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

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:

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-u to read as follows:

S 16-U. SELF-SUFFICIENCY PROGRAM. 1. IT IS HEREBY DECLARED THAT IT IS A VITAL POLICY AND PUBLIC PURPOSE OF NEW YORK STATE TO PROMOTE SIGNIFICANT ECONOMIC DEVELOPMENT IN NEW YORK. THE HISTORY OF NEW YORK IS MARKED BY LARGE-SCALE ECONOMIC ENDEAVORS WHICH HARNESSED THE CREATIVITY, SKILL AND VISION OF THE RESIDENTS OF NEW YORK. THE TRANSFORMING POWER OF THESE ACCOMPLISHMENTS IS BEST EMBODIED IN THE ERIE CANAL, WHICH CREATED IN ITS WAKE A SURGE OF ECONOMIC AND POPULATION GROWTH IN NEW YORK. IN CONTRAST, THE LEGISLATURE HEREBY FINDS THAT THE CURRENT ECONOMIC CLIMATE OF NEW YORK AS A WHOLE IS MARKED BY PERSISTENT DISINVESTMENT, BLIGHT AND AGING INFRASTRUCTURE, LOSS OF OPEN SPACE, AND EMIGRATION OF EMPLOYMENT OPPORTUNITIES AND INVESTMENT DOLLARS, AND THAT RECREATING THE ENVIRONMENT OF ENERGY AND RISK-TAKING THAT DROVE THE ERIE CANAL IS ESSENTIAL TO NEW YORK'S FUTURE WELL-BEING. THE LEGISLATURE FINDS THAT IN ORDER TO REVERSE THE TRENDS OF DECLINE, IT IS NECESSARY AND APPROPRIATE TO ESTABLISH A PUBLIC/PRIVATE FINANCING MODEL TO PROMOTE ECONOMIC DEVELOPMENT IN NEW YORK WHILE MAXIMIZING LEVERAGE NEEDED TO ASSIST IN FINANCING SUCH PROJECTS AND DO SO IN AN EXPEDITED MANNER. IT IS THE OVERRIDING PUBLIC 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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PROJECTS IN NEW YORK TO ENSURE THE HEALTH, WELFARE AND PROSPERITY OF ALL CITIZENS OF THE STATE, WHILE ENSURING THAT STATE FINANCES ARE NOT DEPLETED BUT IN FACT ENRICHED OVER THE LONG TERM.

2. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED:

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

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

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

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

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

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

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

IN ONE OR MORE PHASES, SUCH AMOUNT SHALL BE PROPORTIONAL TO THE PERCENTAGE OF THE PROJECT COSTS OF THE PARTICULAR PHASE TO THE PROJECT COSTS OF THE ELIGIBLE PROJECT BEING UNDERTAKEN, FOR THE PURPOSE OF MARKETING THIS PROGRAM BY THE CORPORATION.

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

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

(I) "PILOT PAYMENT" SHALL MEAN THAT SUM AGREED TO PURSUANT TO SUBDIVISION FIVE OF THIS SECTION.

