

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. HOYT, PAULIN, CLARK, GALEF, BRADLEY, COLTON, SCHROEDER, PEOPLES, COOK, LUPARDO, KAVANAGH, ROSENTHAL, MILLMAN, FIELDS, GABRYSZAK, KOON -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, CONTE, ERRIGO, GORDON, GOTTFRIED, GREENE, JOHN, LIFTON, MAGEE, MAGNARELLI, McDONOUGH, McENENY, MOLINARO, RABBITT, SPANO, SWEENEY, TOWNS, WALKER, WEISENBERG -- read once and referred to the Committee on Local Governments

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:

1 Section 1. Legislative findings and declarations. The legislature
2 hereby finds and declares that:
3 New York state has a history of leading the way in protecting the
4 environment, encouraging economic activity, and pursuing equity for all
5 of its citizens. However, planning and zoning actions of local govern-
6 ments and state infrastructure funding decisions have supported a
7 pattern of settlement and land use which necessitates expansive and
8 expensive infrastructure resulting in new roadways, water supplies,
9 sewer treatment facilities, utilities and other public facilities at
10 great cost to the taxpayer and ratepayer. With this pattern of dispersed
11 development, public investment in existing infrastructure located in
12 traditional main streets, downtown areas and established suburbs has
13 been underutilized and those areas have suffered economically.
14 Local governments need to focus on soundly planned growth, so called
15 smart growth, through a collaborative community based effort to arrive
16 at a workable plan generated by the community, which responds to the
17 economic, social and environmental needs of the municipality and the

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

1 region. Local governments should encourage and support development in
2 target areas that have previously been developed or in designated areas
3 that make economic, social and environmental sense as target areas for
4 new development.

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

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

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

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

ARTICLE 20

SMART GROWTH FOR THE NEW CENTURY ACT

22 SECTION 1000. SHORT TITLE.

23 1001. DEFINITIONS.

24 1002. SMART GROWTH PRINCIPLES.

25 1003. SMART GROWTH PLAN.

26 1004. SMART GROWTH COMPACT.

27 1005. SMART GROWTH REVIEW BOARD.

28 1006. POWERS AND DUTIES.

29 1007. CERTIFICATION PROCEDURE.

30 1008. STATE CONSISTENCY AND INCENTIVES.

31 1009. MUNICIPAL AUTHORIZATION INCENTIVES.

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

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

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

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

47 3. "GROWTH" SHALL MEAN COMMERCIAL, RESIDENTIAL, OR INDUSTRIAL DEVELOP-
48 MENT IN A PREVIOUSLY UNDEVELOPED AREA OR AREA WITH LIMITED DEVELOPMENT.

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

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

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

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

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

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

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

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

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

20 2. ECONOMIC DEVELOPMENT. TO ENCOURAGE ECONOMIC DEVELOPMENT IN AREAS
21 WHERE TRANSPORTATION, WATER AND SEWER INFRASTRUCTURE ARE READILY AVAIL-
22 ABLE OR ECONOMICALLY PRACTICAL;

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

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

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

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

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

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

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

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

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

1 D. DEMONSTRATE THE MANNER IN WHICH EXISTING OR PLANNED LAND USE REGU-
2 LATIONS WILL ENSURE COMPLIANCE WITH THE PLAN; AND

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

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

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

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

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

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

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

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

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

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

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

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

39 4. A SMART GROWTH PLAN SHALL BE ACCOMPANIED BY A GENERIC ENVIRONMENTAL
40 IMPACT STATEMENT PURSUANT TO ARTICLE EIGHT OF THE ENVIRONMENTAL CONSER-
41 VATION LAW AND SUCH REGULATIONS. UPON FINAL CERTIFICATION AND ADOPTION
42 OF THE GENERIC ENVIRONMENTAL IMPACT STATEMENT, NO FURTHER COMPLIANCE
43 WITH THE STATE ENVIRONMENTAL QUALITY REVIEW ACT SHALL BE REQUIRED FOR
44 SUBSEQUENT SITE SPECIFIC ACTIONS IN AREAS DESIGNATED FOR GROWTH OR REDE-
45 VELOPMENT THAT ARE IN CONFORMANCE WITH THE CONDITIONS AND THRESHOLDS
46 ESTABLISHED FOR SUCH ACTIONS IN THE GENERIC ENVIRONMENTAL IMPACT STATE-
47 MENT AND ITS FINDINGS.

