

3920

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 29, 2009

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Introduced by M. of A. LENTOL -- read once and referred to the Committee  
on Tourism, Arts and Sports Development

AN ACT to amend the parks, recreation and historic preservation law and  
the state finance law, in relation to providing for the establishment  
of the urban open space program and establishing the urban open space  
program fund; and making an appropriation therefor

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

1     Section 1. The parks, recreation and historic preservation law is  
2     amended by adding a new article 18 to read as follows:

3     ARTICLE 18  
4     URBAN OPEN SPACE PROGRAM

5     SECTION 18.01 URBAN OPEN SPACE PROGRAM.

6       S 18.01 URBAN OPEN SPACE PROGRAM. 1. THE COMMISSIONER SHALL ESTABLISH  
7     WITHIN THE OFFICE AN URBAN OPEN SPACE PROGRAM (HEREINAFTER REFERRED TO  
8     IN THIS SECTION AS "UOS PROGRAM" OR "PROGRAM"). THE PURPOSE OF THE UOS  
9     PROGRAM SHALL BE TO PROVIDE FOR THE ACQUISITION, CREATION, ESTABLISH-  
10    MENT, EXPANSION, IMPROVEMENT, CONSERVATION AND PROTECTION OF OPEN SPACE  
11    AREAS IN CITIES. THE PURPOSE OF SUCH OPEN SPACE AREAS SHALL BE TO  
12    ENHANCE THE URBAN ENVIRONMENT, THEREBY PROMOTING THE HEALTH, SAFETY AND  
13    WELFARE OF THE PEOPLE OF THE STATE IN A VARIETY OF WAYS, SUCH AS:  
14    REDUCTION OF AIR POLLUTION, REDUCTION OF NOISE POLLUTION, MODIFICATION  
15    OF EXTREMES OF TEMPERATURE THEREBY REDUCING THE AMOUNT OF ENERGY  
16    CONSUMED IN HEATING AND COOLING MANY URBAN BUILDINGS AND HOMES, ASSIST-  
17    ING IN WATERSHED MANAGEMENT, PROVIDING HABITATS FOR DESIRABLE URBAN  
18    VEGETATION AND WILDLIFE, PROVISION OF SHADE, PRESERVATION OF NATURAL  
19    RESOURCES, ENHANCEMENT OF REAL ESTATE VALUES AND BEAUTIFICATION OF URBAN  
20    AREAS THROUGHOUT THE STATE.

21     2. THE UOS PROGRAM SHALL INCLUDE, BUT NOT BE LIMITED TO:

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

LBD05919-01-9

1 (A) ACQUISITION, CREATION, ESTABLISHMENT, EXPANSION, IMPROVEMENT,  
2 CONSERVATION AND PROTECTION OF OPEN SPACE AREAS IN CITIES BY THE OFFICE  
3 FOR UOS PROGRAM PURPOSES; AND

4 (B) STATE AID TO CITIES FOR THE ACQUISITION, CREATION, ESTABLISHMENT,  
5 EXPANSION, IMPROVEMENT, CONSERVATION AND PROTECTION OF OPEN SPACE AREAS  
6 IN CITIES BY CITIES FOR UOS PROGRAM PURPOSES.

7 3. (A) REAL PROPERTY ACQUIRED BY THE OFFICE SHALL BE ACQUIRED PURSUANT  
8 TO SECTIONS 3.17 AND 3.19 OF THIS CHAPTER, AFTER CONSULTATION WITH THE  
9 STATE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL AND THE COMMISSIONER  
10 OF ENVIRONMENTAL CONSERVATION. MONEYS TO BE EXPENDED FOR THE COST OF  
11 SUCH ACQUISITION SHALL BE PAID ON THE AUDIT AND WARRANT OF THE STATE  
12 COMPTROLLER ON THE CERTIFICATE OF THE COMMISSIONER.

