

2863

2009-2010 Regular Sessions

I N S E N A T E

March 4, 2009

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the New York state urban development corporation act, in relation to establishing the self-sufficiency program and to authorize the urban development corporation to issue bonds or notes to provide for such program; and providing for the repeal of certain provisions of such act upon expiration thereof

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

1 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting
2 the New York state urban development corporation act, is amended by
3 adding a new section 16-u to read as follows:
4 S 16-U. SELF-SUFFICIENCY PROGRAM. 1. IT IS HEREBY DECLARED THAT IT IS
5 A VITAL POLICY AND PUBLIC PURPOSE OF NEW YORK STATE TO PROMOTE SIGNIF-
6 ICANT ECONOMIC DEVELOPMENT IN NEW YORK. THE HISTORY OF NEW YORK IS
7 MARKED BY LARGE-SCALE ECONOMIC ENDEAVORS WHICH HARNESSSED THE CREATIVITY,
8 SKILL AND VISION OF THE RESIDENTS OF NEW YORK. THE TRANSFORMING POWER OF
9 THESE ACCOMPLISHMENTS IS BEST EMBODIED IN THE ERIE CANAL, WHICH CREATED
10 IN ITS WAKE A SURGE OF ECONOMIC AND POPULATION GROWTH IN NEW YORK. IN
11 CONTRAST, THE LEGISLATURE HEREBY FINDS THAT THE CURRENT ECONOMIC CLIMATE
12 OF NEW YORK AS A WHOLE IS MARKED BY PERSISTENT DISINVESTMENT, BLIGHT AND
13 AGING INFRASTRUCTURE, LOSS OF OPEN SPACE, AND EMIGRATION OF EMPLOYMENT
14 OPPORTUNITIES AND INVESTMENT DOLLARS, AND THAT RECREATING THE ENVIRON-
15 MENT OF ENERGY AND RISK-TAKING THAT DROVE THE ERIE CANAL IS ESSENTIAL TO
16 NEW YORK'S FUTURE WELL-BEING. THE LEGISLATURE FINDS THAT IN ORDER TO
17 REVERSE THE TRENDS OF DECLINE, IT IS NECESSARY AND APPROPRIATE TO ESTAB-
18 LISH A PUBLIC/PRIVATE FINANCING MODEL TO PROMOTE ECONOMIC DEVELOPMENT IN
19 NEW YORK WHILE MAXIMIZING LEVERAGE NEEDED TO ASSIST IN FINANCING SUCH
20 PROJECTS AND DO SO IN AN EXPEDITED MANNER. IT IS THE OVERRIDING PUBLIC
21 POLICY OF THIS STATE TO CREATE A NEW VEHICLE FOR FINANCING AND APPROVING

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

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1 PROJECTS IN NEW YORK TO ENSURE THE HEALTH, WELFARE AND PROSPERITY OF ALL
2 CITIZENS OF THE STATE, WHILE ENSURING THAT STATE FINANCES ARE NOT
3 DEPLETED BUT IN FACT ENRICHED OVER THE LONG TERM.

4 2. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE MEAN-
5 INGS INDICATED:

6 (A) "APPLICANT" SHALL MEAN THAT INDIVIDUAL OR ENTITY, OR SUCH INDIVID-
7 UAL'S OR ENTITY'S AGENT, SUCCESSOR IN INTEREST, ASSIGNEE OR DESIGNEE,
8 WHICH FILES AN APPLICATION WITH THE CORPORATION FOR CONSIDERATION OF AN
9 ELIGIBLE PROJECT.

10 (B) "BASE PAYMENT" SHALL MEAN THAT PORTION OF A PILOT PAYMENT PAID
11 PURSUANT TO A PILOT AGREEMENT AS FOLLOWS: IN THE FIRST YEAR, SUCH AMOUNT
12 SHALL BE EQUAL TO THE REAL PROPERTY TAXES PAID TO THE TAXING ENTITIES IN
13 THE IMMEDIATELY PRECEDING YEAR AND IN THE SECOND YEAR AND IN EACH YEAR
14 THEREAFTER, THE AMOUNT REQUIRED TO BE PAID IN EACH SUBSEQUENT YEAR SHALL
15 BE ONE HUNDRED FOUR PERCENT OF THE IMMEDIATELY PRECEDING YEAR'S PAYMENT.