48 5. A SMART GROWTH PLAN AND ANY AMENDMENTS THERETO, FOR A LOCAL GOVERN-
49 MENT CONTAINING ALL OR PART OF AN AGRICULTURAL DISTRICT OR LANDS RECEIV-
50 ING AGRICULTURAL ASSESSMENTS WITHIN ITS JURISDICTION, SHALL CONTINUE TO
51 BE SUBJECT TO THE PROVISIONS OF ARTICLE TWENTY-FIVE-AA OF THE AGRICUL-
52 TURE AND MARKETS LAW RELATING TO THE ENACTMENT AND ADMINISTRATION OF
53 LOCAL LAWS, ORDINANCES, RULES OR REGULATIONS. A SMART GROWTH PLAN OR
54 AMENDMENT THERETO, SHALL TAKE INTO CONSIDERATION APPLICABLE COUNTY AND
55 FARMLAND PROTECTION PLANS AS CREATED UNDER ARTICLE TWENTY-FIVE-AAA OF
56 THE AGRICULTURE AND MARKETS LAW.

1 S 1004. SMART GROWTH COMPACT. 1. SMART GROWTH COMPACT AREAS SHALL BE
2 ADJOINING GEOGRAPHIC REGIONS OR AREAS BASED ON ENVIRONMENTAL, ECONOMIC
3 AND SOCIAL FACTORS AGREED UPON PURSUANT TO AN ARTICLE FIVE-G AGREEMENT
4 AUTHORIZED BY THIS CHAPTER SIGNED BY THE CHIEF EXECUTIVE OFFICERS OF TWO
5 OR MORE MUNICIPALITIES. A COMPACT AREA MUST INCLUDE AT LEAST TWO MUNICI-
6 PALITIES.

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

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

30 4. EACH COUNCIL SHALL HAVE THE POWER:

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

35 B. TO SUE AND BE SUED;

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

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

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

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

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

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

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

55 J. TO PROVIDE SCIENTIFIC AND TECHNICAL ASSISTANCE OR TO MAKE GRANTS TO
56 MUNICIPALITIES IN THE COMPACT AREA FOR REVISIONS OF LOCAL COMPREHENSIVE

1 PLANS, OR THE RELEVANT LAND USE REGULATIONS DESIGNED TO BRING SUCH PLANS
2 AND LAND USE REGULATIONS INTO CONFORMANCE WITH THE COMPACT PLAN PREPARED
3 AND ADOPTED BY THE COUNCIL. THE COUNCIL MAY MAKE SUCH GRANTS FROM ANY
4 FUNDS WHICH MAY BE APPROPRIATED OR OTHERWISE MADE AVAILABLE TO IT FOR
5 SUCH PURPOSE;

