE DEFENSE OF SUCH ACTION OR
35 PROCEEDING AND IN DEFENSE OF ANY ACTION OR PROCEEDING AGAINST THE STATE
36 BASED UPON THE SAME ACT OR OMISSION, AND IN THE PROSECUTION OF ANY
37 APPEAL. THERE SHALL BE NO INDEMNITY IN THE EVENT OF A SETTLEMENT BETWEEN
38 OR AMONG THE PARTIES TO SUCH LEGAL ACTION OR PROCEEDING IN THOSE
39 INSTANCES IN WHICH THE ATTORNEY GENERAL IS NOT PROVIDING THE DEFENSE FOR
40 THE GOVERNING BODY OR ITS AGENTS, UNLESS SUCH SETTLEMENT IS APPROVED BY
41 THE ATTORNEY GENERAL.

42 3. NOTHING IN THIS ARTICLE SHALL BE DEEMED OR IMPLEMENTED IN SUCH A
43 WAY AS TO ADVERSELY AFFECT, IMPAIR OR SUPERSEDE THE FUNDING OR ELIGIBIL-
44 ITY FOR FUNDING OF ANY CITY WITH A POPULATION OF ONE MILLION OR MORE.
45 FOR PURPOSES OF CALCULATING PRIORITY FINANCIAL ASSISTANCE FOR PROPOSED
46 PROJECTS IN CERTIFIED SMART GROWTH PLANS, CITIES WITH A POPULATION OF
47 ONE MILLION OR MORE SHALL BE ELIGIBLE FOR AND RECEIVE FUNDING AS IF SUCH
48 PRIORITIZATION HAD NOT BEEN MADE.

49 S 1009. MUNICIPAL AUTHORIZATION INCENTIVES. IN ADDITION TO EXISTING
50 POWERS AND AUTHORITIES TO PLAN OR REGULATE BY ZONING, A LOCAL GOVERNMENT
51 INCLUDING A PARTICIPATING COMMUNITY WITH A CERTIFIED SMART GROWTH PLAN
52 MAY, AS PART OF A ZONING ORDINANCE OR LOCAL LAW:

53 1. ENACT REQUIREMENTS FOR THE ESTABLISHMENT OF MIXED-USE DISTRICTS.
54 SUCH REQUIREMENTS SHALL BE FOR THE PURPOSES OF PERMITTING FLEXIBILITY IN
55 THE REGULATION OF LAND DEVELOPMENT SO AS TO COMPLY WITH A CERTIFIED
56 SMART GROWTH PLAN;

1 2. ADOPT, AMEND AND ENFORCE LOCAL LAWS, RULES AND REGULATIONS NOT
2 INCONSISTENT WITH THE LAWS OF THIS STATE OR THE UNITED STATES OR WITH
3 THE CERTIFIED SMART GROWTH PLAN, WITH RESPECT TO THE RESTRICTION AND
4 REGULATION OF THE MANNER OF CONSTRUCTION AND LOCATION OF BATHHOUSES,
5 MOORINGS AND DOCKS IN ANY WATERS WITHIN OR BOUNDING THE RESPECTIVE MUNI-
6 CIPALITY TO A DISTANCE OF FIFTEEN HUNDRED FEET FROM THE SHORELINE.
7 NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO AFFECT, IMPAIR OR SUPER-
8 SEDE THE PROVISIONS OF ANY CHARTER, LOCAL LAW, RULE OR OTHER LOCAL
9 REQUIREMENTS AND PROCEDURES HERETOFORE OR HEREAFTER ADOPTED BY SUCH
10 LOCAL LEGISLATIVE BODY, INCLUDING BUT NOT LIMITED TO, ANY SUCH
11 PROVISIONS RELATING TO THE ZONING AND USE OF LAND OR ANY WATERS WITHIN
12 OR BOUNDING SUCH LOCAL LEGISLATIVE BODY TO A DISTANCE OF FIFTEEN HUNDRED
13 FEET FROM THE SHORELINE; AND

14 3. OFFER ENHANCED BUSINESS INVESTMENT TAX EXEMPTIONS PURSUANT TO
15 SECTION FOUR HUNDRED EIGHTY-FIVE-B OF THE REAL PROPERTY TAX LAW FOR
16 CONSTRUCTION, ALTERATION, INSTALLATION OR IMPROVEMENT IN GROWTH OR REDE-
17 VELOPMENT AREAS FOR THE PURPOSE OF COMMERCIAL, BUSINESS OR INDUSTRIAL
18 ACTIVITY.

