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

696

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. HOYT, ABBATE, CANESTRARI, CHRISTENSEN, LAVINE, PEOPLES, SCHROEDER, ARROYO, MORELLE, GABRYSZAK -- Multi-Sponsored by -- M. of A. BOYLAND, CAHILL, MARKEY, MAYERSOHN, McENENY, PHEFFER, J. RIVERA, ROBINSON, SWEENEY, WEISENBERG -- read once and referred to the Committee on Tourism, Arts and Sports Development

AN ACT to amend the state finance law, the tax law and the parks, recreation and historic preservation law, in relation to establishing the New York state historic preservation fund

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

Section 1. Legislative findings and intent. The legislature finds and declares that the restoration, preservation and adaptive reuse of historic properties in New York state is an essential element to help revitalize and bring about reinvestment in older downtown and business districts throughout the state. The preservation and restoration of New York state's vast historical and architecturally significant buildings can and must continue to be used as building blocks for community growth and prosperity.

Therefore, the intent of this act is to create the New York state historic preservation fund, which shall be a source of money used exclusively for the preservation and restoration of significant municipal and commercial architecture and historic buildings throughout New York state.

S 2. The state finance law is amended by adding a new section 99-q to read as follows:

S 99-Q. NEW YORK STATE HISTORIC PRESERVATION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "NEW YORK STATE HISTORIC PRESERVATION FUND".

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

LBD02868-01-9

2. SUCH FUND SHALL CONSIST OF ALL MONEYS TRANSFERRED TO SUCH FUND PURSUANT TO LAW AND ALL MONEYS REQUIRED BY THE PROVISIONS OF ANY OTHER LAW TO BE PAID INTO OR CREDITED TO SUCH FUND.

3. MONEYS OF SUCH FUND SHALL BE MADE AVAILABLE TO THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION AND SHALL BE USED FOR GRANTS TO MUNICIPALITIES AND NOT-FOR-PROFIT CORPORATIONS TO PRESERVE AND RESTORE SIGNIFICANT MUNICIPAL AND COMMERCIAL ARCHITECTURE AND HISTORIC BUILDINGS SITUATED IN LOCALITIES THROUGHOUT THE STATE.

4. THE MONEYS OF THE FUND SHALL BE PAID ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION OR HIS DULY DESIGNATED REPRESENTATIVE AND IT SHALL BE THE DUTY OF THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION TO ENSURE THAT SUCH MONEYS ARE SPENT ONLY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

S 3. The tax law is amended by adding a new section 623 to read as follows:

S 623. GIFT FOR NEW YORK STATE HISTORIC PRESERVATION FUND. EFFECTIVE FOR ANY TAX YEAR COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, AN INDIVIDUAL RESIDING IN NEW YORK STATE MAY ELECT TO CONTRIBUTE TO THE NEW YORK STATE HISTORIC PRESERVATION FUND ESTABLISHED BY SECTION NINETY-NINE-Q OF THE STATE FINANCE LAW. SUCH CONTRIBUTION SHALL BE IN ANY WHOLE DOLLAR AMOUNT AND SHALL NOT REDUCE THE AMOUNT OF STATE TAX OWED BY SUCH INDIVIDUAL. THE DEPARTMENT SHALL INCLUDE SPACE ON THE PERSONAL INCOME TAX RETURN SECTION TO BE COMPLETED BY NEW YORK STATE TAXPAYERS TO ENABLE SUCH TAXPAYERS TO MAKE SUCH CONTRIBUTION EITHER BY HAVING A REFUND OR PORTION THEREOF CREDITED TO SUCH FUND OR BY INDICATING THAT AN OVERPAYMENT OF TAXES OWED IS TO BE CREDITED TO SUCH FUND. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL REVENUES PURSUANT TO THIS SECTION SHALL BE CREDITED TO THE NEW YORK STATE HISTORIC PRESERVATION FUND AND USED ONLY FOR THOSE PURPOSES ENUMERATED IN SECTION NINETY-NINE-Q OF THE STATE FINANCE LAW.

S 4. The parks, recreation and historic preservation law is amended by adding a new section 14.11 to read as follows:

S 14.11 HISTORIC PRESERVATION PROJECTS. 1. HISTORIC PRESERVATION PROJECTS MAY BE UNDERTAKEN BY THE OFFICE PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND OTHER APPLICABLE PROVISIONS OF LAW PURSUANT TO THE APPROVAL OF THE COMMISSIONER.

2. ALL HISTORIC PRESERVATION PROJECTS SHALL BE UNDERTAKEN IN THE STATE. EXCEPT FOR PROJECTS UNDERTAKEN BY THE STATE, THE TOTAL AMOUNT OF THE STATE ASSISTANCE PAYMENTS TOWARD THE COST OF ANY SUCH PROJECT SHALL NOT EXCEED FIFTY PERCENT OF THE COST. FOR THE PURPOSE OF DETERMINING THE AMOUNT OF THE STATE ASSISTANCE PAYMENTS, THE COST OF THE PROJECT SHALL NOT BE MORE THAN THE AMOUNT SET FORTH IN THE APPLICATION FOR STATE ASSISTANCE PAYMENTS APPROVED BY THE COMMISSIONER.