6 K. TO ESTABLISH AND MAINTAIN AN EDUCATION AND OUTREACH PROGRAM RELAT-
7 ING TO THE COUNCIL'S WORK;

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

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

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

18 6. FOLLOWING THE CONSENSUS-BUILDING MEETINGS AND WITHIN THE FIFTEEN
19 MONTH PERIOD ESTABLISHED THEREFOR, THE COUNCIL SHALL PUBLISH THE DRAFT
20 SMART GROWTH PLAN AND DRAFT GENERIC IMPACT STATEMENT. WITHIN SIX MONTHS
21 OF SUCH PUBLICATION, THE COUNCIL SHALL HOLD PUBLIC INFORMATIONAL MEET-
22 INGS WITH AT LEAST ONE PUBLIC HEARING WITHIN EACH OF THE COUNTIES,
23 CITIES, TOWNS AND VILLAGES WITHIN THE COMPACT AREA. DURING THIS PERIOD
24 THE COUNCIL SHALL RECEIVE AND REVIEW COMMENTS ON THE DRAFT PLAN AND
25 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT FROM STATE AND LOCAL
26 GOVERNMENTS AND THE PUBLIC. WITHIN THREE MONTHS OF THE LAST PUBLIC HEAR-
27 ING REQUIRED BY THIS SECTION, THE COUNCIL SHALL COMPLETE AND RECOMMEND
28 FOR RATIFICATION A FINAL SMART GROWTH PLAN AND FINAL GENERIC ENVIRON-
29 MENTAL IMPACT STATEMENT TO THE LOCAL LEGISLATIVE BODY OF EACH COUNTY,
30 CITY, TOWN AND VILLAGE WITHIN THE COMPACT AREA FOR THEIR RATIFICATION
31 AND ADOPTION OF THE STATEMENT OF FINDINGS PURSUANT TO ARTICLE EIGHT OF
32 THE ENVIRONMENTAL CONSERVATION LAW. SUCH RATIFICATION AND ADOPTION SHALL
33 REPRESENT COMMITMENT TO IMPLEMENTATION OF THE PROVISIONS CONTAINED THER-
34 EIN. UPON RATIFICATION AND ADOPTION BY ALL SUCH LOCAL LEGISLATIVE
35 BODIES, THE COUNCIL ITSELF SHALL FORMALLY ADOPT THE SMART GROWTH PLAN
36 AND GENERIC ENVIRONMENTAL IMPACT STATEMENT, AND SHALL SUBMIT THE PLAN
37 AND GENERIC ENVIRONMENTAL IMPACT STATEMENT TO THE SMART GROWTH REVIEW
38 BOARD FOR CERTIFICATION PURSUANT TO THE PROVISIONS OF SECTION ONE THOU-
39 SAND SEVEN OF THIS ARTICLE.

40 7. WITHIN ONE YEAR AFTER A PLAN HAS BEEN CERTIFIED BY THE SMART GROWTH
41 REVIEW BOARD, EACH CITY LEGISLATIVE BODY, TOWN BOARD AND VILLAGE BOARD
42 WITH JURISDICTION WITHIN THE APPLICABLE COMPACT AREA SHALL ADOPT AND
43 AMEND AS NECESSARY LAND USE REGULATIONS, BY LOCAL LAW OR ORDINANCE, RULE
44 OR REGULATION TO CONFORM ITS LAND USE REGULATIONS TO THE PLAN. SUCH
45 ACTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF ARTICLE EIGHT OF THE
46 ENVIRONMENTAL CONSERVATION LAW IF IT IS IN CONFORMANCE WITH THE CONDI-
47 TIONS AND THRESHOLDS OF THE PLAN. AT LEAST SIXTY DAYS BEFORE ADOPTION
48 THEREOF, THE CITY LEGISLATIVE BODY, TOWN OR VILLAGE BOARD SHALL SUBMIT
49 THE PROPOSED REGULATIONS TO THE COMPACT COUNCIL FOR ITS REVIEW AND
50 APPROVAL. WITHIN TEN DAYS OF RECEIPT OF SUCH PROPOSED REGULATIONS, THE
51 COUNCIL SHALL REVIEW AND APPROVE SUCH PROPOSED REGULATIONS, OR IF IT
52 DOES NOT APPROVE THEM, RETURN THEM WITH COMMENTS ON WHAT NEEDS TO BE
53 DONE TO MAKE THEM APPROVABLE. FOR EACH JURISDICTION, THE PLAN SHALL BE
54 DEEMED TO BE IMPLEMENTED UPON ADOPTION BY THE CITY LEGISLATIVE BODY,
55 TOWN OR VILLAGE BOARD OF APPROVED LAND USE REGULATIONS. UPON RECEIPT OF
56 SUCH APPROVAL, A COUNTY, CITY, TOWN OR VILLAGE SHALL BE DEEMED TO BE A