19 S 4. Section 54-0303 of the environmental conservation law is amended
20 by adding a new subdivision 8 to read as follows:

21 8. IN EVALUATING APPLICATIONS FOR OPEN SPACE CONSERVATION PROJECTS,
22 THE COMMISSIONER AND THE COMMISSIONER OF THE OFFICE OF PARKS, RECREATION
23 AND HISTORIC PRESERVATION SHALL GRANT A PREFERENCE TO ANY PROJECT IDEN-
24 TIFIED AS PART OF A PRESERVATION AREA UNDER A CERTIFIED SMART GROWTH
25 PLAN PURSUANT TO ARTICLE TWENTY OF THE GENERAL MUNICIPAL LAW.

26 S 5. Section 56-0307 of the environmental conservation law is amended
27 by adding a new subdivision 6 to read as follows:

28 6. IN EVALUATING APPLICATIONS FOR OPEN SPACE CONSERVATION PROJECTS,
29 THE COMMISSIONER AND THE COMMISSIONER OF THE OFFICE OF PARKS, RECREATION
30 AND HISTORIC PRESERVATION SHALL GRANT A PREFERENCE TO ANY PROJECT IDEN-
31 TIFIED AS PART OF A PRESERVATION AREA UNDER A CERTIFIED SMART GROWTH
32 PLAN PURSUANT TO ARTICLE TWENTY OF THE GENERAL MUNICIPAL LAW.

33 S 6. Section 862 of the general municipal law, as added by chapter
34 1030 of the laws of 1969, is amended to read as follows:

35 S 862. Restrictions on funds of the agency. 1. No funds of the agency
36 shall be used in respect of any project if the completion thereof would
37 result in the removal of an industrial or manufacturing plant of the
38 project occupant from one area of the state to another area of the state
39 or in the abandonment of one or more plants or facilities of the project
40 occupant located within the state, provided, however, that neither
41 restriction shall apply if the agency shall determine on the basis of
42 the application before it that the project is reasonably necessary to
43 discourage the project occupant from removing such other plant or facil-
44 ity to a location outside the state or is reasonably necessary to
45 preserve the competitive position of the project occupant in its respec-
46 tive industry.

47 2. IF ANY MUNICIPALITY WITHIN THE GEOGRAPHIC LIMITS OF THE AGENCY HAS
48 A CERTIFIED SMART GROWTH PLAN PURSUANT TO ARTICLE TWENTY OF THIS CHAP-
49 TER, NO FINANCIAL ASSISTANCE OF THE AGENCY SHALL BE USED WITH RESPECT TO
50 ANY PROJECT LOCATED WITHIN ANY MUNICIPALITY WITHOUT A CERTIFIED SMART
51 GROWTH PLAN, AND FINANCIAL ASSISTANCE OF THE AGENCY SHALL BE USED ONLY
52 WITH RESPECT TO PROJECTS LOCATED WITHIN AREAS IDENTIFIED IN A SMART
53 GROWTH PLAN AS GROWTH OR REDEVELOPMENT AREAS WITHIN WHICH PROJECTS ARE
54 ELIGIBLE FOR ASSISTANCE FROM THE AGENCY.

55 S 7. Section 1005 of the public authorities law is amended by adding a
56 new subdivision 16 to read as follows:

1 16. TO PROVIDE FINANCIAL ASSISTANCE FOR THE INSTALLATION OF ENERGY
2 EFFICIENCY MEASURES AND/OR INNOVATIVE ENERGY PRODUCTION TECHNOLOGIES FOR
3 STRUCTURES AND PROCESSES LOCATED WITHIN GROWTH AND REDEVELOPMENT AREAS
4 IDENTIFIED IN AN APPROVED SMART GROWTH PLAN PURSUANT TO ARTICLE TWENTY
5 OF THE GENERAL MUNICIPAL LAW.

