

3847

2011-2012 Regular Sessions

I N S E N A T E

March 7, 2011

Introduced by Sen. McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation

AN ACT to amend the arts and cultural affairs law, the real property tax law and the tax law, in relation to the establishment of arts-based districts; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Legislative findings. The legislature hereby finds that
2 artists and related creative professions have high community value as
3 cultural, social and economic assets. When they live and work in iden-
4 tifiable districts the opportunity exists for capitalizing for the bene-
5 fit of residents of the district and the community at large through
6 enhancing quality of life and supporting elements of a tourism and
7 artist economy.
8 The legislature further finds that the cities of New York state have a
9 long tradition of artistic creative activities and major artistic and
10 cultural institutions including being the home to some of the world's
11 major art museums and performing arts venues.
12 The legislature further finds that collaboration between cities and
13 the state offers the opportunity to establish viable and productive
14 arts-based districts capable of becoming a model for cities and villages
15 throughout the state.
16 Therefore, the legislature hereby provides for an optional pilot
17 program for the cities of Albany, Buffalo, Rochester, Syracuse and Troy
18 to establish arts-based districts in their cities.
19 S 2. Article 16 and section 16.01 of the arts and cultural affairs law
20 are redesignated article 17 and section 17.01, and a new article 16 is
21 added to read as follows:

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

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ARTICLE 16
ARTS-BASED DISTRICTS

SECTION 16.01. DEFINITIONS.

16.03. ARTS-BASED DISTRICTS ADVISORY BOARD.

16.05. PILOT ARTS-BASED DISTRICTS.

16.07. STATE ASSISTANCE AND COOPERATION.

S 16.01. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "ARTISTIC WORK" MEANS AN ORIGINAL AND CREATIVE WORK, WHETHER WRITTEN, COMPOSED OR EXECUTED, THAT FALLS UNDER ONE OR MORE OF THE FOLLOWING CATEGORIES:

A. A BOOK OR OTHER WRITING;

B. A PLAY OR PERFORMANCE OF A PLAY;

C. A MUSICAL COMPOSITION OR THE PERFORMANCE OF A MUSICAL COMPOSITION;

D. A PAINTING OR OTHER PICTURE;

E. A PERFORMANCE PIECE;

F. A SCULPTURE;

G. TRADITIONAL OR FINE CRAFTS;

H. THE CREATION OF A FILM OR THE ACTING WITHIN A FILM;

I. THE CREATION OF A DANCE OR THE PERFORMANCE OF A DANCE; OR

J. THE CREATION OF ELECTRONIC ARTS.

2. "ARTS AND ENTERTAINMENT ENTERPRISE" MEANS A FOR-PROFIT OR NOT-FOR-PROFIT ENTITY DEDICATED TO VISUAL OR PERFORMING ARTS.

3. "QUALIFYING RESIDENT ARTISTS" MEANS AN INDIVIDUAL WHO: A. OWNS OR RENTS RESIDENTIAL REAL PROPERTY IN THE DISTRICT; AND

B. DERIVES INCOME FROM THE SALE OR PERFORMANCE WITHIN THE DISTRICT OF ANY ARTISTIC WORK THAT THE INDIVIDUAL WROTE, COMPOSED, OR EXECUTED, EITHER SOLELY OR WITH ONE OR MORE OTHER INDIVIDUALS.

4. "DISTRICT" OR "ARTS-BASED DISTRICT" SHALL MEAN A DISTRICT ESTABLISHED BY LOCAL LAW OR ORDINANCE PURSUANT TO SECTION 16.05 OF THIS ARTICLE.

5. "BOARD" MEANS THE STATE ARTS-BASED DISTRICTS ADVISORY BOARD AS ESTABLISHED IN SECTION 16.03 OF THIS ARTICLE.

S 16.03. ARTS-BASED DISTRICTS ADVISORY BOARD. 1. THERE IS HEREBY ESTABLISHED A STATE ARTS-BASED DISTRICTS ADVISORY BOARD TO ADVISE THE GOVERNOR AND STATE AGENCIES ON THE PILOT PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE. THE BOARD SHALL CONSIST OF THE CHIEF EXECUTIVE OFFICER OF THE URBAN DEVELOPMENT CORPORATION, THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL, THE DIRECTOR OF THE NEW YORK STATE COUNCIL ON THE ARTS, THE SECRETARY OF STATE, OR THEIR DESIGNATED REPRESENTATIVES, AND THREE PRIVATE CITIZENS REPRESENTATIVE OF INTERESTS RELATING TO SUCH PILOT PROGRAM AND APPOINTED BY THE GOVERNOR. THE PRIVATE MEMBERS SHALL HOLD OFFICE AT THE PLEASURE OF THE GOVERNOR. STATE AGENCIES SHALL PROVIDE STAFF SERVICES AS ARE NECESSARY AND APPROPRIATE FOR THE BOARD TO CARRY OUT ITS DUTIES UNDER THIS ARTICLE.