1 PARTICIPATING COMMUNITY. ONLY A PARTICIPATING COMMUNITY OR A LOCAL
2 GOVERNMENT WITH ITS OWN CERTIFIED SMART GROWTH PLAN SHALL QUALIFY FOR
3 STATE PRIORITY INCENTIVE FUNDING UNDER THIS ARTICLE. AFTER CITY, TOWN OR
4 VILLAGE LAND USE REGULATIONS HAVE BEEN APPROVED AND UPON A FINDING BY
5 THE COMPACT COUNCIL THAT A CITY, TOWN OR VILLAGE HAS CHANGED SUCH REGU-
6 LATIONS IN A MANNER SUBSTANTIALLY INCONSISTENT WITH THE PLAN OR HAS
7 ADMINISTERED ITS APPROVED LAND USE REGULATIONS IN A MANNER SUBSTANTIALLY
8 INCONSISTENT WITH THE PLAN, THE COMPACT COUNCIL SHALL WITHDRAW APPROVAL
9 OF SUCH LAND USE REGULATIONS. SUCH WITHDRAWAL OF APPROVAL SHALL BE MADE
10 NOT BEFORE FOURTEEN DAYS AFTER THE COUNCIL HOLDS A PUBLIC HEARING IN THE
11 AFFECTED CITY, TOWN OR VILLAGE ON THE PROPOSED WITHDRAWAL. NOTICE OF
12 SUCH HEARING SHALL BE PUBLISHED IN A NEWSPAPER HAVING GENERAL CIRCUM-
13 LATION IN THE COMPACT AREA AND NOTICE OF SUCH HEARING SHALL ALSO BE
14 GIVEN BY REGISTERED MAIL TO THE AFFECTED SUPERVISOR OR MAYOR. A CITY,
15 TOWN OR VILLAGE THAT HAS HAD SUCH APPROVAL WITHDRAWN SHALL NO LONGER BE
16 DEEMED TO BE A PARTICIPATING COMMUNITY.

17 8. A COUNCIL SHALL HAVE JURISDICTION TO REVIEW AND APPROVE ALL
18 PROPOSED DEVELOPMENT OUTSIDE OF AREAS DESIGNATED FOR GROWTH OR REDEVEL-
19 OPMENT AND DEVELOPMENTS OF REGIONAL SIGNIFICANCE AS IDENTIFIED IN A PLAN
20 AND PROPOSED DEVELOPMENTS FOUND BY THE COUNCIL AFTER PETITION BY A
21 MEMBER THEREOF TO HAVE SIGNIFICANT ADVERSE IMPACT ON THE PLAN. ANY SUCH
22 MEMBER MAY PETITION THE COUNCIL TO ASSERT REVIEW JURISDICTION OVER A
23 PROPOSED DEVELOPMENT WHICH HAS A SIGNIFICANT ADVERSE IMPACT ON THE GOALS
24 OF THE PLAN. IF THE COUNCIL BY MAJORITY VOTE ASSERTS JURISDICTION, SUCH
25 PROJECT OR ACTION SHALL BE SUBJECT TO REVIEW BY THE COUNCIL. FOR THE
26 PURPOSES OF REVIEW AND IDENTIFICATION OF PROJECTS COMING UNDER THE
27 JURISDICTION OF THE COUNCIL, THE COUNCIL SHALL DESIGNATE THE RESPONSIBLE
28 PLANNING ENTITY OR STAFF FOR THE PURPOSES OF ADVISING THE COUNCIL WITH
29 RESPECT TO SUCH APPLICATIONS OR PROJECTS. TO THE FULLEST EXTENT POSSI-
30 BLE, THE COUNCIL SHALL CONSOLIDATE AND COORDINATE ITS REVIEW WITH THE
31 APPROPRIATE LOCAL GOVERNMENT. AN APPLICANT FOR DEVELOPMENT OUTSIDE AN
32 AREA DESIGNATED FOR GROWTH OR REDEVELOPMENT OR DEVELOPMENT OF REGIONAL
33 SIGNIFICANCE SHALL APPLY TO THE COUNCIL FOR APPROVAL OF THE DEVELOPMENT.
34 APPLICATIONS SHALL BE MADE TO THE COUNCIL ON FORMS AND IN SUCH MANNER AS
35 THE PLAN AND COUNCIL SHALL DESIGNATE. AFTER HOLDING A PUBLIC HEARING
36 WITHIN THE CITY, TOWN OR VILLAGE WHERE SUCH DEVELOPMENT IS PROPOSED TO
37 BE LOCATED, ALL COMPLETED APPLICATIONS SHALL, UNLESS MUTUALLY AGREED
38 OTHERWISE, BE ACTED UPON WITHIN ONE HUNDRED TWENTY DAYS.