6 S 8. Paragraph (c) of subdivision 2 of section 325 of the agriculture
7 and markets law, as added by chapter 413 of the laws of 1996, is amended
8 to read as follows:

9 (c) In evaluating applications for funding, the commissioner shall
10 give priority to projects intended to preserve viable agricultural land
11 as defined in section three hundred one of this chapter; THAT ARE IN A
12 PRESERVATION AREA UNDER A CERTIFIED SMART GROWTH PLAN PURSUANT TO ARTI-
13 CLE TWENTY OF THE GENERAL MUNICIPAL LAW; that are in areas facing
14 significant development pressure; and that serve as a buffer for a
15 significant natural public resource containing important ecosystem or
16 habitat characteristics.

17 S 9. Paragraph (a) of subdivision 2 and subdivision 12 of section
18 485-b of the real property tax law, paragraph (a) of subdivision 2 as
19 amended by chapter 625 of the laws of 1995 and subdivision 12 as added
20 by chapter 305 of the laws of 1994, are amended to read as follows:

21 (a) (i) Such real property THAT IS LOCATED IN A GROWTH OR REDEVELOP-
22 MENT AREA OF A SMART GROWTH PLAN CERTIFIED PURSUANT TO ARTICLE TWENTY OF
23 THE GENERAL MUNICIPAL LAW shall be exempt for a period of one year to
24 the extent of [fifty] SEVENTY-FIVE per centum of the increase in
25 assessed value thereof attributable to such construction, alteration,
26 installation or improvement and for an additional period of nine years
27 provided, however, that the extent of such exemption shall be decreased
28 by five per centum AFTER THE SECOND AND NINTH YEARS AND TEN PER CENTUM
29 each year during such [additional] period of nine years and such
30 exemption shall be computed with respect to the "exemption base." The
31 exemption base shall be the increase in assessed value as determined in
32 the initial year of such ten year period following the filing of an
33 original application, except as provided in subparagraph [(ii)] (III) of
34 this paragraph.

35 (ii) SUCH REAL PROPERTY LOCATED IN A COUNTY, CITY, TOWN OR VILLAGE
36 WITH NO SUCH CERTIFIED SMART GROWTH PLAN SHALL BE EXEMPT FOR A PERIOD OF
37 ONE YEAR TO THE EXTENT OF FIFTY PER CENTUM OF THE INCREASE IN ASSESSED
38 VALUE THEREOF ATTRIBUTABLE TO SUCH CONSTRUCTION, ALTERATION, INSTALLA-
39 TION OR IMPROVEMENT AND FOR AN ADDITIONAL PERIOD OF NINE YEARS PROVIDED,
40 HOWEVER, THAT THE EXTENT OF SUCH EXEMPTION SHALL BE DECREASED BY FIVE
41 PER CENTUM EACH YEAR DURING SUCH ADDITIONAL PERIOD OF NINE YEARS AND
42 SUCH EXEMPTION SHALL BE COMPUTED WITH RESPECT TO THE "EXEMPTION BASE."
43 THE EXEMPTION BASE SHALL BE THE INCREASE IN ASSESSED VALUE AS DETERMINED
44 IN THE INITIAL YEAR OF SUCH TEN YEAR PERIOD FOLLOWING THE FILING OF AN
45 ORIGINAL APPLICATION, EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
46 PARAGRAPH.

47 (III) In any year in which a change in level of assessment of fifteen
48 percent or more is certified for a final assessment roll pursuant to the
49 rules of the state board, the exemption base shall be multiplied by a
50 fraction, the numerator of which shall be the total assessed value of
51 the parcel on such final assessment roll (after accounting for any phys-
52 ical or quantity changes to the parcel since the immediately preceding
53 assessment roll), and the denominator of which shall be the total
54 assessed value of the parcel on the immediately preceding final assess-
55 ment roll. The result shall be the new exemption base. The exemption
56 shall thereupon be recomputed to take into account the new exemption

1 base, notwithstanding the fact that the assessor receives the certifi-
 2 cation of the change in level of assessment after the completion,
 3 verification and filing of the final assessment roll. In the event the
 4 assessor does not have custody of the roll when such certification is
 5 received, the assessor shall certify the recomputed exemption to the
 6 local officers having custody and control of the roll, and such local
 7 officers are hereby directed and authorized to enter the recomputed
 8 exemption certified by the assessor on the roll. The assessor shall give
 9 written notice of such recomputed exemption to the property owner, who
 10 may, if he or she believes that the exemption was recomputed incorrect-
 11 ly, apply for a correction in the manner provided by title three of
 12 article five of this chapter for the correction of clerical errors.

