

5425

2009-2010 Regular Sessions

I N   S E N A T E

May 4, 2009

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Introduced by Sens. AUBERTINE, STACHOWSKI, VALESKY, WINNER, YOUNG -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the town law, in relation to enacting the "town mergers law"; and to repeal article 5-B of such law relating to consolidation of towns

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

1     Section 1. Article 5-B of the town law is REPEALED and a new article  
2     5-B is added to read as follows:

3                             ARTICLE 5-B  
4                             TOWN MERGERS LAW

5     SECTION 79-B. SHORT TITLE.

6             79-C. DEFINITIONS.

7             79-D. COMMENCEMENT OF MERGER STUDY.

8             79-E. STUDY COMMITTEE.

9             79-F. PLAN OF MERGER.

10            79-G. ANCILLARY AGREEMENTS.

11            79-H. PUBLIC HEARING.

12            79-I. ADOPTION OF PLAN OF MERGER; ELECTION.

13            79-J. EFFECT OF MERGER; EFFECTIVE DATE.

14            79-K. ELECTIONS FOR OFFICERS OF THE NEW TOWN.

15            79-L. SERVICES CONTINUED.

16            79-M. NOTIFICATION AND SUBMISSION OF THE PLAN OF MERGER; AGENCY  
17                             ASSISTANCE.

18     S 79-B. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS  
19     THE "TOWN MERGERS LAW".

20     S 79-C. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS OTHERWISE  
21     EXPRESSLY STATED OR UNLESS THE CONTEXT OTHERWISE REQUIRES, THE FOLLOWING  
22     TERMS SHALL MEAN:

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

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1 1. "MERGER". THE PROCEDURE PURSUANT TO THIS ARTICLE THROUGH WHICH TWO  
2 OR MORE ADJOINING TOWNS ADOPT A PLAN TO MERGE INTO A SINGLE NEW TOWN.

3 2. "ADJOINING TOWNS". TWO TOWNS WITHIN THE SAME COUNTY HAVING A COMMON  
4 BOUNDARY LINE, HOWEVER SMALL, SHALL BE DEEMED TO ADJOIN. MORE THAN TWO  
5 SUCH TOWNS SHALL BE DEEMED TO ADJOIN IF EACH OF THEM HAS A COMMON BOUND-  
6 ARY LINE WITH ANY OF THE OTHERS. TOWNS SHALL BE DEEMED TO ADJOIN WHERE A  
7 COMMON BOUNDARY LINE LIES ALONG OR WITHIN A PUBLIC HIGHWAY OR A BODY OF  
8 WATER.

9 3. "NEW TOWN". THE ADJOINING TOWN INTO WHICH ONE OR MORE OTHER ADJOIN-  
10 ING TOWNS ARE MERGED.

11 4. "HAMLET". A DESIGNATION WITHIN A NEW TOWN WHICH MAY IDENTIFY A  
12 PORTION OF AN ADJOINING TOWN FOR PURPOSES OF LOCAL PLACE NAME IDENTIFI-  
13 CATION OR HISTORICAL DESIGNATION.

14 S 79-D. COMMENCEMENT OF MERGER STUDY. THE TOWN BOARDS OF TWO OR MORE  
15 ADJOINING TOWNS, UPON A RESOLUTION, MAY, AND UPON A PETITION OF THE  
16 ELECTORS, SHALL COMMENCE A MERGER STUDY IN ACCORDANCE WITH THIS ARTICLE.  
17 A PETITION TO COMMENCE A MERGER STUDY SHALL BE SUFFICIENT IF SIGNED AND  
18 ACKNOWLEDGED BY QUALIFIED ELECTORS IN EACH ADJOINING TOWN, IN NUMBER  
19 EQUAL TO AT LEAST TEN PERCENT OF THE RESIDENT ELECTORS QUALIFIED TO VOTE  
20 AT THE LAST GENERAL OR SPECIAL TOWN ELECTION, AND WHO SIGNED SUCH PETI-  
21 TION NOT EARLIER THAN ONE HUNDRED EIGHTY DAYS PRIOR TO FILING THEREOF.  
22 THE PETITION SHALL BE FILED WITH THE TOWN CLERK OF THE TOWN WHEREIN THE  
23 RESPECTIVE ELECTORS RESIDE. SUCH STUDY SHALL BE COMPLETED WITHIN EIGH-  
24 TEEN MONTHS, EXCEPT THAT AN EXTENSION OF TIME MAY BE GRANTED IF AGREED  
25 UPON BY THE TOWN BOARDS OF THE ADJOINING TOWNS.