16 (C) "BROWNFIELD SITE" SHALL HAVE THE MEANING SET FORTH IN SECTION
17 27-1405 OF THE ENVIRONMENTAL CONSERVATION LAW.

18 (D) "ELIGIBLE PROJECT" SHALL MEAN ANY NEW EQUIPMENT, IMPROVEMENT OR
19 STRUCTURE, INCLUDING NEW CONSTRUCTION, ALTERATION OR IMPROVEMENT TO
20 EXISTING STRUCTURES, AND ALL REAL AND PERSONAL PROPERTY DEEMED NECESSARY
21 THEREWITH, WHICH IS PROJECTED TO (I) COST A MINIMUM OF TWENTY MILLION
22 DOLLARS, (II) RESULT IN THE CREATION, IN ONE OR MORE PHASES, OF AT LEAST
23 THREE HUNDRED NEW FULL TIME EQUIVALENT JOBS AT THE PROJECT SITE; AND
24 (III) ONE OR MORE OF THE FOLLOWING: (A) WILL BE DESIGNED AND CONSTRUCTED
25 TO ACHIEVE "GOLD" STATUS OR HIGHER PURSUANT TO THE LEADERSHIP IN ENERGY
26 AND ENVIRONMENTAL DESIGN ("LEED") GREEN BUILDING RATING SYSTEM CRITERIA
27 DEVELOPED BY THE UNITED STATES GREEN BUILDING COUNCIL OR (B) WILL BE
28 DESIGNED AND CONSTRUCTED TO "3 GLOBES" OR HIGHER PURSUANT TO THE GREEN
29 GLOBES RATING SYSTEM DEVELOPED BY THE GREEN BUILDING INITIATIVE; OR (C)
30 WILL UTILIZE TECHNOLOGY-ENABLED DESIGN, CONSTRUCTION AND OPERATION
31 INCLUDING, BUT NOT LIMITED TO, GENERALLY ACCEPTED UNIVERSAL DESIGN PRIN-
32 CIPLES THAT ENHANCE THE FULL CYCLE USE BUILDINGS WITHOUT REGARD TO THE
33 PHYSICAL ABILITIES OR DISABILITIES OF OCCUPANTS OR GUESTS IN ORDER TO
34 ACCOMMODATE A WIDE RANGE OF INDIVIDUAL PREFERENCES AND FUNCTIONAL ABILI-
35 TIES. IF A PHASE OF THE ELIGIBLE PROJECT IS UNDER CONSTRUCTION AS OF THE
36 DATE OF THE APPLICATION, THEN ANY JOBS CREATED AS OF SUCH DATE SHALL BE
37 CONSIDERED JOBS CREATED FOR PURPOSES OF THIS DEFINITION.

38 THE CORPORATION SHALL GIVE PREFERENCE TO THOSE ELIGIBLE PROJECTS WHICH
39 MEET EITHER OR BOTH OF THE FOLLOWING CRITERIA: (I) THE SITE IS LOCATED
40 IN AN AREA OF A MUNICIPALITY OR REGION CHARACTERIZED BY HIGH UNEMPLOY-
41 MENT, A HIGH POVERTY RATE AND/OR A HIGH COMMERCIAL VACANCY RATE; OR (II)
42 THE APPLICANT'S PROPOSED ELIGIBLE PROJECT WILL BE LOCATED, IN WHOLE OR
43 IN PART, ON A BROWNFIELD SITE AS DEFINED IN THIS SECTION.

44 (E) "HOST COMMUNITY BENEFIT" SHALL BE AN AMOUNT EQUAL TO THREE PERCENT
45 OF THE PROJECT COSTS, PAYABLE AT THE CLOSING OF THE FINANCING OF THE
46 ELIGIBLE PROJECT, TO THE MUNICIPALITIES IN WHICH THE ELIGIBLE PROJECT IS
47 TO BE SITED, PROVIDED THAT IF AN ELIGIBLE PROJECT IS UNDERTAKEN IN ONE
48 OR MORE PHASES, SUCH AMOUNT SHALL BE PROPORTIONAL TO THE PERCENTAGE OF
49 PROJECT COSTS OF ELIGIBLE PROJECTS BEING UNDERTAKEN. THE HOST COMMUNITY
50 BENEFIT SHALL BE ALLOCATED TO THE MUNICIPALITY OR MUNICIPALITIES IN
51 WHICH THE ELIGIBLE PROJECT IS TO BE SITED IN THE SAME PROPORTION AS THE
52 AMOUNT OF REAL PROPERTY TAXES ON THE ELIGIBLE PROJECT WOULD HAVE BEEN
53 DISTRIBUTED TO SUCH MUNICIPALITIES IF NOT FOR THE TAX-EXEMPT STATUS OF
54 THE ELIGIBLE PROJECT.