13 [(iii)] (IV) The following table shall illustrate the computation of
 14 the tax exemption:

15		PERCENTAGE OF		
16		CERTIFIED SMART		
17	Year of exemption	GROWTH PLAN	EXEMPTION	Percentage of exemption
18	1	75		50
19	2	75		45
20	3	70		40
21	4	60		35
22	5	50		30
23	6	40		25
24	7	30		20
25	8	20		15
26	9	10		10
27	10	5		5

28 12. Notwithstanding subdivision two of this section, where a county,
 29 city, town, village or school district adopts restricted exemptions
 30 pursuant to subdivision ten of this section, the law or resolution may
 31 provide that such exemptions shall be computed pursuant to the following
 32 accelerated strategic exemption schedule:

33		PERCENTAGE OF		
34		CERTIFIED SMART		
35	Year of exemption	GROWTH PLAN	EXEMPTION	Percentage of exemption
36	1	75		50
37	2	75		50
38	3	75		50
39	4	50		40
40	5	50		30
41	6	40		20
42	7	30		10
43	8	20		10
44	9	10		10
45	10	5		5

46 Provided however, that such law or resolution shall:

47 (i) contain findings that the adoption of this accelerated strategic
 48 exemption schedule is necessary to encourage targeted economic develop-
 49 ment, create or retain permanent private sector jobs, and that the value
 50 of the exemptions to be provided is justified by the need to provide
 51 employment opportunities and broaden the tax base; and

1 (ii) limit the applicability of such schedule to projects where the
2 cost of such construction, alteration, installation or improvement
3 exceeds the sum of fifty thousand dollars; and

4 (iii) provide that such exemptions are restricted by geographic areas
5 and/or groups and major divisions as is provided by subdivision ten of
6 this section.

7 S 10. Subdivision 2 of section 1854 of the public authorities law, as
8 amended by chapter 558 of the laws of 1980, is amended to read as
9 follows:

10 2. The provision of services. To provide services required for the
11 development and use of new energy technologies and related methods by
12 the industrial, commercial, medical, scientific, public interest, educa-
13 tional and governmental organizations within the state, including the
14 power to establish, acquire and develop facilities therefor not other-
15 wise available within the state, and to operate and manage such facili-
16 ties. PROJECTS LOCATED WITHIN GROWTH OR REDEVELOPMENT AREAS IDENTIFIED
17 IN AN APPROVED SMART GROWTH PLAN PURSUANT TO ARTICLE TWENTY OF THE
18 GENERAL MUNICIPAL LAW SHALL HAVE A PREFERENCE IN THE AUTHORITY'S IDEN-
19 TIFICATION OF PROJECTS ELIGIBLE FOR SUCH ASSISTANCE.

20 S 11. The state finance law is amended by adding a new section 97-jjjj
21 to read as follows:

22 S 97-JJJJ. NEW YORK STATE SMART GROWTH REVOLVING LOAN FUND. 1. THERE
23 IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND
24 THE SECRETARY OF STATE A NEW FUND TO BE KNOWN AS THE "NEW YORK STATE
25 SMART GROWTH REVOLVING LOAN FUND".

26 2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR ITS PURPOSE,
27 ALL MONEYS TRANSFERRED TO SUCH FUND PURSUANT TO LAW, AND ALL MONEYS
28 REQUIRED BY THIS SECTION OR ANY OTHER LAW TO BE PAID INTO OR CREDITED TO
29 THIS FUND, INCLUDING ALL MONEYS RECEIVED BY THE FUND OR DONATED TO IT,
30 PAYMENTS OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND, AND ANY
31 INTEREST EARNINGS WHICH MAY ACCRUE FROM THE INVESTMENT OR REINVESTMENT
32 OF MONEYS FROM THE FUND.