13 (B)(I) NO REAL PROPERTY SHALL BE ACQUIRED BY A CITY PURSUANT TO THIS  
14 SECTION UNLESS SUCH ACQUISITION SHALL HAVE BEEN APPROVED BY THE COMMIS-  
15 SIONER, AFTER CONSULTATION WITH THE STATE COMMISSIONER OF HOUSING AND  
16 COMMUNITY RENEWAL AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION.  
17 (II) THE STATE SHARE OF THE COST OF SUCH ACQUISITION SHALL BE PAID ON  
18 THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON THE CERTIFICATE OF THE  
19 COMMISSIONER. (III) IN THE EVENT THAT A CITY SHALL FAIL TO PAY ITS  
20 SHARE, AS DETERMINED BY THE COMMISSIONER, OF THE COST OF SUCH ACQUI-  
21 SITION WITHIN SIX MONTHS OF THE CERTIFICATION TO THE CITY BY THE STATE  
22 COMPTROLLER OF THE AMOUNT OF SUCH COST, THE STATE COMPTROLLER SHALL  
23 CAUSE TO BE WITHHELD FROM THE STATE ASSISTANCE FUNDS TO WHICH SUCH CITY  
24 WOULD OTHERWISE BE ENTITLED, A SUM SUFFICIENT TO REIMBURSE THE STATE FOR  
25 ANY AMOUNT REMAINING UNPAID, TOGETHER WITH INTEREST ON ANY SUCH UNPAID  
26 AMOUNT AT THE RATE OF THREE PERCENT PER ANNUM FROM THE DATE OF SUCH  
27 CERTIFICATION. MONEYS SO WITHHELD SHALL BE CREDITED AGAINST THE AMOUNT  
28 OF PRINCIPAL AND INTEREST PAYABLE BY SUCH CITY FOR ITS SHARE OF THE COST  
29 OF ACQUISITION OF SUCH REAL PROPERTY. (IV) FOR THE PURPOSE OF COMPUTING  
30 THE GRANT OF AID MADE BY THE OFFICE TO A CITY TO ASSIST IN PAYING FOR  
31 THE COST OF ACQUIRING REAL PROPERTY PURSUANT TO THIS SECTION, THE COST  
32 OF ACQUISITION SHALL NOT BE MORE THAN THE AMOUNT SET FORTH IN THE APPLI-  
33 CATION FOR STATE AID MADE BY THE CITY AND APPROVED BY THE COMMISSIONER,  
34 PLUS ANY DIRECT INCIDENTAL COSTS APPROVED BY THE COMPTROLLER. (V) A  
35 CITY WHICH ACQUIRES REAL PROPERTY WITH FUNDS MADE AVAILABLE PURSUANT TO  
36 THIS SECTION MAY ESTABLISH REASONABLE RULES AND REGULATIONS TO ENSURE  
37 PROPER ADMINISTRATION, MAINTENANCE, USE AND PROTECTION OF SUCH LANDS,  
38 PROVIDED THAT NO RULE OR REGULATION RESTRICTING THE USE OF SUCH PROPERTY  
39 TO THE RESIDENTS OF THE CITY SHALL BE EFFECTIVE WITHOUT THE EXPRESS  
40 APPROVAL OF THE COMMISSIONER.

41 (C) REAL PROPERTY ACQUIRED BY THE OFFICE PURSUANT TO THIS SECTION OR  
42 BY A CITY WITH THE AID OF FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION,  
43 SHALL BE RETAINED BY THE OFFICE OR CITY, AS THE CASE MAY BE, AND SHALL  
44 NOT BE DISPOSED OF OR USED FOR OTHER THAN URBAN OPEN SPACE PURPOSES AS  
45 SET FORTH IN THIS SECTION WITHOUT THE EXPRESS AUTHORITY OF AN ACT OF THE  
46 LEGISLATURE.