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

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

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

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

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

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

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

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

APPROVE OR DISAPPROVE OF SUCH ELIGIBLE PROJECT NO LATER THAN THIRTY DAYS FROM THE DATE OF RECEIPT OF THE APPLICATION OR AT THE NEXT BOARD MEETING OCCURRING WITHIN SIXTY DAYS OF THE RECEIPT OF THE APPLICATION IF SUCH MEETING IS SCHEDULED FOR A DATE LATER THAN THIRTY DAYS FROM THE DATE OF RECEIPT OF SUCH APPLICATION. SUCH APPROVAL SHALL NOT BE SUBJECT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW. IN CONNECTION WITH THE UNDERTAKING OF AN ELIGIBLE PROJECT BY THE CORPORATION OR A PHASE THEREOF, THE SPONSOR SHALL PAY TO THE CORPORATION, AT THE CLOSING OF THE FINANCING BY THE CORPORATION OR ITS DESIGNEE OF AN ELIGIBLE PROJECT, A CLOSING FEE OF UP TO ONE PERCENT OF THE AMOUNT FINANCED. IN CALCULATING SUCH FEE, THE SPONSOR SHALL BE ENTITLED TO A CREDIT AGAINST SUCH FEE FOR AMOUNTS PAID TO THE CORPORATION OR OTHER AUTHORITIES OR PUBLIC BENEFIT CORPORATIONS AS FEES PAID PURSUANT TO OTHER PROGRAMS IN CONNECTION WITH OR RELATED TO THE ELIGIBLE PROJECT, AS WELL AS ANY FEES PAID TO THE STATE PURSUANT TO TITLE 10 OF ARTICLE 9 OF THE PUBLIC AUTHORITIES LAW. THE CORPORATION SHALL PROMULGATE REGULATIONS WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, OR AT THE NEXT REGULARLY SCHEDULED BOARD MEETING OCCURRING WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, IF SUCH MEETING IS SCHEDULED FOR A DATE GREATER THAN THIRTY DAYS FROM THE EFFECTIVE DATE OF THIS SECTION, TO ESTABLISH PROCEDURES FOR THE APPROVAL OF ELIGIBLE PROJECTS. IN CONSIDERING THE APPLICATION, THE CORPORATION SHALL CONSIDER FACTORS AFFECTING THE CREDITWORTHINESS OF THE APPLICANT INCLUDING, BUT NOT LIMITED TO, THE APPLICANT'S BUSINESS PLAN, BUSINESS EXPERIENCE AND MANAGEMENT INFORMATION, CREDIT HISTORY AND FINANCIAL STATEMENTS, SUFFICIENCY OF COLLATERAL TO SECURE REPAYMENT OF THE LOAN, OTHER PERSONAL AND CORPORATE GUARANTEES ON THE PROJECT, AND CASH FLOW PROJECTIONS. TO THE EXTENT PERMITTED BY LAW, ALL INFORMATION REGARDING THE FINANCIAL CONDITION, MARKETING PLANS, MANUFACTURING PROCESSES, PRODUCTION COSTS, CUSTOMER LISTS, OR OTHER TRADE SECRETS OR PROPRIETARY INFORMATION DEEMED AS SUCH BY THE APPLICANT IN CONNECTION WITH THE APPLICATION SUBMITTED PURSUANT TO THIS SUBDIVISION, SHALL BE CONFIDENTIAL AND EXEMPT FROM PUBLIC DISCLOSURE.

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

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

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

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

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

(B) THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY IN WHICH THE ELIGIBLE PROJECT IS TO BE SITED WHICH REGULATES LAND USE PURSUANT TO THE ZONING POWER IN CONJUNCTION WITH THE LEGISLATIVE BODY OF SUCH MUNICIPALITY SHALL CONDUCT A PUBLIC HEARING IN RELATION THERETO, AT WHICH THE PUBLIC SHALL HAVE AN OPPORTUNITY TO BE HEARD. NOTICE OF THE HEARING SHALL BE POSTED IN AT LEAST FOUR PROMINENT PLACES AND SHALL BE PUBLISHED NOT LESS THAN ONCE A WEEK FOR THREE SUCCESSIVE WEEKS PRIOR TO THE HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN SUCH MUNICIPALITY. THE NOTICE OF HEARING SHALL INCLUDE SUCH NOTICE AS PROVIDED BY THE CORPORATION TO THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY IN WHICH THE ELIGIBLE PROJECT IS TO BE SITED WHICH REGULATES LAND USE PURSUANT TO THE ZONING POWER. A COPY OF THE NOTICE SHALL BE MAILED TO THE LAST KNOWN OWNER OF EACH PARCEL OF LAND ADJOINING THE ELIGIBLE PROJECT. A COPY OF THE NOTICE SHALL ALSO BE MAILED TO THE LEGISLATIVE BODY OF EACH OF THE TAXING ENTITIES.

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

(D) WITHIN THIRTY DAYS OF THE DATE OF THE NOTICE PROVIDED IN PARAGRAPH (A) OF THIS SUBDIVISION, THE LOCAL SCHOOL DISTRICT SHALL ISSUE A STATEMENT TO THE LEGISLATIVE BODY RECOMMENDING APPROVAL OR DISAPPROVAL OF SUCH ELIGIBLE PROJECT. THE LOCAL SCHOOL DISTRICT SHALL ONLY RECOMMEND DISAPPROVAL OF A PROJECT WHICH, CONSIDERED IN ITS ENTIRETY, IT REASONABLY DEMONSTRATES WILL MATERIALLY ADVERSELY IMPACT THE FISCAL INTEGRITY OF THE SCHOOL DISTRICT. SUCH STATEMENT SHALL BE TRANSMITTED TO THE LEGISLATIVE BODY OF SUCH MUNICIPALITY AND SHALL BE POSTED FOR PUBLIC VIEWING. SUCH STATEMENT SHALL NOT BE SUBJECT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW.

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

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

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

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

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

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