33 3. MONEYS OF SUCH FUND, WHEN ALLOCATED, SHALL BE AVAILABLE TO THE
34 SECRETARY OF STATE TO MAKE LOANS AS PROVIDED IN THIS SECTION. UP TO FIVE
35 PERCENT OF THE MONEYS OF THE FUND OR TWO HUNDRED FIFTY THOUSAND DOLLARS,
36 WHICHEVER IS LESS, MAY BE USED TO PAY THE EXPENSES, INCLUDING PERSONAL
37 SERVICE AND MAINTENANCE AND OPERATION, IN CONNECTION WITH THE ADMINIS-
38 TRATION OF SUCH LOANS.

39 4. (A) THE SECRETARY OF STATE, ON RECOMMENDATION OF THE SMART GROWTH
40 REVIEW BOARD, MAY MAKE, UPON APPLICATION DULY MADE, UP TO THE AMOUNTS
41 AVAILABLE BY APPROPRIATION, LOANS TO ANY VILLAGE, TOWN, CITY, COUNTY OR
42 SMART GROWTH COMPACT COUNCIL WITH A CERTIFIED SMART GROWTH PLAN OR
43 CERTIFIED SMART GROWTH COMPACT PLAN FOR THE FOLLOWING TYPES OF PROJECTS
44 WHEN CONSISTENT WITH THE CERTIFIED SMART GROWTH PLAN OR CERTIFIED SMART
45 GROWTH COMPACT PLAN FOR SUCH VILLAGE, TOWN, CITY, COUNTY OR SMART GROWTH
46 COMPACT COUNCIL:

47 (I) PUBLIC INVESTMENT. INFRASTRUCTURE PROJECTS THAT ACCOUNT FOR AND
48 MINIMIZE THE SOCIAL, ECONOMIC AND ENVIRONMENTAL COSTS OF DEVELOPMENT,
49 SUCH AS TRANSPORTATION, SEWERS AND WASTE-WATER TREATMENT, WATER,
50 SCHOOLS, RECREATION, AND OPEN SPACE;

51 (II) ECONOMIC DEVELOPMENT. ECONOMIC DEVELOPMENT PROJECTS IN AREAS
52 WHERE TRANSPORTATION, WATER AND SEWER SERVICES AND OTHER NECESSARY
53 INFRASTRUCTURE ARE READILY AVAILABLE;

54 (III) CONSERVATION. PROJECTS TO PROTECT, PRESERVE, AND ENHANCE
55 RESOURCES, INCLUDING AGRICULTURAL LAND, FORESTS, SURFACE WATER AND

1 GROUNDWATER, RECREATION AND OPEN SPACE, SCENIC AREAS, AND SIGNIFICANT
2 HISTORIC AND ARCHAEOLOGICAL SITES;

3 (IV) COORDINATION. PROJECTS TO PROMOTE COORDINATION OF STATE AND LOCAL
4 GOVERNMENT DECISIONS AND COOPERATION AMONG COMMUNITIES TO WORK TOWARDS
5 THE MOST EFFICIENT, PLANNED, AND COST-EFFECTIVE DELIVERY OF GOVERNMENT
6 SERVICES BY, AMONG OTHER MEANS, FACILITATING COOPERATIVE AGREEMENTS
7 AMONG ADJACENT COMMUNITIES AND TO COORDINATE PLANNING TO ENSURE COMPAT-
8 IBILITY OF ONE COMMUNITY'S DEVELOPMENT WITH DEVELOPMENT OF NEIGHBORING
9 COMMUNITIES;

10 (V) COMMUNITY DESIGN. PROJECTS TO STRENGTHEN COMMUNITIES THROUGH
11 DEVELOPMENT AND REDEVELOPMENT STRATEGIES, THAT INCLUDE INTEGRATION OF
12 ALL INCOME AND AGE GROUPS, MIXED LAND USES AND COMPACT DEVELOPMENT,
13 TRADITIONAL NEIGHBORHOOD DEVELOPMENT, PLANNED UNIT DEVELOPMENT, OPEN
14 SPACE DISTRICTS, DOWNTOWN REVITALIZATION, BROWNFIELD REDEVELOPMENT,
15 ENHANCED BEAUTY IN PUBLIC SPACES, AND DIVERSE AND AFFORDABLE HOUSING IN
16 CLOSE PROXIMITY TO PLACES OF EMPLOYMENT, RECREATION AND COMMERCIAL
17 DEVELOPMENT;