3. THE COMMISSIONER AND A MUNICIPALITY MAY ENTER INTO A CONTRACT FOR THE UNDERTAKING BY THE MUNICIPALITY OF AN HISTORIC PRESERVATION PROJECT. SUCH HISTORIC PRESERVATION PROJECTS SHALL BE RECOMMENDED TO THE COMMISSIONER BY THE GOVERNING BODY OF THE MUNICIPALITY AND, WHEN APPROVED BY THE COMMISSIONER, MAY BE UNDERTAKEN BY THE MUNICIPALITY PURSUANT TO THIS SECTION AND ANY OTHER APPLICABLE PROVISION OF LAW.

4. THE COMMISSIONER AND A NOT-FOR-PROFIT CORPORATION MAY ENTER INTO A CONTRACT FOR THE UNDERTAKING BY THE NOT-FOR-PROFIT CORPORATION OF AN HISTORIC PRESERVATION PROJECT. SUCH AN HISTORIC PRESERVATION PROJECT SHALL BE RECOMMENDED TO THE COMMISSIONER BY THE GOVERNING BODY OF A NOT-FOR-PROFIT CORPORATION WHICH DEMONSTRATES TO THE SATISFACTION OF THE COMMISSIONER THAT IT IS CAPABLE OF OPERATING AND MAINTAINING SUCH PROP-

ERTY FOR THE BENEFIT OF THE PUBLIC. UPON APPROVAL BY THE COMMISSIONER, SUCH PROJECT MAY BE UNDERTAKEN PURSUANT TO THE PROVISIONS OF THIS SECTION AND ANY OTHER APPLICABLE PROVISION OF LAW.

5. A MUNICIPALITY WHICH ACQUIRES, DEVELOPS, IMPROVES, RESTORES OR REHABILITATES PROPERTY WITH FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION MAY ESTABLISH REASONABLE RULES AND REGULATIONS BY LOCAL LAW OR OTHERWISE TO ASSURE THE PROPER ADMINISTRATION AND DEVELOPMENT THEREOF, PROVIDED THAT NO SUCH RULE OR REGULATION MAY RESTRICT THE USE OF SUCH LANDS OR FACILITIES BY NON-RESIDENTS OF THE MUNICIPALITY.

6. THE COMMISSIONER SHALL IMPOSE SUCH CONTRACTUAL REQUIREMENTS AND CONDITIONS UPON ANY MUNICIPALITY AND ANY NOT-FOR-PROFIT CORPORATION WHICH RECEIVES STATE ASSISTANCE PAYMENTS PURSUANT TO THIS SECTION AS MAY BE NECESSARY AND APPROPRIATE TO ENSURE THAT A PUBLIC BENEFIT SHALL ACCRUE FROM THE USE OF PUBLIC FUNDS BY SUCH MUNICIPALITY OR NOT-FOR-PROFIT CORPORATION. SUCH CONDITIONS SHALL INCLUDE LIMITATIONS ON THE RIGHT OF THE MUNICIPALITY OR NOT-FOR-PROFIT CORPORATION TO DEMOLISH OR CONVEY SUCH PROPERTY, PROVISIONS FOR PUBLIC ACCESS OR USE WHERE APPROPRIATE, THE GRANTING OF FACADE EASEMENTS TO THE STATE, A REQUIREMENT THAT ALL PLANS FOR RESTORATION, REHABILITATION, IMPROVEMENT, DEMOLITION OR OTHER PHYSICAL CHANGE MUST BE SUBJECT TO THE COMMISSIONER'S APPROVAL, AND SUCH OTHER CONDITIONS WHICH SHALL ASSURE THE PRESERVATION AND PROTECTION OF THE PROJECT.

7. THE COMMISSIONER SHALL ADOPT, PRIOR TO THE ACCEPTANCE OF APPLICATIONS FOR HISTORIC PRESERVATION PROJECTS, RULES AND REGULATIONS WHICH SHALL INCLUDE ELIGIBILITY REQUIREMENTS, APPLICATION PROCEDURES, OFFICE RANKING AND REVIEW PROCESSES, PROJECT APPROVAL GUIDELINES AND CRITERIA, AND FUNDING DISTRIBUTION NECESSARY FOR ALL STATE ASSISTANCE PAYMENT PROGRAMS ESTABLISHED PURSUANT TO THIS SECTION.

S 5. This act shall take effect January 1, 2010 except that section three of this act shall take effect on January 1, 2011, or such time that the requirements therein can be implemented prior to the initial printing of state personal income tax return forms, whichever occurs first; provided that the office of the state comptroller shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section three of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.