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

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:

Section 1. Legislative findings and declarations. The legislature hereby finds and declares that:

New York state has a history of leading the way in protecting the environment, encouraging economic activity, and pursuing equity for all of its citizens. However, planning and zoning actions of local governments and state infrastructure funding decisions have supported a pattern of settlement and land use which necessitates expansive and expensive infrastructure resulting in new roadways, water supplies, sewer treatment facilities, utilities and other public facilities at great cost to the taxpayer and ratepayer. With this pattern of dispersed development, public investment in existing infrastructure located in traditional main streets, downtown areas and established suburbs has been underutilized and those areas have suffered economically.

Local governments need to focus on soundly planned growth, so called smart growth, through a collaborative community based effort to arrive at a workable plan generated by the community, which responds to the economic, social and environmental needs of the municipality and the region. Local governments should encourage and support development in target areas that have previously been developed or in designated areas that make economic, social and environmental sense as target areas for new development.

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

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

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

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

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

ARTICLE 20

SMART GROWTH FOR THE NEW CENTURY ACT

SECTION 1000. SHORT TITLE.
1001. DEFINITIONS.
1002. SMART GROWTH PRINCIPLES.
1003. SMART GROWTH PLAN.
1004. SMART GROWTH COMPACT.
1005. SMART GROWTH REVIEW BOARD.
1006. POWERS AND DUTIES.
1007. CERTIFICATION PROCEDURE.
1008. STATE CONSISTENCY AND INCENTIVES.
1009. MUNICIPAL AUTHORIZATION INCENTIVES.

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

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

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

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

3. "GROWTH" SHALL MEAN COMMERCIAL, RESIDENTIAL, OR INDUSTRIAL DEVELOPMENT IN A PREVIOUSLY UNDEVELOPED AREA OR AREA WITH LIMITED DEVELOPMENT.

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

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

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

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

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

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

10. "PARTICIPATING COMMUNITY" SHALL MEAN A COUNTY, CITY, TOWN OR VILLAGE IN A DESIGNATED AREA WITH A CERTIFIED COMPACT PLAN AND, IN THE CASE OF A CITY, TOWN OR VILLAGE, APPROVED IMPLEMENTING LAND USE REGULATIONS.

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

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

2. ECONOMIC DEVELOPMENT. TO ENCOURAGE ECONOMIC DEVELOPMENT IN AREAS WHERE TRANSPORTATION, WATER AND SEWER INFRASTRUCTURE ARE READILY AVAILABLE OR ECONOMICALLY PRACTICAL;

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

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

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

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

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

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

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

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

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

D. DEMONSTRATE THE MANNER IN WHICH EXISTING OR PLANNED LAND USE REGULATIONS WILL ENSURE COMPLIANCE WITH THE PLAN; AND

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

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

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

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

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

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

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

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

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

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

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

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

4. A SMART GROWTH PLAN SHALL BE ACCOMPANIED BY A GENERIC ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW AND SUCH REGULATIONS. UPON FINAL CERTIFICATION AND ADOPTION OF THE GENERIC ENVIRONMENTAL IMPACT STATEMENT, NO FURTHER COMPLIANCE WITH THE STATE ENVIRONMENTAL QUALITY REVIEW ACT SHALL BE REQUIRED FOR SUBSEQUENT SITE SPECIFIC ACTIONS IN AREAS DESIGNATED FOR GROWTH OR REDEVELOPMENT THAT ARE IN CONFORMANCE WITH THE CONDITIONS AND THRESHOLDS ESTABLISHED FOR SUCH ACTIONS IN THE GENERIC ENVIRONMENTAL IMPACT STATEMENT AND ITS FINDINGS.

5. A SMART GROWTH PLAN AND ANY AMENDMENTS THERETO, FOR A LOCAL GOVERNMENT CONTAINING ALL OR PART OF AN AGRICULTURAL DISTRICT OR LANDS RECEIVING AGRICULTURAL ASSESSMENTS WITHIN ITS JURISDICTION, SHALL CONTINUE TO BE SUBJECT TO THE PROVISIONS OF ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW RELATING TO THE ENACTMENT AND ADMINISTRATION OF LOCAL LAWS, ORDINANCES, RULES OR REGULATIONS. A SMART GROWTH PLAN OR AMENDMENT THERETO, SHALL TAKE INTO CONSIDERATION APPLICABLE COUNTY AND FARMLAND PROTECTION PLANS AS CREATED UNDER ARTICLE TWENTY-FIVE-AAA OF THE AGRICULTURE AND MARKETS LAW.