55 (F) "MARKETING DEVELOPMENT FEE" SHALL BE AN AMOUNT EQUAL TO THREE
56 PERCENT OF THE PROJECT COSTS, IF AN ELIGIBLE PROJECT IS TO BE UNDERTAKEN

1 IN ONE OR MORE PHASES, SUCH AMOUNT SHALL BE PROPORTIONAL TO THE PERCENT-
2 AGE OF THE PROJECT COSTS OF THE PARTICULAR PHASE TO THE PROJECT COSTS OF
3 THE ELIGIBLE PROJECT BEING UNDERTAKEN, FOR THE PURPOSE OF MARKETING THIS
4 PROGRAM BY THE CORPORATION.

5 (G) "MUNICIPALITY" SHALL MEAN ANY COUNTY, CITY, VILLAGE OR TOWN IN THE
6 STATE.

7 (H) "PILOT AGREEMENT" SHALL MEAN AN AGREEMENT BETWEEN THE SPONSOR AND
8 THE CORPORATION TO MAKE PILOT PAYMENTS FOR AN ELIGIBLE PROJECT.

9 (I) "PILOT PAYMENT" SHALL MEAN THAT SUM AGREED TO PURSUANT TO SUBDIVI-
10 SION FIVE OF THIS SECTION.

11 (J) "PROJECT COSTS" SHALL MEAN AND INCLUDE ALL COSTS PAID OR INCURRED
12 IN CONNECTION WITH AN ELIGIBLE PROJECT INCLUDING, WITHOUT LIMITATION,
13 THE COSTS OF LAND AND OTHER INTERESTS, BUILDINGS, FIXTURES, FURNITURE,
14 EQUIPMENT OR MACHINERY, RESEARCH AND DEVELOPMENT, PERMITTING, PLANNING,
15 ENGINEERING, FINANCING, THE PROVISION OF WORKING CAPITAL, INVENTORY,
16 MARKETING, EXPENDITURES ASSOCIATED WITH THE OPENING OF THE ELIGIBLE
17 PROJECT, AND/OR OTHER AMOUNTS, INCLUDING RESERVES AND INTEREST, THE HOST
18 COMMUNITY BENEFIT, THE SCHOOL DISTRICT CONTRIBUTION AND THE MARKETING
19 DEVELOPMENT FEE REQUIRED TO BE PAID IN CONNECTION WITH FINANCING OF THE
20 ELIGIBLE PROJECT. THE TERM FINANCING SHALL INCLUDE REFINANCING.

21 (K) "PROJECT PAYMENT" SHALL MEAN THAT PORTION OF A PILOT PAYMENT PAID
22 ANNUALLY PURSUANT TO A PILOT AGREEMENT EQUAL TO THE AMOUNT ESTABLISHED
23 BY THE APPLICANT.

24 (L) "SCHOOL DISTRICT CONTRIBUTION" SHALL MEAN THAT AMOUNT TO BE PAID,
25 IF AT ALL, IN AN AMOUNT EQUAL TO THREE PERCENT OF THE PROJECT COSTS,
26 PAYABLE AT THE CLOSING OF THE FINANCING OF THE ELIGIBLE PROJECT, TO THE
27 SCHOOL DISTRICT IN WHICH THE ELIGIBLE PROJECT IS SITED, PROVIDED THAT,
28 IF AN ELIGIBLE PROJECT IS TO BE UNDERTAKEN IN ONE OR MORE PHASES, SUCH
29 AMOUNT SHALL BE PROPORTIONAL TO THE PERCENTAGE OF THE PROJECT COSTS OF
30 THE PARTICULAR PHASE TO THE PROJECT COSTS OF THE ELIGIBLE PROJECT BEING
31 UNDERTAKEN.

