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

6310

2009-2010 Regular Sessions

I N  A S S E M B L Y

March 2, 2009

Introduced by M. of A. GORDON, LATIMER, JOHN, DelMONTE, McKEVITT, TOWNSEND -- Multi-Sponsored by -- M. of A. CHRISTENSEN, JAFFEE, MARKEY, MAYERSOHN, REILLY, WEISENBERG -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to mining permits

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

Section 1. Section 23-2703 of the environmental conservation law is amended by adding a new subdivision 4 to read as follows:

4. NO AGENCY IN THIS STATE SHALL CONSIDER AN APPLICATION FOR A PERMIT TO MINE AS COMPLETE OR PROCESS SUCH APPLICATION FOR A PERMIT TO MINE PURSUANT TO THIS TITLE IF A LOCAL ZONING ORDINANCE OR LAW PROHIBITS MINING USES WITHIN THE AREA PROPOSED TO BE MINED. HOWEVER, THE DEPARTMENT MAY RENEW A PERMIT WHERE MINING WAS PERMITTED UNDER LOCAL ZONING AT THE TIME THE INITIAL PERMIT WAS GRANTED. EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION, AN EXEMPTION MAY BE MADE IF THE APPLICANT DEMONSTRATES TO THE DEPARTMENT THAT A VARIANCE FOR THE PROJECT HAS BEEN ISSUED BY THE MUNICIPALITY, PROVIDED THAT THE FACILITY LOCATION DOES NOT AFFECT GROUNDWATER USED FOR A PUBLIC WATER SUPPLY.

S 2. Section 23-2711 of the environmental conservation law is amended by adding a new subdivision 1-a to read as follows:

1-A. NO PERMIT, OR PERMIT RENEWAL, SHALL BE GRANTED BY THE DEPARTMENT FOR ANY APPLICATION WHICH PLANS TO CONDUCT MINING ACTIVITIES IF A LOCAL ZONING ORDINANCE OR LAW PROHIBITS THE PROPOSED MINING USE. HOWEVER, A PERMIT MAY BE RENEWED WHERE THE MINING ACTIVITY WAS PERMISSIBLE AT THE TIME OF THE INITIAL PERMIT. AN EXEMPTION MAY BE MADE IF THE APPLICANT DEMONSTRATES TO THE DEPARTMENT THAT A VARIANCE FOR THE PROJECT HAS BEEN ISSUED BY THE MUNICIPALITY.

S 3. This act shall take effect immediately.

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

LBD06357-01-9