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

OR MORE MUNICIPALITIES. A COMPACT AREA MUST INCLUDE AT LEAST TWO MUNICIPALITIES.

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

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

4. EACH COUNCIL SHALL HAVE THE POWER:

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

B. TO SUE AND BE SUED;

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

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

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

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

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

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

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

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

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

K. TO ESTABLISH AND MAINTAIN AN EDUCATION AND OUTREACH PROGRAM RELATING TO THE COUNCIL'S WORK;

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

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

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

6. FOLLOWING THE CONSENSUS-BUILDING MEETINGS AND WITHIN THE FIFTEEN MONTH PERIOD ESTABLISHED THEREFOR, THE COUNCIL SHALL PUBLISH THE DRAFT SMART GROWTH PLAN AND DRAFT GENERIC IMPACT STATEMENT. WITHIN SIX MONTHS OF SUCH PUBLICATION, THE COUNCIL SHALL HOLD PUBLIC INFORMATIONAL MEETINGS WITH AT LEAST ONE PUBLIC HEARING WITHIN EACH OF THE COUNTIES, CITIES, TOWNS AND VILLAGES WITHIN THE COMPACT AREA. DURING THIS PERIOD THE COUNCIL SHALL RECEIVE AND REVIEW COMMENTS ON THE DRAFT PLAN AND DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT FROM STATE AND LOCAL GOVERNMENTS AND THE PUBLIC. WITHIN THREE MONTHS OF THE LAST PUBLIC HEARING REQUIRED BY THIS SECTION, THE COUNCIL SHALL COMPLETE AND RECOMMEND FOR RATIFICATION A FINAL SMART GROWTH PLAN AND FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT TO THE LOCAL LEGISLATIVE BODY OF EACH COUNTY, CITY, TOWN AND VILLAGE WITHIN THE COMPACT AREA FOR THEIR RATIFICATION AND ADOPTION OF THE STATEMENT OF FINDINGS PURSUANT TO ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW. SUCH RATIFICATION AND ADOPTION SHALL REPRESENT COMMITMENT TO IMPLEMENTATION OF THE PROVISIONS CONTAINED THEREIN. UPON RATIFICATION AND ADOPTION BY ALL SUCH LOCAL LEGISLATIVE BODIES, THE COUNCIL ITSELF SHALL FORMALLY ADOPT THE SMART GROWTH PLAN AND GENERIC ENVIRONMENTAL IMPACT STATEMENT, AND SHALL SUBMIT THE PLAN AND GENERIC ENVIRONMENTAL IMPACT STATEMENT TO THE SMART GROWTH REVIEW BOARD FOR CERTIFICATION PURSUANT TO THE PROVISIONS OF SECTION ONE THOUSAND SEVEN OF THIS ARTICLE.

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

VILLAGE LAND USE REGULATIONS HAVE BEEN APPROVED AND UPON A FINDING BY THE COMPACT COUNCIL THAT A CITY, TOWN OR VILLAGE HAS CHANGED SUCH REGULATIONS IN A MANNER SUBSTANTIALLY INCONSISTENT WITH THE PLAN OR HAS ADMINISTERED ITS APPROVED LAND USE REGULATIONS IN A MANNER SUBSTANTIALLY INCONSISTENT WITH THE PLAN, THE COMPACT COUNCIL SHALL WITHDRAW APPROVAL OF SUCH LAND USE REGULATIONS. SUCH WITHDRAWAL OF APPROVAL SHALL BE MADE NOT BEFORE FOURTEEN DAYS AFTER THE COUNCIL HOLDS A PUBLIC HEARING IN THE AFFECTED CITY, TOWN OR VILLAGE ON THE PROPOSED WITHDRAWAL. NOTICE OF SUCH HEARING SHALL BE PUBLISHED IN A NEWSPAPER HAVING GENERAL CIRCULATION IN THE COMPACT AREA AND NOTICE OF SUCH HEARING SHALL ALSO BE GIVEN BY REGISTERED MAIL TO THE AFFECTED SUPERVISOR OR MAYOR. A CITY, TOWN OR VILLAGE THAT HAS HAD SUCH APPROVAL WITHDRAWN SHALL NO LONGER BE DEEMED TO BE A PARTICIPATING COMMUNITY.