2. THE BOARD SHALL MEET AT LEAST THREE TIMES A YEAR AND SHALL FACILITATE AS PRACTICABLE THE IMPLEMENTATION OF PILOT PROJECTS UNDER THIS ARTICLE. THE BOARD SHALL REVIEW THE PLANS FOR ARTS-BASED DISTRICTS PURSUANT TO SECTION 16.05 OF THIS ARTICLE AND SHALL FORMALLY APPROVE EACH PLAN THAT MEETS THE PURPOSES OF THIS ARTICLE. IN ADDITION, THE BOARD SHALL REVIEW AND RESPOND TO RECOMMENDATIONS AND COMMENTS FROM THE PILOT COMMUNITIES ON THEIR NEEDS FOR SUPPORT IN IMPLEMENTING THIS ARTICLE.

3. DURING THE FOURTH YEAR NEXT SUCCEEDING THE EFFECTIVE DATE OF THIS ARTICLE, THE BOARD SHALL UNDERTAKE OR CAUSE TO BE UNDERTAKEN A STUDY ON THE EFFECTIVENESS OF THE PILOT PROJECT IN EACH OF THE PILOT CITIES AND SHALL PREPARE RECOMMENDATIONS FOR THE GOVERNOR AND LEGISLATURE ON WHETH-

1 ER AN ARTS-BASED ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAM SHOULD BE
2 ESTABLISHED STATEWIDE, AND, IF SO, MAKE RECOMMENDATIONS AS TO PROVISIONS
3 INCLUDING STATE INCENTIVES FOR THE PROGRAM.

4 S 16.05. PILOT ARTS-BASED DISTRICTS. 1. IN ADDITION TO ANY OTHER
5 AUTHORITY FOR SUCH PURPOSE, THE CITIES OF ALBANY, BUFFALO, ROCHESTER,
6 SYRACUSE AND TROY MAY ESTABLISH AN ARTS-BASED DISTRICT WITHIN ITS BOUND-
7 ARIES. SUCH DISTRICT SHALL HAVE RESIDENTIAL AND ARTS-RELATED AND
8 SERVICE-RELATED COMMERCIAL USES AND SHALL BE IDENTIFIED AS AN AREA
9 PRIMARILY, BUT NOT EXCLUSIVELY, INTENDED FOR RESIDENTIAL USE BY ARTISTS
10 AND PERSONS WORKING IN ARTS-RELATED ACTIVITIES WHICH SHALL BE DEEMED TO
11 INCLUDE, BUT NOT BE LIMITED TO, ART GALLERIES, CRAFT STORES, THEATERS
12 AND OTHER PERFORMANCE SPACES, MUSEUMS, BOOK STORES AND ARTIST SUPPLY
13 BUSINESSES AND SERVICES-RELATED ACTIVITIES LIKE RESTAURANTS, FOOD
14 STORES, DRY CLEANERS AND TOURISM.

15 2. SUCH DISTRICT SHALL BE DISTINGUISHED BY PHYSICAL AND CULTURAL
16 RESOURCES THAT PLAY A VITAL ROLE IN THE LIFE AND DEVELOPMENT OF THE
17 COMMUNITY AND CONTRIBUTE TO THE PUBLIC THROUGH INTERPRETATIVE, EDUCA-
18 TIONAL AND RECREATIONAL USES.

19 3. SUCH DISTRICT SHALL HAVE AN ARTIST HOME OWNERSHIP PROGRAM TO ASSIST
20 ARTISTS IN PURCHASING AND REHABILITATING A HOME WITHIN THE DISTRICT.
21 SUCH DISTRICT SHALL BE SUBJECT TO A PLAN APPROVED BY THE LOCAL LEGISLA-
22 TIVE BODY AND BE ORGANIZED AS A BUSINESS IMPROVEMENT DISTRICT PURSUANT
23 TO THE GENERAL MUNICIPAL LAW. NOTWITHSTANDING ANY OTHER PROVISION OF
24 LAW, PROVISION MAY BE MADE FOR CONTRACT AND/OR INCENTIVE ZONING WITH
25 SUCH DISTRICTS.

26 S 16.07. STATE ASSISTANCE AND COOPERATION. 1. TO EFFECTUATE THE
27 PURPOSES OF THIS ARTICLE, A PILOT COMMUNITY MAY REQUEST FROM ANY DEPART-
28 MENT, BOARD, BUREAU, COMMISSION OR OTHER AGENCY OF THE STATE, AND THE
29 SAME ARE AUTHORIZED TO PROVIDE, SUCH COOPERATION AND ASSISTANCE,
30 SERVICES AND DATA AS WILL ENABLE SUCH PILOT COMMUNITY TO CARRY OUT THE
31 PURPOSES OF THIS ARTICLE.