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

51 10. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS IN ARTICLE EIGHT OF
52 THE ENVIRONMENTAL CONSERVATION LAW, WITHIN PARTICIPATING COMMUNITIES,
53 ACTIONS WHOLLY WITHIN THE AREAS DESIGNATED FOR GROWTH OR REDEVELOPMENT
54 IN THE COMPACT AREA IN CONFORMANCE WITH THE PLAN AND THE GENERIC ENVI-
55 RONMENTAL IMPACT STATEMENT THEREOF, SHALL REQUIRE NO FURTHER ENVIRON-
56 MENTAL IMPACT STATEMENT WITH RESPECT TO IMPACTS ADDRESSED IN SUCH GENER-

1 IC ENVIRONMENTAL IMPACT STATEMENT. FURTHER PROJECT-SPECIFIC COMPLIANCE
2 WITH ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW MAY BE REQUIRED
3 IN THE FORM OF A SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT.

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

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

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

18 3. IN THE EVENT OF A VACANCY OCCURRING IN THE OFFICE OF ANY MEMBER,
19 SUCH VACANCY SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINT-
20 MENT.

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

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

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

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

37 A. REVIEW PLAN APPLICATIONS;

38 B. CERTIFY OR WITHDRAW CERTIFICATION OF SMART GROWTH PLANS;

39 C. SUE AND BE SUED;

40 D. MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS NECESSARY OR
41 CONVENIENT FOR THE EXERCISE OF ITS POWERS AND FUNCTIONS UNDER THIS ARTI-
42 CLE;

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

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

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

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

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

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

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

6 2. THE BOARD SHALL PREPARE APPLICATION FORMS.

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

13 S 1007. CERTIFICATION PROCEDURE. 1. THE BOARD SHALL REVIEW APPLICA-
14 TIONS FOR CERTIFICATION WHICH SHALL INCLUDE A COMPLETED APPLICATION FORM
15 AND A COPY OF A SMART GROWTH PLAN.

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

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

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

27 S 1008. STATE CONSISTENCY AND INCENTIVES. 1. EVERY STATE AGENCY,
28 PUBLIC BENEFIT CORPORATION AND AUTHORITY CONDUCTING, FUNDING OR APPROV-
29 ING ACTIVITIES AFFECTING LOCAL PLANNING AND/OR INFRASTRUCTURE SHALL:

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

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

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

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

45 A. PRIORITY STATUS FOR OPEN SPACE LAND ACQUISITION AND EASEMENTS BY
46 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION OR THE OFFICE OF PARKS,
47 RECREATION AND HISTORIC PRESERVATION IN AREAS LOCATED OUTSIDE GROWTH OR
48 REDEVELOPMENT AREAS IN CERTIFIED SMART GROWTH PLANS PURSUANT TO SECTIONS
49 54-0303 AND 56-0307 OF THE ENVIRONMENTAL CONSERVATION LAW;

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

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

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

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

8 F. WITHIN THE LIMITS OF ANY APPROPRIATIONS THEREFOR, GRANTS FOR THE
9 PURCHASE OF HOMES IN OLDER URBAN NEIGHBORHOODS, HOMES EXISTING AS OF THE
10 EFFECTIVE DATE OF THIS ARTICLE AND HOMES WITHIN CLOSE PROXIMITY TO PLAC-
11 ES OF WORK;