8. A COUNCIL SHALL HAVE JURISDICTION TO REVIEW AND APPROVE ALL PROPOSED DEVELOPMENT OUTSIDE OF AREAS DESIGNATED FOR GROWTH OR REDEVELOPMENT AND DEVELOPMENTS OF REGIONAL SIGNIFICANCE AS IDENTIFIED IN A PLAN AND PROPOSED DEVELOPMENTS FOUND BY THE COUNCIL AFTER PETITION BY A MEMBER THEREOF TO HAVE SIGNIFICANT ADVERSE IMPACT ON THE PLAN. ANY SUCH MEMBER MAY PETITION THE COUNCIL TO ASSERT REVIEW JURISDICTION OVER A PROPOSED DEVELOPMENT WHICH HAS A SIGNIFICANT ADVERSE IMPACT ON THE GOALS OF THE PLAN. IF THE COUNCIL BY MAJORITY VOTE ASSERTS JURISDICTION, SUCH PROJECT OR ACTION SHALL BE SUBJECT TO REVIEW BY THE COUNCIL. FOR THE PURPOSES OF REVIEW AND IDENTIFICATION OF PROJECTS COMING UNDER THE JURISDICTION OF THE COUNCIL, THE COUNCIL SHALL DESIGNATE THE RESPONSIBLE PLANNING ENTITY OR STAFF FOR THE PURPOSES OF ADVISING THE COUNCIL WITH RESPECT TO SUCH APPLICATIONS OR PROJECTS. TO THE FULLEST EXTENT POSSIBLE, THE COUNCIL SHALL CONSOLIDATE AND COORDINATE ITS REVIEW WITH THE APPROPRIATE LOCAL GOVERNMENT. AN APPLICANT FOR DEVELOPMENT OUTSIDE AN AREA DESIGNATED FOR GROWTH OR REDEVELOPMENT OR DEVELOPMENT OF REGIONAL SIGNIFICANCE SHALL APPLY TO THE COUNCIL FOR APPROVAL OF THE DEVELOPMENT. APPLICATIONS SHALL BE MADE TO THE COUNCIL ON FORMS AND IN SUCH MANNER AS THE PLAN AND COUNCIL SHALL DESIGNATE. AFTER HOLDING A PUBLIC HEARING WITHIN THE CITY, TOWN OR VILLAGE WHERE SUCH DEVELOPMENT IS PROPOSED TO BE LOCATED, ALL COMPLETED APPLICATIONS SHALL, UNLESS MUTUALLY AGREED OTHERWISE, BE ACTED UPON WITHIN ONE HUNDRED TWENTY DAYS.

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

10. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS IN ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW, WITHIN PARTICIPATING COMMUNITIES, ACTIONS WHOLLY WITHIN THE AREAS DESIGNATED FOR GROWTH OR REDEVELOPMENT IN THE COMPACT AREA IN CONFORMANCE WITH THE PLAN AND THE GENERIC ENVIRONMENTAL IMPACT STATEMENT THEREOF, SHALL REQUIRE NO FURTHER ENVIRONMENTAL IMPACT STATEMENT WITH RESPECT TO IMPACTS ADDRESSED IN SUCH GENERIC ENVIRONMENTAL IMPACT STATEMENT. FURTHER PROJECT-SPECIFIC COMPLIANCE WITH ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW MAY BE REQUIRED IN THE FORM OF A SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT.