32 (M) "SPONSOR" SHALL MEAN THE INDIVIDUAL OR ENTITY OR SUCH INDIVIDUAL'S
33 OR ENTITY'S AGENT, ASSIGNEE, DESIGNEE OR SUCCESSOR IN INTEREST WHOSE
34 APPLICATION FOR TREATMENT AS AN ELIGIBLE PROJECT HAS BEEN APPROVED BY
35 THE CORPORATION.

36 (N) "TAXING ENTITIES" SHALL MEAN EACH MUNICIPALITY AND SCHOOL
37 DISTRICT, IN WHICH AN ELIGIBLE PROJECT IS LOCATED, THAT HAS THE POWER TO
38 IMPOSE BUT WHICH WILL FAIL TO RECEIVE REAL PROPERTY TAX PAYMENTS WHICH
39 WOULD OTHERWISE BE DUE, EXCEPT FOR THE TAX EXEMPT STATUS OF THE CORPO-
40 RATION.

41 (O) "UNDERTAKING" SHALL MEAN, WITHOUT LIMITATION, THE ACQUISITION,
42 FINANCING, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF AN
43 ELIGIBLE PROJECT IN ONE OR MORE PHASES.

44 3. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE CORPO-
45 RATION IS HEREBY AUTHORIZED TO UNDERTAKE AN ELIGIBLE PROJECT PURSUANT TO
46 THIS SECTION, AND THE CORPORATION SHALL NOT BE REQUIRED TO PAY TAXES
47 UPON ANY OF THE PROPERTY ACQUIRED BY IT OR UNDER ITS JURISDICTION,
48 CONTROL OR SUPERVISION PURSUANT TO THIS SECTION OR UPON ITS ACTIVITIES
49 PURSUANT TO THIS SECTION.

50 4. (A) THE CORPORATION IS AUTHORIZED TO ACCEPT APPLICATIONS FOR
51 APPROVAL OF AN ELIGIBLE PROJECT, AND THE APPLICATION SHALL BE APPROVED
52 AS AN ELIGIBLE PROJECT AND A PROJECT AS DEFINED IN THIS SECTION BY THE
53 CORPORATION IF SUCH APPLICATION DEMONSTRATES THAT THE PROJECT MEETS THE
54 DEFINITION OF AN ELIGIBLE PROJECT AND WILL ADVANCE THE ECONOMIC WELL-BE-
55 ING OF THE STATE. THE APPLICANT SHALL PAY TO THE CORPORATION A NON-RE-
56 FUNDABLE APPLICATION FEE OF ONE THOUSAND DOLLARS. THE CORPORATION SHALL