26 S 79-E. STUDY COMMITTEE. THE TOWN BOARDS OF ADJOINING TOWNS MAY ESTAB-  
27 LISH A JOINT STUDY COMMITTEE ON MERGER. THE COMMITTEE SHALL BE COMPOSED  
28 OF AT LEAST ONE, BUT NO MORE THAN TWO APPOINTEES FROM EACH ADJOINING  
29 TOWN GOVERNMENT. SUCH COMMITTEE SHALL ORGANIZE AND FORM SUBCOMMITTEES AS  
30 IT DEEMS NECESSARY OR DESIRABLE AND SHALL MAKE A REPORT OR REPORTS TO  
31 THE ADJOINING TOWN BOARDS. THE REPORT OR REPORTS SHALL CONSIDER AND MAKE  
32 RECOMMENDATIONS, WHERE DESIRABLE, REGARDING ANY SUBJECT TO BE ADDRESSED  
33 IN A PLAN OF MERGER, ANCILLARY AGREEMENTS, AND ANY OTHER RELATED MATTER  
34 IT DEEMS NECESSARY OR DESIRABLE TO ADDRESS.

35 S 79-F. PLAN OF MERGER. THE STUDY COMMITTEE ESTABLISHED PURSUANT TO  
36 THIS ARTICLE SHALL DEVELOP A PLAN OF MERGER SETTING FORTH:

37 1. THE NAME OF EACH ADJOINING TOWN, THE CLASS AND NAME OF THE NEW  
38 TOWN, DETAILS OF THE GOVERNMENTAL STRUCTURE OF THE NEW TOWN AND THE NAME  
39 OF THE NEW TOWN;

40 2. A PLAN FOR THE DISPOSITION OF PROPERTY OF THE ADJOINING TOWNS;

41 3. A PLAN FOR THE PAYMENT OF OUTSTANDING OBLIGATIONS AND THE LEVY AND  
42 COLLECTION OF THE NECESSARY TAXES AND ASSESSMENTS THEREFOR;

43 4. A PLAN FOR THE APPORTIONMENT OF RESPONSIBILITY AND ALLOCATION OF  
44 COSTS IN THE EVENT OF UNANTICIPATED LIABILITY INCURRED PRIOR TO THE  
45 MERGER;

46 5. THE EFFECTIVE DATE OF MERGER, INCLUDING A DESCRIPTION OF CIRCUM-  
47 STANCES PURSUANT TO WHICH MERGER WILL NOT TAKE PLACE;

48 6. THE NAMES AND GEOGRAPHIC AREAS DESIGNATED AS HAMLETS OF THE NEW  
49 TOWN, IF ANY;

50 7. A SUMMARY OF ANY ANCILLARY AGREEMENTS ENTERED INTO BY THE ADJOINING  
51 TOWNS PRIOR TO OR WHICH WILL BE ENTERED INTO UPON ADOPTION OF THE  
52 PROPOSED PLAN OF MERGER;

53 8. A PLAN FOR THE CONTINUED EMPLOYMENT OR THE SEPARATION FROM EMPLOY-  
54 MENT OF APPOINTED OFFICERS AND EMPLOYEES OF THE ADJOINING TOWNS; AND

55 9. WHERE APPLICABLE, A PLAN FOR RETAINED AND SEPARATED EMPLOYEES  
56 INCLUDING, BUT NOT LIMITED TO, SEVERANCE PAY, FILLING FUTURE VACANCIES,

PARTICIPATION IN HEALTH INSURANCE PLANS, INCENTIVE CREDITS IN A RETIREMENT SYSTEM AND REPRESENTATION BY AN EMPLOYEE ORGANIZATION.