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

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

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

3. IN THE EVENT OF A VACANCY OCCURRING IN THE OFFICE OF ANY MEMBER, SUCH VACANCY SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

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

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

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

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

A. REVIEW PLAN APPLICATIONS;

B. CERTIFY OR WITHDRAW CERTIFICATION OF SMART GROWTH PLANS;

C. SUE AND BE SUED;

D. MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS NECESSARY OR CONVENIENT FOR THE EXERCISE OF ITS POWERS AND FUNCTIONS UNDER THIS ARTICLE;

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

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

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

H. CONTRACT FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE;

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

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

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

2. THE BOARD SHALL PREPARE APPLICATION FORMS.

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

S 1007. CERTIFICATION PROCEDURE. 1. THE BOARD SHALL REVIEW APPLICATIONS FOR CERTIFICATION WHICH SHALL INCLUDE A COMPLETED APPLICATION FORM AND A COPY OF A SMART GROWTH PLAN.

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

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

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

S 1008. STATE CONSISTENCY AND INCENTIVES. 1. EVERY STATE AGENCY, PUBLIC BENEFIT CORPORATION AND AUTHORITY CONDUCTING, FUNDING OR APPROVING ACTIVITIES AFFECTING LOCAL PLANNING AND/OR INFRASTRUCTURE SHALL:

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

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

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

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

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

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

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

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

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

F. WITHIN THE LIMITS OF ANY APPROPRIATIONS THEREFOR, GRANTS FOR THE PURCHASE OF HOMES IN OLDER URBAN NEIGHBORHOODS, HOMES EXISTING AS OF THE EFFECTIVE DATE OF THIS ARTICLE AND HOMES WITHIN CLOSE PROXIMITY TO PLACES OF WORK;

G. THERE MAY BE DEFENSE BY AND SHALL BE INDEMNITY FROM THE STATE IN THE EVENT OF LEGAL ACTIONS OR PROCEEDINGS BROUGHT AGAINST ANY LOCAL GOVERNMENT, COUNCIL OR ITS AGENTS, SERVANTS, OFFICIALS OR EMPLOYEES THAT MAY RESULT FROM THE IMPLEMENTATION OF A CERTIFIED SMART GROWTH PLAN. INDEMNITY SHALL NOT APPLY TO ANY SUCH CLAIM IN WHICH A FINAL COURT DETERMINATION RESULTS IN A FINDING OF INCONSISTENCY WITH A CERTIFIED SMART GROWTH PLAN OR INTENTIONAL WRONGDOING, RECKLESSNESS, OR AN UNLAWFUL DISCRIMINATORY PRACTICE INCLUDING THE FINDING THAT ANY LAND USE CONTROL WAS INTENDED TO EXCLUDE A PARTICULAR GROUP OR INDIVIDUAL, OR GROSS NEGLIGENCE ON THE PART OF SUCH MUNICIPALITY OR ITS AGENTS, SERVANTS, OFFICIALS, OR EMPLOYEES. ACTIONS OR PROCEEDINGS BROUGHT UNDER SUBDIVISIONS TWO, TWO-A, THREE-B, FOUR, PARAGRAPHS (A) AND (B) OF SUBDIVISION FIVE AND SUBDIVISIONS SIX, SEVEN, FOURTEEN, AND EIGHTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND 42 U.S.C. SECTIONS 1981, 1983, AND 1988 SHALL BE INDEMNIFIED BY THE STATE ONLY SO FAR AS THE GRIEVANCE ALLEGED IN SUCH ACTION OR PROCEEDING WAS THE RESULT OF AN ACT CONSISTENT WITH THIS ARTICLE OR THE PLAN. SUCH INDEMNITY SHALL BE CONDITIONED UPON (I) THE DELIVERY BY THE GOVERNING BODY OR ITS AGENT AGAINST WHOM THE LEGAL ACTION OR PROCEEDING WAS COMMENCED TO THE ATTORNEY GENERAL OR AN ASSISTANT ATTORNEY GENERAL AT AN OFFICE OF THE DEPARTMENT OF LAW IN THE STATE THE ORIGINAL OR A COPY OF ANY SUMMONS, COMPLAINT, PROCESS, NOTICE, DEMAND OR PLEADING WITHIN FIFTEEN DAYS AFTER SUCH DOCUMENT IS SERVED UPON SUCH GOVERNING BODY OR ITS AGENT, AND (II) THE FULL COOPERATION OF THE GOVERNING BODY OR ITS AGENTS AGAINST WHOM THE ACTION OR PROCEEDING WAS COMMENCED IN THE DEFENSE OF SUCH ACTION OR PROCEEDING AND IN DEFENSE OF ANY ACTION OR PROCEEDING AGAINST THE STATE BASED UPON THE SAME ACT OR OMISSION, AND IN THE PROSECUTION OF ANY APPEAL. THERE SHALL BE NO INDEMNITY IN THE EVENT OF A SETTLEMENT BETWEEN OR AMONG THE PARTIES TO SUCH LEGAL ACTION OR PROCEEDING IN THOSE INSTANCES IN WHICH THE ATTORNEY GENERAL IS NOT PROVIDING THE DEFENSE FOR THE GOVERNING BODY OR ITS AGENTS, UNLESS SUCH SETTLEMENT IS APPROVED BY THE ATTORNEY GENERAL.