18 (VI) TRANSPORTATION. PROJECTS TO PROVIDE TRANSPORTATION CHOICES,
19 INCLUDING INCREASING PUBLIC TRANSIT, IN ORDER TO REDUCE AUTOMOBILE
20 DEPENDENCY, TRAFFIC CONGESTION AND AUTOMOBILE POLLUTION; AND

21 (VII) CONSISTENCY. PROJECTS TO ENSURE PREDICTABILITY IN BUILDING AND
22 LAND USE CODES.

23 (B) NO LOAN AUTHORIZED BY THIS SECTION SHALL HAVE AN INTEREST RATE
24 EXCEEDING TWO AND ONE-HALF PERCENT AND NO LOAN TO A SMART GROWTH COMPACT
25 COUNCIL OR ANY LOCAL GOVERNMENT SUBJECT TO A CERTIFIED SMART GROWTH
26 COMPACT PLAN SHALL HAVE AN INTEREST RATE EXCEEDING ONE AND ONE-HALF
27 PERCENT. NO APPLICANT SHALL RECEIVE A LOAN FOR ANY PURPOSE UNDER PARA-
28 GRAPH (A) OF THIS SUBDIVISION MORE THAN ONCE IN ANY TWO-YEAR PERIOD. THE
29 MINIMUM AMOUNT OF ANY LOAN SHALL BE FIVE THOUSAND DOLLARS. THE PERIOD
30 OF ANY LOAN SHALL NOT EXCEED THE PERIOD OF PROBABLE USEFULNESS,
31 PRESCRIBED BY SECTION 11.00 OF THE LOCAL FINANCE LAW, OR, IF NO PERIOD
32 BE THERE PRESCRIBED, TEN YEARS. THE TOTAL AMOUNT OF ANY INTEREST EARNED
33 BY THE INVESTMENT OR REINVESTMENT OF ALL OR PART OF THE PRINCIPAL OF ANY
34 LOAN MADE UNDER THIS SECTION SHALL BE RETURNED TO THE SECRETARY OF STATE
35 FOR DEPOSIT IN THE FUND AND SHALL NOT BE CREDITED AS PAYMENT OF PRINCI-
36 PAL OR INTEREST ON THE LOAN. THE SECRETARY OF STATE MAY REQUIRE SECURITY
37 FOR ANY LOAN AND MAY SPECIFY THE PRIORITY OF LIENS AGAINST ANY PROJECT
38 WHOLLY OR PARTIALLY FUNDED BY MONEYS LOANED UNDER THIS SECTION. THE
39 SECRETARY OF STATE MAY MAKE LOANS UNDER THIS SECTION SUBJECT TO SUCH
40 OTHER TERMS AND CONDITIONS THE SECRETARY DEEMS PROPER.

41 (C) WHEN THE SMART GROWTH PLAN OF ANY COUNTY, CITY, TOWN, VILLAGE OR
42 SMART GROWTH COMPACT COUNCIL IS DECERTIFIED BY THE SMART GROWTH REVIEW
43 BOARD, SUCH LOCAL GOVERNMENT OR SMART GROWTH COMPACT COUNCIL SHALL MAKE
44 FINAL PAYMENT ON ANY OUTSTANDING PRINCIPAL AND INTEREST DUE ON A LOAN
45 FROM THE SMART GROWTH REVOLVING LOAN FUND WITHIN TWO YEARS OF SUCH
46 DECERTIFICATION.

47 (D) THE SECRETARY OF STATE SHALL HAVE THE POWER TO MAKE SUCH RULES AND
48 REGULATIONS AS MAY BE NECESSARY AND PROPER TO EFFECTUATE THE PURPOSES OF
49 THIS SECTION.