12 G. THERE MAY BE DEFENSE BY AND SHALL BE INDEMNITY FROM THE STATE IN
13 THE EVENT OF LEGAL ACTIONS OR PROCEEDINGS BROUGHT AGAINST ANY LOCAL
14 GOVERNMENT, COUNCIL OR ITS AGENTS, SERVANTS, OFFICIALS OR EMPLOYEES THAT
15 MAY RESULT FROM THE IMPLEMENTATION OF A CERTIFIED SMART GROWTH PLAN.
16 INDEMNITY SHALL NOT APPLY TO ANY SUCH CLAIM IN WHICH A FINAL COURT
17 DETERMINATION RESULTS IN A FINDING OF INCONSISTENCY WITH A CERTIFIED
18 SMART GROWTH PLAN OR INTENTIONAL WRONGDOING, RECKLESSNESS, OR AN UNLAW-
19 FUL DISCRIMINATORY PRACTICE INCLUDING THE FINDING THAT ANY LAND USE
20 CONTROL WAS INTENDED TO EXCLUDE A PARTICULAR GROUP OR INDIVIDUAL, OR
21 GROSS NEGLIGENCE ON THE PART OF SUCH MUNICIPALITY OR ITS AGENTS, SERV-
22 ANTS, OFFICIALS, OR EMPLOYEES. ACTIONS OR PROCEEDINGS BROUGHT UNDER
23 SUBDIVISIONS TWO, TWO-A, THREE-B, FOUR, PARAGRAPHS (A) AND (B) OF SUBDI-
24 VISION FIVE AND SUBDIVISIONS SIX, SEVEN, FOURTEEN, AND EIGHTEEN OF
25 SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND 42 U.S.C.
26 SECTIONS 1981, 1983, AND 1988 SHALL BE INDEMNIFIED BY THE STATE ONLY SO
27 FAR AS THE GRIEVANCE ALLEGED IN SUCH ACTION OR PROCEEDING WAS THE RESULT
28 OF AN ACT CONSISTENT WITH THIS ARTICLE OR THE PLAN. SUCH INDEMNITY SHALL
29 BE CONDITIONED UPON (I) THE DELIVERY BY THE GOVERNING BODY OR ITS AGENT
30 AGAINST WHOM THE LEGAL ACTION OR PROCEEDING WAS COMMENCED TO THE ATTOR-
31 NEY GENERAL OR AN ASSISTANT ATTORNEY GENERAL AT AN OFFICE OF THE DEPART-
32 MENT OF LAW IN THE STATE THE ORIGINAL OR A COPY OF ANY SUMMONS,
33 COMPLAINT, PROCESS, NOTICE, DEMAND OR PLEADING WITHIN FIFTEEN DAYS AFTER
34 SUCH DOCUMENT IS SERVED UPON SUCH GOVERNING BODY OR ITS AGENT, AND (II)
35 THE FULL COOPERATION OF THE GOVERNING BODY OR ITS AGENTS AGAINST WHOM
36 THE ACTION OR PROCEEDING WAS COMMENCED IN THE DEFENSE OF SUCH ACTION OR
37 PROCEEDING AND IN DEFENSE OF ANY ACTION OR PROCEEDING AGAINST THE STATE
38 BASED UPON THE SAME ACT OR OMISSION, AND IN THE PROSECUTION OF ANY
39 APPEAL. THERE SHALL BE NO INDEMNITY IN THE EVENT OF A SETTLEMENT BETWEEN
40 OR AMONG THE PARTIES TO SUCH LEGAL ACTION OR PROCEEDING IN THOSE
41 INSTANCES IN WHICH THE ATTORNEY GENERAL IS NOT PROVIDING THE DEFENSE FOR
42 THE GOVERNING BODY OR ITS AGENTS, UNLESS SUCH SETTLEMENT IS APPROVED BY
43 THE ATTORNEY GENERAL.

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

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

55 1. ENACT REQUIREMENTS FOR THE ESTABLISHMENT OF MIXED-USE DISTRICTS.
56 SUCH REQUIREMENTS SHALL BE FOR THE PURPOSES OF PERMITTING FLEXIBILITY IN