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

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

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

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

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

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

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

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

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

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

S 862. Restrictions on funds of the agency. 1. No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

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

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

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

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

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

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

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

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

(III) In any year in which a change in level of assessment of fifteen percent or more is certified for a final assessment roll pursuant to the rules of the state board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption

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

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

| Year of exemption | PERCENTAGE OF CERTIFIED SMART GROWTH PLAN EXEMPTION | Percentage of exemption |
|---|---|---|
| 1 | 75 | 50 |
| 2 | 75 | 45 |
| 3 | 70 | 40 |
| 4 | 60 | 35 |
| 5 | 50 | 30 |
| 6 | 40 | 25 |
| 7 | 30 | 20 |
| 8 | 20 | 15 |
| 9 | 10 | 10 |
| 10 | 5 | 5 |

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

| Year of exemption | PERCENTAGE OF CERTIFIED SMART GROWTH PLAN EXEMPTION | Percentage of exemption |
|---|---|---|
| 1 | 75 | 50 |
| 2 | 75 | 50 |
| 3 | 75 | 50 |
| 4 | 50 | 40 |
| 5 | 50 | 30 |
| 6 | 40 | 20 |
| 7 | 30 | 10 |
| 8 | 20 | 10 |
| 9 | 10 | 10 |
| 10 | 5 | 5 |

Provided however, that such law or resolution shall:

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

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

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

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

2. The provision of services. To provide services required for the development and use of new energy technologies and related methods by the industrial, commercial, medical, scientific, public interest, educational and governmental organizations within the state, including the power to establish, acquire and develop facilities therefor not otherwise available within the state, and to operate and manage such facilities. PROJECTS LOCATED WITHIN GROWTH OR REDEVELOPMENT AREAS IDENTIFIED IN AN APPROVED SMART GROWTH PLAN PURSUANT TO ARTICLE TWENTY OF THE GENERAL MUNICIPAL LAW SHALL HAVE A PREFERENCE IN THE AUTHORITY'S IDENTIFICATION OF PROJECTS ELIGIBLE FOR SUCH ASSISTANCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) "SMART GROWTH PLAN" SHALL MEAN THE DOCUMENT MEETING THE REQUIREMENTS OF SECTION ONE THOUSAND THREE OF THE GENERAL MUNICIPAL LAW AND SUBMITTED FOR CERTIFICATION PURSUANT TO SECTION ONE THOUSAND SEVEN OF THE GENERAL MUNICIPAL LAW;

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

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

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

ARTICLE 7-B

SMART GROWTH LOCAL ASSISTANCE OFFICE

SECTION 178. SMART GROWTH LOCAL ASSISTANCE OFFICE.

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

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

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

(C) EDUCATION FOR LOCAL GOVERNMENTS REGARDING DEVELOPMENT, REDEVELOPMENT AND CONSERVATION STRATEGIES INCLUDING TRANSFER OF DEVELOPMENT RIGHTS, INCENTIVE ZONING, CLUSTER DEVELOPMENT, REAL PROPERTY TAX INCENTIVES, CONSERVATION EASEMENTS, PLANNED UNIT DEVELOPMENTS, MIXED USE ZONING, TRADITIONAL NEIGHBORHOOD DEVELOPMENT AND OPEN SPACE DISTRICTS.

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

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

S 14. This act shall take effect immediately.