S 79-G. ANCILLARY AGREEMENTS. THE TOWN BOARDS OF THE ADJOINING TOWNS MAY ADOPT ANCILLARY AGREEMENTS AS NECESSARY OR DESIRABLE TO EFFECT A MERGER PURSUANT TO THE PROPOSED PLAN OF MERGER. ANCILLARY AGREEMENTS MAY ADDRESS ANY MATTER RELATING TO THE MERGER INCLUDING, BUT NOT LIMITED TO, THE CONTINUANCE OF GOVERNMENT, INTERIM OFFICERS, CONTINUANCE OF SERVICES UPON MERGER OF THE ADJOINING TOWNS, A DESCRIPTION OF CIRCUMSTANCES UPON WHICH A MERGER SHALL NOT TAKE PLACE, AND ANY MATTER RELATING TO THE TRANSITION OF GOVERNMENT PRIOR TO OR UPON THE EFFECTIVE DATE OF A MERGER. THE TOWN BOARDS OF ADJOINING TOWNS PROPOSING TO ENTER INTO ANCILLARY AGREEMENTS SHALL HOLD A JOINT PUBLIC HEARING THEREON PRIOR TO ADOPTION IN THE MANNER PROVIDED BY THIS ARTICLE OR MAY BE HELD IN CONJUNCTION WITH A PUBLIC HEARING ON A PLAN OF MERGER.

S 79-H. PUBLIC HEARING. PRIOR TO ADOPTION OF A PLAN OF MERGER THE TOWN BOARDS OF THE ADJOINING TOWNS SHALL CONDUCT A JOINT PUBLIC HEARING ON THE PROPOSED PLAN OF MERGER UPON AT LEAST TEN AND NOT MORE THAN TWENTY DAYS NOTICE. SUCH ADJOINING TOWN BOARDS SHALL CAUSE NOTICE OF SUCH PUBLIC HEARING TO BE PUBLISHED ONCE IN THEIR OFFICIAL NEWSPAPERS, OR, IF THERE IS NO OFFICIAL NEWSPAPER, IN A NEWSPAPER HAVING A GENERAL CIRCULATION IN THE AREA OF SUCH TOWNS. SUCH HEARING SHALL BE HELD NOT LESS THAN NINE MONTHS AFTER THE LAST DATE UPON WHICH A PETITION WAS FILED WITH THE TOWN CLERK OF AN ADJOINING TOWN; OR THE LAST DATE A RESOLUTION TO COMMENCE A MERGER STUDY WAS PASSED BY THE TOWN BOARD OF AN ADJOINING TOWN. THE PROPOSED PLAN OF MERGER AND ANY ANCILLARY AGREEMENTS SHALL BE AVAILABLE FOR PUBLIC INSPECTION AT EACH ADJOINING TOWN OFFICE. COPIES OR ABSTRACTS THEREOF SHALL BE MADE AVAILABLE WITHOUT CHARGE.

S 79-I. ADOPTION OF PLAN OF MERGER; ELECTION. 1. UPON ADOPTION OF THE PLAN OF MERGER BY THE TOWN BOARD OF EACH ADJOINING TOWN, A PROPOSITION FOR MERGER CONTAINING SUCH PLAN SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF EACH ADJOINING TOWN, AT THE NEXT SUCCEEDING GENERAL ELECTION, HELD NOT LESS THAN NINETY DAYS AFTER THE LAST DATE OF ADOPTION OF THE PLAN OF MERGER BY AN ADJOINING TOWN.