1 APPROVE OR DISAPPROVE OF SUCH ELIGIBLE PROJECT NO LATER THAN THIRTY DAYS
2 FROM THE DATE OF RECEIPT OF THE APPLICATION OR AT THE NEXT BOARD MEETING
3 OCCURRING WITHIN SIXTY DAYS OF THE RECEIPT OF THE APPLICATION IF SUCH
4 MEETING IS SCHEDULED FOR A DATE LATER THAN THIRTY DAYS FROM THE DATE OF
5 RECEIPT OF SUCH APPLICATION. SUCH APPROVAL SHALL NOT BE SUBJECT TO ARTI-
6 CLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW. IN CONNECTION WITH THE
7 UNDERTAKING OF AN ELIGIBLE PROJECT BY THE CORPORATION OR A PHASE THERE-
8 OF, THE SPONSOR SHALL PAY TO THE CORPORATION, AT THE CLOSING OF THE
9 FINANCING BY THE CORPORATION OR ITS DESIGNEE OF AN ELIGIBLE PROJECT, A
10 CLOSING FEE OF UP TO ONE PERCENT OF THE AMOUNT FINANCED. IN CALCULATING
11 SUCH FEE, THE SPONSOR SHALL BE ENTITLED TO A CREDIT AGAINST SUCH FEE FOR
12 AMOUNTS PAID TO THE CORPORATION OR OTHER AUTHORITIES OR PUBLIC BENEFIT
13 CORPORATIONS AS FEES PAID PURSUANT TO OTHER PROGRAMS IN CONNECTION WITH
14 OR RELATED TO THE ELIGIBLE PROJECT, AS WELL AS ANY FEES PAID TO THE
15 STATE PURSUANT TO TITLE 10 OF ARTICLE 9 OF THE PUBLIC AUTHORITIES LAW.
16 THE CORPORATION SHALL PROMULGATE REGULATIONS WITHIN THIRTY DAYS OF THE
17 EFFECTIVE DATE OF THIS SECTION, OR AT THE NEXT REGULARLY SCHEDULED BOARD
18 MEETING OCCURRING WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS
19 SECTION, IF SUCH MEETING IS SCHEDULED FOR A DATE GREATER THAN THIRTY
20 DAYS FROM THE EFFECTIVE DATE OF THIS SECTION, TO ESTABLISH PROCEDURES
21 FOR THE APPROVAL OF ELIGIBLE PROJECTS. IN CONSIDERING THE APPLICATION,
22 THE CORPORATION SHALL CONSIDER FACTORS AFFECTING THE CREDITWORTHINESS OF
23 THE APPLICANT INCLUDING, BUT NOT LIMITED TO, THE APPLICANT'S BUSINESS
24 PLAN, BUSINESS EXPERIENCE AND MANAGEMENT INFORMATION, CREDIT HISTORY AND
25 FINANCIAL STATEMENTS, SUFFICIENCY OF COLLATERAL TO SECURE REPAYMENT OF
26 THE LOAN, OTHER PERSONAL AND CORPORATE GUARANTEES ON THE PROJECT, AND
27 CASH FLOW PROJECTIONS. TO THE EXTENT PERMITTED BY LAW, ALL INFORMATION
28 REGARDING THE FINANCIAL CONDITION, MARKETING PLANS, MANUFACTURING PROC-
29 ESSES, PRODUCTION COSTS, CUSTOMER LISTS, OR OTHER TRADE SECRETS OR
30 PROPRIETARY INFORMATION DEEMED AS SUCH BY THE APPLICANT IN CONNECTION
31 WITH THE APPLICATION SUBMITTED PURSUANT TO THIS SUBDIVISION, SHALL BE
32 CONFIDENTIAL AND EXEMPT FROM PUBLIC DISCLOSURE.

33 (B) IN CONNECTION WITH THE UNDERTAKING OF AN ELIGIBLE PROJECT BY THE
34 CORPORATION, A SPONSOR SHALL PAY THE MARKETING DEVELOPMENT FEE TO THE
35 CORPORATION OR ITS DESIGNEE. SUCH FEE CAN BE PAID BY THE SPONSOR AT ANY
36 TIME, BUT IN ANY EVENT NO LATER THAN THE CLOSING OF THE FINANCING BY THE
37 CORPORATION OR ITS DESIGNEE OF AN ELIGIBLE PROJECT OR A PHASE THEREOF.
38 SUCH MARKETING DEVELOPMENT FEE SHALL BE USED BY THE CORPORATION AND/OR
39 THE DEPARTMENT OF ECONOMIC DEVELOPMENT TO PROMOTE BUSINESS DEVELOPMENT
40 IN THE STATE INCLUDING, WITHOUT LIMITATION, THE OMBUDSMAN PROGRAM
41 DESCRIBED IN SUBDIVISION NINE OF THIS SECTION.

42 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN
43 CONJUNCTION WITH THE ACQUISITION OF TITLE OR OTHER INTEREST SUFFICIENT
44 TO CONFER JURISDICTION, CONTROL OR SUPERVISION OF THE CORPORATION OVER
45 AN ELIGIBLE PROJECT, THE CORPORATION SHALL ENTER INTO A PILOT AGREEMENT
46 WITH THE SPONSOR OR ITS DESIGNEE FOR A PERIOD OF FORTY YEARS OR SUCH
47 SHORTER TERM AS DETERMINED BY THE SPONSOR. SUBJECT TO THE APPROVAL OF
48 THE TAXING ENTITIES, THE PILOT PAYMENT SHALL BE USED TO PAY PROJECT
49 COSTS. HOWEVER, IF THE SPONSOR AGREES THAT THE CORPORATION SHALL
50 DISTRIBUTE THE BASE PAYMENT, HOST COMMUNITY BENEFIT AND SCHOOL DISTRICT
51 CONTRIBUTION TO THE RESPECTIVE TAXING ENTITIES, THEN THE PILOT AGREEMENT
52 CONTAINING SUCH PROVISION SHALL BE DEEMED APPROVED BY THE TAXING ENTI-
53 TIES AND THE CORPORATION SHALL NOTIFY THE TAXING ENTITIES ACCORDINGLY.
54 PROJECT PAYMENTS SHALL BE PAID TO THE CORPORATION AND SHALL BE USED AS
55 DIRECTED BY THE SPONSOR TO PAY OR TO PROVIDE FOR THE PAYMENT OF ANY
56 PROJECT COSTS. TO THE EXTENT ALL OR A PORTION OF THE PROJECT PAYMENTS