1 THE REGULATION OF LAND DEVELOPMENT SO AS TO COMPLY WITH A CERTIFIED
2 SMART GROWTH PLAN;

3 2. ADOPT, AMEND AND ENFORCE LOCAL LAWS, RULES AND REGULATIONS NOT
4 INCONSISTENT WITH THE LAWS OF THIS STATE OR THE UNITED STATES OR WITH
5 THE CERTIFIED SMART GROWTH PLAN, WITH RESPECT TO THE RESTRICTION AND
6 REGULATION OF THE MANNER OF CONSTRUCTION AND LOCATION OF BATHHOUSES,
7 MOORINGS AND DOCKS IN ANY WATERS WITHIN OR BOUNDING THE RESPECTIVE MUNI-
8 CIPALITY TO A DISTANCE OF FIFTEEN HUNDRED FEET FROM THE SHORELINE.
9 NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO AFFECT, IMPAIR OR SUPER-
10 SEDE THE PROVISIONS OF ANY CHARTER, LOCAL LAW, RULE OR OTHER LOCAL
11 REQUIREMENTS AND PROCEDURES HERETOFORE OR HEREAFTER ADOPTED BY SUCH
12 LOCAL LEGISLATIVE BODY, INCLUDING BUT NOT LIMITED TO, ANY SUCH
13 PROVISIONS RELATING TO THE ZONING AND USE OF LAND OR ANY WATERS WITHIN
14 OR BOUNDING SUCH LOCAL LEGISLATIVE BODY TO A DISTANCE OF FIFTEEN HUNDRED
15 FEET FROM THE SHORELINE; AND

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

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

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

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

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

35 S 6. Section 862 of the general municipal law, as added by chapter
36 1030 of the laws of 1969, is amended to read as follows:

37 S 862. Restrictions on funds of the agency. 1. No funds of the agency
38 shall be used in respect of any project if the completion thereof would
39 result in the removal of an industrial or manufacturing plant of the
40 project occupant from one area of the state to another area of the state
41 or in the abandonment of one or more plants or facilities of the project
42 occupant located within the state, provided, however, that neither
43 restriction shall apply if the agency shall determine on the basis of
44 the application before it that the project is reasonably necessary to
45 discourage the project occupant from removing such other plant or facil-
46 ity to a location outside the state or is reasonably necessary to
47 preserve the competitive position of the project occupant in its respec-
48 tive industry.

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

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

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

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

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

19 S 9. Paragraph (a) of subdivision 2 and subdivision 12 of section
20 485-b of the real property tax law, paragraph (a) of subdivision 2 as
21 amended by chapter 625 of the laws of 1995 and subdivision 12 as added
22 by chapter 305 of the laws of 1994, are amended to read as follows:

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

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

49 (III) In any year in which a change in level of assessment of fifteen
50 percent or more is certified for a final assessment roll pursuant to the
51 rules of the state board, the exemption base shall be multiplied by a
52 fraction, the numerator of which shall be the total assessed value of
53 the parcel on such final assessment roll (after accounting for any phys-
54 ical or quantity changes to the parcel since the immediately preceding
55 assessment roll), and the denominator of which shall be the total
56 assessed value of the parcel on the immediately preceding final assess-

1 ment roll. The result shall be the new exemption base. The exemption
 2 shall thereupon be recomputed to take into account the new exemption
 3 base, notwithstanding the fact that the assessor receives the certif-
 4 ication of the change in level of assessment after the completion,
 5 verification and filing of the final assessment roll. In the event the
 6 assessor does not have custody of the roll when such certification is
 7 received, the assessor shall certify the recomputed exemption to the
 8 local officers having custody and control of the roll, and such local
 9 officers are hereby directed and authorized to enter the recomputed
 10 exemption certified by the assessor on the roll. The assessor shall give
 11 written notice of such recomputed exemption to the property owner, who
 12 may, if he or she believes that the exemption was recomputed incorrect-
 13 ly, apply for a correction in the manner provided by title three of
 14 article five of this chapter for the correction of clerical errors.

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

Year of exemption	PERCENTAGE OF CERTIFIED SMART		Percentage of exemption
	GROWTH PLAN	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

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

Year of exemption	PERCENTAGE OF CERTIFIED SMART		Percentage of exemption
	GROWTH PLAN	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

48 Provided however, that such law or resolution shall:

49 (i) contain findings that the adoption of this accelerated strategic
 50 exemption schedule is necessary to encourage targeted economic develop-
 51 ment, create or retain permanent private sector jobs, and that the value

1 of the exemptions to be provided is justified by the need to provide
2 employment opportunities and broaden the tax base; and

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

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

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

12 2. The provision of services. To provide services required for the
13 development and use of new energy technologies and related methods by
14 the industrial, commercial, medical, scientific, public interest, educa-
15 tional and governmental organizations within the state, including the
16 power to establish, acquire and develop facilities therefor not other-
17 wise available within the state, and to operate and manage such facili-
18 ties. PROJECTS LOCATED WITHIN GROWTH OR REDEVELOPMENT AREAS IDENTIFIED
19 IN AN APPROVED SMART GROWTH PLAN PURSUANT TO ARTICLE TWENTY OF THE
20 GENERAL MUNICIPAL LAW SHALL HAVE A PREFERENCE IN THE AUTHORITY'S IDEN-
21 TIFICATION OF PROJECTS ELIGIBLE FOR SUCH ASSISTANCE.