2. WITHIN THIRTY DAYS AFTER THE ADOPTION OF THE PLAN OF MERGER BY THE TOWN BOARD OF EACH ADJOINING TOWN AND UNTIL THE DATE OF THE GENERAL ELECTION AT WHICH THE PROPOSITION IS TO BE DECIDED, THE ADOPTED PLAN OF MERGER AND AN ABSTRACT THEREOF SHALL BE AVAILABLE FOR PUBLIC REVIEW AT THE OFFICE OF THE TOWN CLERK OF EACH ADJOINING TOWN AND AT SUCH OTHER READILY ACCESSIBLE PLACES AS LIBRARIES, WITHIN THE TERRITORY OF EACH OF THE ADJOINING TOWNS.

3. THE ADOPTED PLAN OF MERGER, OR AN ABSTRACT THEREOF, SHALL BE PUBLISHED IN THE SAME MANNER AS NOTICE OF THE PUBLIC HEARING REQUIRED BY THIS ARTICLE, BUT NOT MORE THAN TWENTY DAYS NOR LESS THAN TEN DAYS PRIOR TO THE GENERAL ELECTION AT WHICH THE PROPOSITION IS TO BE DECIDED.

4. THE PROPOSITION TO BE VOTED UPON SHALL STATE: "SHALL THE TOWNS OF (NAMES OF ADJOINING TOWNS) BE MERGED TO BECOME THE TOWN OF (NAME OF NEW TOWN) PURSUANT TO THE ADOPTED PLAN OF MERGER AND THE ANCILLARY AGREEMENTS RELATED THERETO?"

5. IF SUCH PROPOSITION IS APPROVED BY A MAJORITY OF THE QUALIFIED ELECTORS OF EACH ADJOINING TOWN VOTING THEREON, A CERTIFICATE OF SUCH ELECTION SHALL BE FILED WITH THE SECRETARY OF STATE, WITH THE CLERKS OF EACH ADJOINING TOWN AND WITH THE COUNTY CLERK OF THE COUNTY IN WHICH THE ADJOINING TOWNS ARE SITUATED.

S 79-J. EFFECT OF MERGER; EFFECTIVE DATE. 1. UPON THE EFFECTIVE DATE OF THE MERGER, THE ADJOINING TOWNS SHALL MERGE INTO THE NEW TOWN. SUCH

1 NEW TOWN SHALL POSSESS WITHIN THE BOUNDARIES OF THE ADJOINING TOWNS, ALL  
2 POWERS THAT THE ADJOINING TOWNS POSSESSED.

3 2. UNLESS THE PLAN OF MERGER AND ANCILLARY AGREEMENTS SHALL PROVIDE  
4 OTHERWISE, THE OUTSTANDING DEBTS AND OBLIGATIONS OF THE ADJOINING TOWNS  
5 AS THE SAME SHALL BECOME DUE AND PAYABLE, SHALL BE ASSUMED BY THE NEW  
6 TOWN AND BE A CHARGE UPON THE TAXABLE PROPERTY WITHIN THE LIMITS OF THE  
7 NEW TOWN AND COLLECTED IN THE SAME MANNER AS THE NEW TOWN TAXES AND  
8 CHARGES. THE NEW TOWN SHALL BE RESPONSIBLE FOR SATISFACTION OF ANY  
9 OUTSTANDING OBLIGATIONS BETWEEN ADJOINING TOWNS AND THE STATE. THE TOWN  
10 BOARD OF THE NEW TOWN SHALL HAVE ALL POWERS WITH RESPECT TO SUCH DEBTS  
11 AND OBLIGATIONS AS THE TOWN BOARDS OF THE ADJOINING TOWNS, INCLUDING THE  
12 POWER TO ISSUE BONDS TO REDEEM BOND ANTICIPATION NOTES ISSUED BY THE  
13 ADJOINING TOWNS. ALL INDEBTEDNESS INCURRED ON BEHALF OF SPECIAL OR  
14 IMPROVEMENT DISTRICTS SHALL REMAIN AS IF SUCH TOWNS HAD NOT MERGED.