50 (E) THE SECRETARY OF STATE SHALL ANNUALLY REPORT BY MARCH FIFTEENTH TO
51 THE GOVERNOR AND THE LEGISLATURE DESCRIBING THE ACTIVITIES AND OPERATION
52 OF THE LOAN PROGRAM AUTHORIZED BY THIS SECTION. SUCH REPORT SHALL SET
53 FORTH THE NUMBER OF LOAN APPLICATIONS RECEIVED AND APPROVED; THE NAMES
54 OF VILLAGES, TOWNS, CITIES, COUNTIES OR SMART GROWTH COMPACT COUNCILS
55 RECEIVING LOANS TOGETHER WITH THE AMOUNT AND PURPOSE OF THE LOAN, THE
56 INTEREST RATE CHARGED, AND THE OUTSTANDING BALANCE; AND THE BALANCE

1 REMAINING IN THE NEW YORK STATE SMART GROWTH REVOLVING LOAN FUND, ALONG
 2 WITH FUND REVENUES AND EXPENDITURES FOR THE PREVIOUS FISCAL YEAR, AND
 3 PROJECTED REVENUES AND EXPENDITURES FOR THE CURRENT AND FOLLOWING FISCAL
 4 YEARS.

5 5. (A) APPLICATION FOR LOANS MAY BE MADE BY A VILLAGE, TOWN, CITY,
 6 COUNTY OR SMART GROWTH COMPACT COUNCIL WITH A CERTIFIED SMART GROWTH
 7 PLAN OR CERTIFIED SMART GROWTH COMPACT PLAN.

8 (B) EVERY APPLICATION SHALL BE IN A FORM ACCEPTABLE TO THE SECRETARY
 9 OF STATE. EVERY APPLICATION SHALL ACCURATELY REFLECT THE CONDITIONS
 10 WHICH GIVE RISE TO THE PROPOSED EXPENDITURE AND ACCURATELY REFLECT THE
 11 ABILITY OF THE APPLICANT TO MAKE SUCH AN EXPENDITURE WITHOUT THE
 12 PROCEEDS OF A LOAN UNDER THIS SECTION.

13 (C) (I) THE SECRETARY OF STATE SHALL GIVE PREFERENCE TO THOSE APPLICA-
 14 TIONS WHICH DEMONSTRATE THE GREATEST NEED AND TO THOSE APPLICATIONS
 15 WHICH ARE CONSISTENT WITH A CERTIFIED SMART GROWTH COMPACT PLAN AND MAY
 16 DISAPPROVE ANY APPLICATION WHICH CONTAINS NO ADEQUATE DEMONSTRATION OF
 17 NEED OR WHICH WOULD RESULT IN INEQUITABLE OR INEFFICIENT USE OF THE
 18 MONEYS IN THE FUND.

19 (II) IN MAKING DETERMINATIONS ON LOAN APPLICATIONS, THE SECRETARY OF
 20 STATE SHALL ASSURE THAT LOAN FUND MONEYS ARE EQUITABLY DISTRIBUTED AMONG
 21 ALL LEVELS OF GOVERNMENT AND ALL GEOGRAPHICAL AREAS OF THE STATE. NOT
 22 LESS THAN TWENTY-FIVE PERCENT OF THE LOANS ANNUALLY MADE SHALL BE MADE
 23 TO APPLICANTS SUBJECT TO A CERTIFIED SMART GROWTH COMPACT PLAN.

24 (D) AN APPLICATION SHALL BE REFERRED BY THE SECRETARY OF STATE TO THE
 25 SMART GROWTH REVIEW BOARD FOR REVIEW AND RECOMMENDATION.

26 (E) AN APPLICATION SHALL NOT BE APPROVED IF THE APPLICANT IS IN
 27 ARREARS ON ANY PRIOR LOAN UNDER THIS SECTION.

28 6. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
 29 ACCOMPANYING MEANINGS:

30 (A) "SMART GROWTH PLAN" SHALL MEAN THE DOCUMENT MEETING THE REQUIRE-
 31 MENTS OF SECTION ONE THOUSAND THREE OF THE GENERAL MUNICIPAL LAW AND
 32 SUBMITTED FOR CERTIFICATION PURSUANT TO SECTION ONE THOUSAND SEVEN OF
 33 THE GENERAL MUNICIPAL LAW;

34 (B) "SMART GROWTH COMPACT COUNCIL" SHALL MEAN A COUNCIL ESTABLISHED
 35 PURSUANT TO SECTION ONE THOUSAND FOUR OF THE GENERAL MUNICIPAL LAW; AND

36 (C) "SMART GROWTH REVIEW BOARD" SHALL MEAN THE BOARD ESTABLISHED
 37 PURSUANT TO SECTION ONE THOUSAND FIVE OF THE GENERAL MUNICIPAL LAW.