1 ARE USED TO PAY DEBT SERVICE ON BONDS OR NOTES ISSUED PURSUANT TO THIS
2 SECTION, SUCH PROJECT PAYMENTS SHALL BE IN AMOUNTS SUFFICIENT TO PAY
3 SUCH DEBT SERVICE.

4 6. NOTWITHSTANDING THE PROVISIONS OF SECTION 18 OF THIS ACT, THE
5 CORPORATION IS HEREBY AUTHORIZED, TO ISSUE BONDS OR NOTES WHICH ARE
6 PAYABLE FROM AND SECURED BY PROJECT PAYMENTS, ALLOCATED AND PAID PURSU-
7 ANT TO THE PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION, IN ORDER TO
8 FINANCE PROJECT COSTS. PROVIDED, HOWEVER, SUCH BONDS OR NOTES SHALL NOT
9 BE A DEBT OF THE CORPORATION, NOR SHALL SUCH BONDS AND NOTES BE A DEBT
10 OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY
11 PROVISION. THE PLEDGE OF PROJECT PAYMENTS ALLOCATED AND PAID SHALL
12 CONSTITUTE A FIRST LIEN ON THE ELIGIBLE PROJECT AND THE REVENUES DERIVED
13 THEREFROM, AND SHALL BE SECURED BY THE ELIGIBLE PROJECT.

14 7. (A) WITHIN FIVE BUSINESS DAYS OF THE APPROVAL OF AN APPLICATION,
15 THE CORPORATION SHALL PROVIDE A WRITTEN NOTICE AND RECOMMENDATION TO THE
16 CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY IN WHICH THE ELIGIBLE
17 PROJECT IS TO BE SITED WHICH REGULATES LAND USE PURSUANT TO THE ZONING
18 POWER. SUCH NOTICE SHALL CONTAIN A SUMMARY OF THE ELIGIBLE PROJECT
19 INCLUDING BUT NOT LIMITED TO A DESCRIPTION OF THE FINANCIAL BENEFITS OF
20 THE ELIGIBLE PROJECT TO THE MUNICIPALITY, SCHOOL DISTRICT, AND REGION,
21 AND IF THE ELIGIBLE PROJECT IS A PERMISSIBLE USE UNDER THE APPLICABLE
22 ZONING LAW.

23 (B) THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY IN WHICH THE
24 ELIGIBLE PROJECT IS TO BE SITED WHICH REGULATES LAND USE PURSUANT TO THE
25 ZONING POWER IN CONJUNCTION WITH THE LEGISLATIVE BODY OF SUCH MUNICI-
26 PALITY SHALL CONDUCT A PUBLIC HEARING IN RELATION THERETO, AT WHICH THE
27 PUBLIC SHALL HAVE AN OPPORTUNITY TO BE HEARD. NOTICE OF THE HEARING
28 SHALL BE POSTED IN AT LEAST FOUR PROMINENT PLACES AND SHALL BE PUBLISHED
29 NOT LESS THAN ONCE A WEEK FOR THREE SUCCESSIVE WEEKS PRIOR TO THE HEAR-
30 ING IN A NEWSPAPER OF GENERAL CIRCULATION IN SUCH MUNICIPALITY. THE
31 NOTICE OF HEARING SHALL INCLUDE SUCH NOTICE AS PROVIDED BY THE CORPO-
32 RATION TO THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY IN WHICH THE
33 ELIGIBLE PROJECT IS TO BE SITED WHICH REGULATES LAND USE PURSUANT TO THE
34 ZONING POWER. A COPY OF THE NOTICE SHALL BE MAILED TO THE LAST KNOWN
35 OWNER OF EACH PARCEL OF LAND ADJOINING THE ELIGIBLE PROJECT. A COPY OF
36 THE NOTICE SHALL ALSO BE MAILED TO THE LEGISLATIVE BODY OF EACH OF THE
37 TAXING ENTITIES.