15 3. UNLESS THE MERGER PLAN SHALL PROVIDE OTHERWISE, ALL LOCAL LAWS,  
16 ORDINANCES, RULES AND REGULATIONS OF THE ADJOINING TOWNS IN EFFECT ON  
17 THE DATE OF THE MERGER, INCLUDING BUT NOT LIMITED TO ZONING ORDINANCES  
18 AND LOCAL LAWS, SHALL REMAIN IN EFFECT FOR A PERIOD OF TWO YEARS FOLLOW-  
19 ING THE MERGER AS IF THEY HAD BEEN DULY ADOPTED BY THE NEW TOWN AND  
20 SHALL BE ENFORCED BY THE NEW TOWN WITHIN THE LIMITS OF THE NEW TOWN,  
21 EXCEPT THAT THE NEW TOWN SHALL HAVE THE POWER TO AMEND OR REPEAL SUCH  
22 LOCAL LAWS, ORDINANCES, RULES AND REGULATIONS AT ANY TIME AFTER THE  
23 MERGER.

24 4. UPON MERGER, ALL RECORDS, BOOKS AND PAPERS OF THE ADJOINING TOWNS  
25 SHALL BE DEPOSITED WITH THE TOWN CLERK OF THE NEW TOWN AND THEY SHALL  
26 THEREUPON BECOME RECORDS OF THE NEW TOWN.

27 5. UNLESS THE PLAN OF MERGER AND ANCILLARY AGREEMENTS SHALL PROVIDE  
28 OTHERWISE, ALL OF THE REAL AND PERSONAL PROPERTY, AND OTHER ASSETS OF  
29 THE ADJOINING TOWNS SHALL BECOME THE PROPERTY OF THE NEW TOWN. NO  
30 ACTION OR CLAIM FOR OR AGAINST ANY ADJOINING TOWN SHALL BE AFFECTED BY  
31 REASON OF ITS MERGER INTO THE NEW TOWN.

32 6. AT LEAST SIXTY DAYS PRIOR TO THE EFFECTIVE DATE OF THE MERGER, THE  
33 TOWN BOARDS OF THE ADJOINING TOWNS, WITH THE EXCEPTION OF THE NEW TOWN,  
34 SHALL PRESENT THE ASSESSMENT ROLLS OF THEIR RESPECTIVE TOWNS TO THE  
35 LEGISLATIVE BODY OF THE COUNTY. SUCH LEGISLATIVE BODY SHALL CAUSE EACH  
36 OF THE ASSESSMENTS THEREON TO BE TRANSFERRED AND ADDED TO THE ASSESSMENT  
37 ROLL OF THE NEW TOWN AND ALL OF THE ASSESSMENTS SO TRANSFERRED SHALL  
38 UPON THE EFFECTIVE DATE OF MERGER, FOR TAX PURPOSES, BE PART OF THE  
39 TAXABLE PROPERTY AND ASSESSMENTS OF THE NEW TOWN.

40 7. UNLESS THE PLAN OF MERGER AND ANCILLARY AGREEMENTS PROVIDE OTHER-  
41 WISE, THE MERGER SHALL TAKE EFFECT AFTER THE THIRTY-FIRST DAY OF DECEM-  
42 BER IN THE ODD NUMBERED YEAR FOLLOWING THE YEAR IN WHICH SUCH RATIFICA-  
43 TION OCCURRED.

44 S 79-K. ELECTIONS FOR OFFICERS OF THE NEW TOWN. 1. UNLESS THE PLAN OF  
45 MERGER AND ANCILLARY AGREEMENTS PROVIDE OTHERWISE, ELECTIONS FOR OFFI-  
46 CERS OF THE NEW TOWN SHALL BE HELD ON THE DAY OF THE GENERAL ELECTION IN  
47 THE ODD NUMBERED YEAR FOLLOWING THE YEAR IN WHICH SUCH APPROVAL  
48 OCCURRED. SUCH OFFICERS SHALL TAKE OFFICE UPON THE EFFECTIVE DATE OF THE  
49 MERGER.