38 S 13. The executive law is amended by adding a new article 7-B to read
 39 as follows:

40 ARTICLE 7-B

41 SMART GROWTH LOCAL ASSISTANCE OFFICE

42 SECTION 178. SMART GROWTH LOCAL ASSISTANCE OFFICE.

43 S 178. SMART GROWTH LOCAL ASSISTANCE OFFICE. 1. THERE IS HEREBY ESTAB-
 44 LISHED A SMART GROWTH LOCAL ASSISTANCE OFFICE WITHIN THE DEPARTMENT OF
 45 STATE WHICH SHALL PROVIDE MUNICIPALITIES WITH TECHNICAL, SCIENTIFIC AND
 46 FINANCIAL ASSISTANCE FOR PROJECTS INCLUDING, BUT NOT LIMITED TO:

47 (A) COMMUNITY COLLABORATIVE DEVELOPMENT, PURSUANT TO THE PROVISIONS OF
 48 SECTION ONE THOUSAND THREE OF THE GENERAL MUNICIPAL LAW, SMART GROWTH
 49 PLANS AND GENERIC ENVIRONMENTAL IMPACT STATEMENTS, INCLUDING THE
 50 REVISION OF EXISTING COMPREHENSIVE PLANS OR OTHER EXISTING PLANS;

51 (B) REVISIONS OF LOCAL COMPREHENSIVE PLANS, OTHER PLANS OR LAND USE
 52 REGULATIONS WHERE SUCH REVISIONS ARE DESIGNED TO IMPLEMENT A CERTIFIED
 53 PRELIMINARY SMART GROWTH PLAN PURSUANT TO SECTION ONE THOUSAND SEVEN OF
 54 THE GENERAL MUNICIPAL LAW, AND SMART GROWTH PRINCIPLES PURSUANT TO
 55 SECTION ONE THOUSAND TWO OF THE GENERAL MUNICIPAL LAW;

1 (C) EDUCATION FOR LOCAL GOVERNMENTS REGARDING DEVELOPMENT, REDEVELOP-
2 MENT AND CONSERVATION STRATEGIES INCLUDING TRANSFER OF DEVELOPMENT
3 RIGHTS, INCENTIVE ZONING, CLUSTER DEVELOPMENT, REAL PROPERTY TAX INCEN-
4 TIVES, CONSERVATION EASEMENTS, PLANNED UNIT DEVELOPMENTS, MIXED USE
5 ZONING, TRADITIONAL NEIGHBORHOOD DEVELOPMENT AND OPEN SPACE DISTRICTS.

6 2. ANY SUCH TECHNICAL, SCIENTIFIC OR FINANCIAL ASSISTANCE PROVIDED BY
7 THE SMART GROWTH LOCAL ASSISTANCE OFFICE SHALL REQUIRE A MATCHING
8 CONTRIBUTION BY THE MUNICIPALITY. THE TOTAL AMOUNT OF STATE ASSISTANCE
9 FOR ANY INDIVIDUAL MUNICIPALITY SHALL NOT EXCEED FIFTY PERCENT OF THE
10 COST AND SHALL NOT EXCEED SEVENTY-FIVE PERCENT FOR MULTIPLE MUNICI-
11 PALITIES FORMING COMPACTS. ANY MUNICIPALITY WHICH RECEIVES A GRANT
12 PURSUANT TO THIS SUBDIVISION MAY, AT THE DISCRETION OF THE DEPARTMENT OF
13 STATE, CONTRIBUTE ITS MATCH REQUIREMENT IN THE FORM OF AN IN KIND OR
14 OTHER NON-MONETARY CONTRIBUTION.

15 3. THE SMART GROWTH LOCAL ASSISTANCE OFFICE SHALL ADMINISTER THE NEW
16 YORK STATE SMART GROWTH REVOLVING LOAN FUND CREATED PURSUANT TO SECTION
17 NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW.

18 S 14. This act shall take effect immediately.