38 (C) ANY AND ALL PERSONS MAY APPEAR BEFORE THE LEGISLATIVE BODY AT SUCH
39 PUBLIC HEARING AND SHOW CAUSE WHY THE ELIGIBLE PROJECT SHOULD OR SHOULD
40 NOT BE ADOPTED. AT ANY TIME NOT LATER THAN THE HOUR SET FOR HEARING
41 OBJECTIONS TO THE PROPOSED ELIGIBLE PROJECT, ANY PERSON MAY FILE IN
42 WRITING WITH THE CLERK OF THE LEGISLATIVE BODY A STATEMENT OF SUCH
43 PERSON'S OBJECTIONS TO THE ELIGIBLE PROJECT.

44 (D) WITHIN THIRTY DAYS OF THE DATE OF THE NOTICE PROVIDED IN PARAGRAPH
45 (A) OF THIS SUBDIVISION, THE LOCAL SCHOOL DISTRICT SHALL ISSUE A STATE-
46 MENT TO THE LEGISLATIVE BODY RECOMMENDING APPROVAL OR DISAPPROVAL OF
47 SUCH ELIGIBLE PROJECT. THE LOCAL SCHOOL DISTRICT SHALL ONLY RECOMMEND
48 DISAPPROVAL OF A PROJECT WHICH, CONSIDERED IN ITS ENTIRETY, IT REASON-
49 ABLY DEMONSTRATES WILL MATERIALLY ADVERSELY IMPACT THE FISCAL INTEGRITY
50 OF THE SCHOOL DISTRICT. SUCH STATEMENT SHALL BE TRANSMITTED TO THE
51 LEGISLATIVE BODY OF SUCH MUNICIPALITY AND SHALL BE POSTED FOR PUBLIC
52 VIEWING. SUCH STATEMENT SHALL NOT BE SUBJECT TO ARTICLE 8 OF THE ENVI-
53 RONMENTAL CONSERVATION LAW.

54 (E) WITHIN FORTY-FIVE DAYS OF THE DATE OF THE NOTICE PROVIDED IN PARA-
55 GRAPH (A) OF THIS SUBDIVISION, THE LEGISLATIVE BODY OF SUCH MUNICIPALITY
56 MAY APPROVE OR DISAPPROVE OF THE ELIGIBLE PROJECT. IF, WITHIN SUCH PERI-

1 OD, THE LEGISLATIVE BODY OF SUCH MUNICIPALITY APPROVES OR FAILS TO
2 DISAPPROVE SUCH PROJECT, THEN, NOTWITHSTANDING ANY PROVISION OF LAW TO
3 THE CONTRARY, SUCH ELIGIBLE PROJECT SHALL BE DEEMED A PERMISSIBLE USE
4 UNDER THE APPLICABLE ZONING LAW, SUBJECT ONLY TO THE SPONSOR OBTAINING
5 SITE PLAN APPROVAL FROM THE BODY OF SAID MUNICIPALITY AUTHORIZED TO
6 GRANT SUCH APPROVAL, EXCEPT THAT IF THE LOCAL ZONING LAW DOES NOT
7 REQUIRE SITE PLAN APPROVAL FOR SUCH USE, THEN NO SITE PLAN APPROVAL
8 SHALL BE REQUIRED. IN THE EVENT SUCH LEGISLATIVE BODY DISAPPROVES OF THE
9 PROPOSED USE, THE SPONSOR MAY, WITHIN TEN DAYS OF ITS RECEIPT OF SUCH
10 DISAPPROVAL (I) NOTIFY THE CORPORATION OF ITS INTENT TO AMEND ITS APPLI-
11 CATION TO CHANGE THE SITUS OF THE ELIGIBLE PROJECT TO ANOTHER CITY, TOWN
12 OR VILLAGE OF THE STATE AND PROMPTLY FILE NOTICE WITH SAID CITY, TOWN OR
13 VILLAGE PURSUANT TO THIS SECTION; OR (II) WITHDRAW THE ELIGIBLE PROJECT
14 FROM FURTHER ACTION BY THE CORPORATION WITHOUT PENALTY. SUCH APPROVAL
15 SHALL NOT BE SUBJECT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW.