50 2. THE TERM OF ALL ELECTED TOWN OFFICIALS OF THE ADJOINING TOWNS SHALL  
51 EXPIRE WHEN THE MERGER BECOMES EFFECTIVE.

52 3. THE MERGER SHALL NOT AFFECT ANY VILLAGE LOCATED WHOLLY OR PARTIALLY  
53 WITHIN AN ADJOINING TOWN INVOLVED IN SUCH MERGER.

54 S 79-L. SERVICES CONTINUED. 1. UNLESS THE PLAN OF MERGER AND ANCILLARY  
55 AGREEMENTS PROVIDE OTHERWISE OR UNLESS LIMITED BY OPERATION OF LAW, THE  
56 NEW TOWN SHALL CONTINUE TO PERFORM AND TO RENDER IN EACH ADJOINING TOWN

1 AREA ALL THOSE FUNCTIONS AND SERVICES PERFORMED AND RENDERED BY SUCH  
2 ADJOINING TOWN THEREIN AND THEREFOR ON THE DATE OF ADOPTION OF THE PLAN  
3 OF MERGER AND ANCILLARY AGREEMENTS.

4 2. UNLESS THE PLAN OF MERGER AND ANCILLARY AGREEMENTS PROVIDE OTHER-  
5 WISE, ANY TOWN IMPROVEMENT DISTRICT AND ANY FIRE DISTRICT, FIRE  
6 PROTECTION DISTRICT OR FIRE ALARM DISTRICT, WHOLLY OR PARTIALLY LOCATED  
7 IN AN ADJOINING TOWN, SHALL CONTINUE TO PERFORM AND TO RENDER IN SUCH  
8 ADJOINING TOWN AREA ALL THOSE FUNCTIONS AND SERVICES RENDERED BY IT  
9 THEREIN AND THEREFOR ON THE DATE OF THE ADOPTION OF THE PLAN OF MERGER.

10 3. THE COST AND EXPENSE OF SO PERFORMING AND SO RENDERING FUNCTIONS  
11 AND SERVICES CONTINUED PURSUANT TO THIS SECTION SHALL BE BUDGETED,  
12 LEVIED UPON, ASSESSED AGAINST AND COLLECTED FROM THE AREA SERVED AS IF  
13 NO MERGER HAD TAKEN PLACE.

14 S 79-M. NOTIFICATION AND SUBMISSION OF THE PLAN OF MERGER; AGENCY  
15 ASSISTANCE. NOT LESS THAN ONE HUNDRED TWENTY DAYS PRIOR TO THE EFFECTIVE  
16 DATE OF A MERGER, THE ADJOINING TOWNS THROUGH A JOINT RESOLUTION SHALL  
17 NOTIFY THE DIVISION OF THE BUDGET, THE STATE COMPTROLLER, THE OFFICE OF  
18 REAL PROPERTY SERVICES AND THE COMMISSIONER OF TAXATION AND FINANCE OF  
19 THE SCHEDULED MERGER, AND SHALL SUBMIT THERETO THE PLAN OF MERGER AND  
20 ANY ANCILLARY AGREEMENTS, CONTRACTS OR OTHER LEGALLY BINDING AGREEMENTS.  
21 UPON RELATED REQUEST, SUCH AGENCIES AND OFFICERS SHALL PROVIDE ANY  
22 INFORMATION OR TECHNICAL SUPPORT TO THE ADJOINING TOWNS, TO THE EXTENT  
23 AVAILABLE WITHIN THE AGENCY AND NOT PROHIBITED BY ANY PROVISION OF LAW  
24 PROVIDING FOR THE CONFIDENTIALITY OF SUCH INFORMATION, TO HELP EFFECTU-  
25 ATE THE MERGER OF SUCH TOWNS.

26 S 2. This act shall take effect on the one hundred eightieth day  
27 after it shall have become a law.