32 2. THE DEPARTMENT OF ECONOMIC DEVELOPMENT THROUGH THE STATE "I LOVE
33 NEW YORK" PROGRAM SHALL PROVIDE TECHNICAL ASSISTANCE IN DEVELOPING A
34 TOURISM MARKETING PLAN FOR EACH PILOT COMMUNITY AND SHALL AT THE APPRO-
35 PRIATE TIME PREPARE OR CAUSE TO BE PREPARED A NATIONAL MARKETING EFFORT
36 FOCUSING GENERALLY ON WORKING ARTISTS IN THE STATE AND PARTICULARLY ON
37 THE DISTRICTS ESTABLISHED PURSUANT TO THIS ARTICLE.

38 3. THE DEPARTMENT OF ECONOMIC DEVELOPMENT IN CONSULTATION WITH THE
39 BOARD SHALL CREATE A GRANT PROGRAM DESIGNED TO ASSIST IN THE DEVELOPMENT
40 OF DISTRICTS PURSUANT TO THIS ARTICLE. WITHIN FUNDS MADE AVAILABLE
41 THEREFOR, GRANTS SHALL BE MADE TO PILOT CITIES FOR THE PURPOSES OF
42 INFRASTRUCTURE IMPROVEMENTS IN DISTRICTS, HOUSING ASSISTANCE FOR ARTISTS
43 IN DISTRICTS AND DEVELOPMENT OF A THEMATIC APPROACH TO TOURISM PROMOTION
44 IN DISTRICTS. THE COMMISSIONER IS DIRECTED TO ESTABLISH GUIDELINES AND
45 AN APPLICATION PROCESS.

46 S 3. The real property tax law is amended by adding a new section 411
47 to read as follows:

48 S 411. CERTAIN ARTS-BASED DISTRICTS. 1. AFTER A PUBLIC HEARING, THE
49 GOVERNING BODY OF THE CITIES OF ALBANY, BUFFALO, ROCHESTER, SYRACUSE AND
50 TROY MAY ADOPT A LOCAL LAW OR A SCHOOL DISTRICT MAY ADOPT A RESOLUTION,
51 PROVIDING FOR AN EXEMPTION PURSUANT TO THE PROVISIONS OF THIS SECTION.
52 SUCH LOCAL LAW OR RESOLUTION MAY PROVIDE THAT AN IMPROVEMENT TO ANY REAL
53 PROPERTY USED SOLELY FOR RESIDENTIAL PURPOSES AS A ONE, TWO OR THREE
54 FAMILY RESIDENCE PURSUANT TO AN ARTS-BASED DISTRICT PLAN PURSUANT TO
55 ARTICLE SIXTEEN OF THE ARTS AND CULTURAL AFFAIRS LAW SHALL BE EXEMPT
56 FROM TAXATION TO THE EXTENT OF ANY INCREASE IN VALUE ATTRIBUTABLE TO

1 SUCH IMPROVEMENT IF SUCH IMPROVEMENT IS USED FOR THE PURPOSE OF FACILI-
2 TATING AND ACCOMMODATING THE USE AND ACCESSIBILITY OF SUCH REAL PROPERTY
3 BY A RESIDENT OWNER OF THE REAL PROPERTY WHO IS A QUALIFYING RESIDENT
4 ARTIST PURSUANT TO SUCH ARTICLE SIXTEEN OF THE ARTS AND CULTURAL AFFAIRS
5 LAW.

6 2. A LOCAL LAW OR RESOLUTION ADOPTED PURSUANT TO THIS SECTION MAY
7 PROVIDE THAT THE EXEMPTION SHALL APPLY TO IMPROVEMENTS CONSTRUCTED PRIOR
8 TO THE EFFECTIVE DATE OF SUCH LOCAL LAW OR RESOLUTION. IF THE ASSESSOR
9 IS SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO
10 THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND ENTER THE
11 TAXABLE ASSESSED VALUE OF THE PARCEL FOR WHICH AN EXEMPTION HAS BEEN
12 GRANTED PURSUANT TO THIS SECTION ON THE ASSESSMENT ROLL WITH THE TAXABLE
13 PROPERTY, WITH THE AMOUNT OF THE EXEMPTION IN A SEPARATE COLUMN.

14 S 4. Subdivision (a) of section 1115 of the tax law is amended by
15 adding a new paragraph 44 to read as follows:

16 44. TANGIBLE PERSONAL PROPERTY CREATED BY A QUALIFIED RESIDENT ARTIST
17 RESIDING IN AN ARTS-BASED DISTRICT PURSUANT TO ARTICLE SIXTEEN OF THE
18 ARTS AND CULTURAL AFFAIRS LAW AND SOLD WITHIN THE MUNICIPAL CORPORATION
19 IN WHICH THE ARTIST RESIDES.

20 S 5. This act shall take effect immediately and shall expire March 31,
21 2017 when upon such date the provisions of this act shall be deemed
22 repealed.