16 8. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, FOR EACH
17 ELIGIBLE PROJECT, UPON WRITTEN REQUEST OF THE SPONSOR, THE CORPORATION
18 SHALL BE THE LEAD AGENCY (AS THAT TERM IS DEFINED IN SECTION 8-0111 OF
19 THE ENVIRONMENTAL CONSERVATION LAW) FOR PURPOSES OF COMPLIANCE UNDER
20 ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW.

21 9. THE CORPORATION SHALL EXERCISE THE FULL EXTENT OF ITS CORPORATE
22 POWERS SUBJECT TO APPLICABLE LAW TO EXPEDITE THE DESIGN, PLANNING AND
23 CONSTRUCTION OF ELIGIBLE PROJECTS, AND SHALL USE ITS BEST EFFORTS IN
24 SECURING THOSE APPROVALS NECESSARY TO COMPLETE AN ELIGIBLE PROJECT. AS
25 PART OF THIS EXERCISE, THE CORPORATION SHALL APPOINT AN OMBUDSMAN TO
26 FACILITATE THE IMPLEMENTATION AND MARKETING OF THE SELF-SUFFICIENCY
27 PROGRAM DESCRIBED IN THIS SECTION AND THE EMPIRE REVOLVING BRIDGE LOAN
28 FUND DESCRIBED IN SECTION 16-T OF THIS ACT, AS ADDED BY A CHAPTER OF THE
29 LAWS OF 2009.

30 10. AN ENTITY INDEPENDENT OF THE CORPORATION SHALL CONDUCT AND SUBMIT
31 TO THE GOVERNOR AND THE LEGISLATURE BY NO LATER THAN DECEMBER 31, 2013,
32 A COMPREHENSIVE EVALUATION OF THE PERFORMANCE OF THE ELIGIBLE PROJECTS
33 APPROVED PURSUANT TO THIS PROGRAM. THE CRITERIA BY WHICH THE PROGRAM IS
34 TO BE EVALUATED SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING: (A)
35 WHETHER QUANTIFIABLE BENEFITS ATTRIBUTABLE TO THE PROGRAM JUSTIFY ITS
36 DIRECT COSTS TO THE STATE AND PARTICIPATING LOCALITIES; (B) WHETHER THE
37 PROGRAM HAS CONTRIBUTED TO THE ECONOMIC REVITALIZATION OF THE STATE BY
38 STIMULATING (I) THE CREATION AND RETENTION OF PERMANENT, FULL-TIME,
39 QUALITY PRIVATE SECTOR JOBS; AND (II) THE CREATION, LOCATION AND EXPAN-
40 SION OF BUSINESSES IN THE STATE; (C) WHETHER THE PROGRAM HAS CREATED
41 EMPLOYMENT AND BUSINESS DEVELOPMENT OPPORTUNITIES FOR RESIDENTS OF THE
42 STATE; AND (D) WHETHER THE PROGRAM IS BEING MANAGED AND EVALUATED EFFEC-
43 TIVELY BY THE CORPORATION.

44 S 2. This act shall take effect on the same date and in the same
45 manner as a chapter of the laws of 2009, entitled "AN ACT to amend the
46 New York state urban development corporation act, in relation to estab-
47 lishing the empire revolving bridge loan fund, and authorizing the New
48 York state urban development corporation to issue bonds or notes to
49 provide monies for such fund; and to amend chapter 393 of the laws of
50 1994, amending the New York state urban development corporation act
51 relating to the powers of the New York state urban development corpo-
52 ration to make loans, in relation to the effectiveness thereof", takes
53 effect, provided, that paragraph (a) of subdivision 4 of section 16-u of
54 the New York state urban development corporation act, as added by
55 section one of this act, shall expire and be deemed repealed November
56 26, 2019.