47 4. IN IMPLEMENTING, MANAGING AND ADMINISTERING THE URBAN OPEN SPACE  
48 PROGRAM PURSUANT TO THE PROVISIONS OF THIS SECTION, THE COMMISSIONER MAY  
49 PERFORM SUCH ACTS AND PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE  
50 DEEMS NECESSARY, PROPER OR DESIRABLE TO CARRY OUT THE PURPOSES OF THIS  
51 SECTION. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE COMMISSIONER'S  
52 CONSULTATION WITH THE STATE COMMISSIONER OF HOUSING AND COMMUNITY  
53 RENEWAL AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION. PROVIDED  
54 FURTHER THAT THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS  
55 CONCERNING THE STANDARDS FOR THE ELIGIBILITY OF A CITY FOR STATE AID

1 PURSUANT TO THIS SECTION AND THE FORM FOR APPLICATIONS FOR SUCH STATE  
2 AID.

3 S 2. The state finance law is amended by adding a new section 97-jjjj  
4 to read as follows:

5 S 97-JJJJ. URBAN OPEN SPACE PROGRAM FUND. 1. THERE IS HEREBY ESTAB-  
6 LISHED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF  
7 THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION A SPECIAL FUND  
8 TO BE KNOWN AS THE "URBAN OPEN SPACE PROGRAM FUND".

9 2. SUCH FUND SHALL CONSIST OF ALL MONEYS CREDITED OR APPROPRIATED FOR  
10 TRANSFER THERETO FROM ANY SOURCE ACCORDING TO LAW.

11 3. MONEYS OF THE FUND SHALL BE AVAILABLE ONLY FOR THE PAYMENT OF COSTS  
12 ASSOCIATED WITH THE IMPLEMENTATION, MANAGEMENT AND ADMINISTRATION OF THE  
13 URBAN OPEN SPACE PROGRAM ESTABLISHED PURSUANT TO ARTICLE EIGHTEEN OF THE  
14 PARKS, RECREATION AND HISTORIC PRESERVATION LAW, INCLUDING THE PAYMENT  
15 OF STATE AID PURSUANT TO THE PROVISIONS OF SUCH ARTICLE.

16 4. MONEYS OF THE FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMUN-  
17 GLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMPTROLLER. ANY SUCH  
18 MONEYS IN THE FUND MAY, IN THE DISCRETION OF THE COMPTROLLER, BE  
19 INVESTED IN OBLIGATIONS IN WHICH THE COMPTROLLER IS AUTHORIZED TO INVEST  
20 PURSUANT TO SECTION NINETY-EIGHT-A OF THIS ARTICLE. ANY INCOME OR INTER-  
21 EST FROM SUCH INVESTMENT SHALL BE CREDITED TO SUCH FUND.

22 5. ALL PAYMENTS OF MONEYS FROM THE FUND SHALL BE MADE ON THE AUDIT AND  
23 WARRANT OF THE COMPTROLLER.

24 S 3. The sum of ten million dollars (\$10,000,000), or so much thereof  
25 as may be necessary, is hereby appropriated to the urban open space  
26 program fund from any moneys in the state treasury in the general fund  
27 to the credit of the state purposes account not otherwise appropriated  
28 for services and expenses of the office of parks, recreation and histor-  
29 ic preservation for the purposes of carrying out the provisions of this  
30 act. Such sum shall be payable on the audit and warrant of the state  
31 comptroller on vouchers certified or approved by the commissioner of the  
32 office of parks, recreation and historic preservation, or his duly  
33 designated representative in the manner provided by law. No expenditure  
34 shall be made from this appropriation until a certificate of approval of  
35 availability shall have been issued by the director of the budget and  
36 filed with the state comptroller and a copy filed with the chairman of  
37 the senate finance committee and the chairman of the assembly ways and  
38 means committee. Such certificate may be amended from time to time by  
39 the director of the budget and a copy of each such amendment shall be  
40 filed with the state comptroller, the chairman of the senate finance  
41 committee and the chairman of the assembly ways and means committee.

42 S 4. This act shall take effect immediately.