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

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

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

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

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

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

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

1 (III) CONSERVATION. PROJECTS TO PROTECT, PRESERVE, AND ENHANCE
2 RESOURCES, INCLUDING AGRICULTURAL LAND, FORESTS, SURFACE WATER AND
3 GROUNDWATER, RECREATION AND OPEN SPACE, SCENIC AREAS, AND SIGNIFICANT
4 HISTORIC AND ARCHAEOLOGICAL SITES;

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

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

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

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

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

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

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

52 (E) THE SECRETARY OF STATE SHALL ANNUALLY REPORT BY MARCH FIFTEENTH TO
53 THE GOVERNOR AND THE LEGISLATURE DESCRIBING THE ACTIVITIES AND OPERATION
54 OF THE LOAN PROGRAM AUTHORIZED BY THIS SECTION. SUCH REPORT SHALL SET
55 FORTH THE NUMBER OF LOAN APPLICATIONS RECEIVED AND APPROVED; THE NAMES
56 OF VILLAGES, TOWNS, CITIES, COUNTIES OR SMART GROWTH COMPACT COUNCILS

1 RECEIVING LOANS TOGETHER WITH THE AMOUNT AND PURPOSE OF THE LOAN, THE
 2 INTEREST RATE CHARGED, AND THE OUTSTANDING BALANCE; AND THE BALANCE
 3 REMAINING IN THE NEW YORK STATE SMART GROWTH REVOLVING LOAN FUND, ALONG
 4 WITH FUND REVENUES AND EXPENDITURES FOR THE PREVIOUS FISCAL YEAR, AND
 5 PROJECTED REVENUES AND EXPENDITURES FOR THE CURRENT AND FOLLOWING FISCAL
 6 YEARS.

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

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

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

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

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

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

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

32 (A) "SMART GROWTH PLAN" SHALL MEAN THE DOCUMENT MEETING THE REQUIRE-
 33 MENTS OF SECTION ONE THOUSAND THREE OF THE GENERAL MUNICIPAL LAW AND
 34 SUBMITTED FOR CERTIFICATION PURSUANT TO SECTION ONE THOUSAND SEVEN OF
 35 THE GENERAL MUNICIPAL LAW;

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

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

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

42 ARTICLE 7-B

43 SMART GROWTH LOCAL ASSISTANCE OFFICE

44 SECTION 178. SMART GROWTH LOCAL ASSISTANCE OFFICE.

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

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

53 (B) REVISIONS OF LOCAL COMPREHENSIVE PLANS, OTHER PLANS OR LAND USE
 54 REGULATIONS WHERE SUCH REVISIONS ARE DESIGNED TO IMPLEMENT A CERTIFIED
 55 PRELIMINARY SMART GROWTH PLAN PURSUANT TO SECTION ONE THOUSAND SEVEN OF

1 THE GENERAL MUNICIPAL LAW, AND SMART GROWTH PRINCIPLES PURSUANT TO
2 SECTION ONE THOUSAND TWO OF THE GENERAL MUNICIPAL LAW;

3 (C) EDUCATION FOR LOCAL GOVERNMENTS REGARDING DEVELOPMENT, REDEVELOP-
4 MENT AND CONSERVATION STRATEGIES INCLUDING TRANSFER OF DEVELOPMENT
5 RIGHTS, INCENTIVE ZONING, CLUSTER DEVELOPMENT, REAL PROPERTY TAX INCEN-
6 TIVES, CONSERVATION EASEMENTS, PLANNED UNIT DEVELOPMENTS, MIXED USE
7 ZONING, TRADITIONAL NEIGHBORHOOD DEVELOPMENT AND OPEN SPACE DISTRICTS.

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

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

20 S 14. This act shall take effect immediately.