

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

4906--A

2011-2012 Regular Sessions

I N S E N A T E

April 29, 2011

Introduced by Sens. KLEIN, MONTGOMERY, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- recommitted to the Committee on Agriculture in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to expanding the powers and duties of the office of community gardens

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

1 Section 1. Article 2-C of the agriculture and markets law is amended
2 by adding a new section 31-f to read as follows:
3 S 31-F. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY FINDS AND
4 DECLARES THAT COMMUNITY GARDENS PROVIDE SIGNIFICANT HEALTH, EDUCATIONAL
5 AND SOCIAL BENEFITS TO THE GENERAL PUBLIC, ESPECIALLY FOR THOSE WHO
6 RESIDE IN URBAN AND SUBURBAN AREAS OF THIS STATE. FURTHERMORE, IT IS THE
7 ARTICULATED PUBLIC POLICY OF THIS STATE TO PROMOTE AND FOSTER GROWTH IN
8 THE NUMBER OF COMMUNITY GARDENS AND THE ACREAGE OF SUCH GARDENS. THE
9 COMMUNITY GARDEN MOVEMENT CONTINUES TO PROVIDE LOW COST FOOD THAT IS
10 FRESH AND NUTRITIOUS FOR THOSE WHO MAY BE UNABLE TO READILY AFFORD FRESH
11 FRUITS AND VEGETABLES FOR THEMSELVES OR THEIR FAMILIES, PROMOTES PUBLIC
12 HEALTH AND HEALTHIER INDIVIDUAL LIFESTYLES BY ENCOURAGING BETTER EATING
13 HABITS AND INCREASED PHYSICAL ACTIVITY BY GROWING THEIR OWN FOOD,
14 FOSTERS THE RETENTION AND EXPANSION OF OPEN SPACES, PARTICULARLY IN
15 URBAN ENVIRONMENTS, ENHANCES URBAN AND SUBURBAN ENVIRONMENTAL QUALITY
16 AND COMMUNITY BEAUTIFICATION, PROVIDES INEXPENSIVE COMMUNITY BUILDING
17 ACTIVITIES, RECREATION AND PHYSICAL EXERCISE FOR ALL AGE GROUPS, ESTAB-
18 LISHES A SAFE PLACE FOR COMMUNITY INVOLVEMENT AND HELPS TO REDUCE THE
19 INCIDENCE OF CRIME, ENGENDERS A CLOSER RELATIONSHIP BETWEEN URBAN RESI-
20 DENTS, NATURE AND THEIR LOCAL ENVIRONMENT, AND FOSTERS GREEN JOB TRAIN-

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

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1 ING AND ECOLOGICAL EDUCATION AT ALL LEVELS. IT IS THEREFORE THE INTENT
2 OF THE LEGISLATURE AND THE PURPOSE OF THIS ARTICLE TO FOSTER GROWTH IN
3 THE NUMBER, SIZE AND SCOPE OF COMMUNITY GARDENS IN THIS STATE BY ENCOUR-
4 AGING STATE AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES IN THEIR
5 EFFORTS TO PROMOTE COMMUNITY GARDENS.

6 S 2. Subdivisions 2 and 3 of section 31-g of the agriculture and
7 markets law, as added by chapter 862 of the laws of 1986, are amended
8 and a new subdivision 4-a is added to read as follows:

9 2. "Garden" shall mean a piece OR PARCEL of land appropriate for THE
10 cultivation of herbs, fruits, flowers, NUTS, HONEY, POULTRY FOR EGG
11 PRODUCTION, MAPLE SYRUP, ORNAMENTAL OR VEGETABLE PLANTS, NURSERY
12 PRODUCTS, or vegetables.

13 3. "Municipality" shall mean any county, town, village, city, school
14 district [or], BOARD OF COOPERATIVE EDUCATIONAL SERVICES, other special
15 district, OR ANY OFFICE OR AGENCY THEREOF.

16 4-A. "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, BUREAU, COMMISSION,
17 BOARD, PUBLIC AUTHORITY OR OTHER AGENCY OF THE STATE, INCLUDING ANY
18 PUBLIC BENEFIT CORPORATION OF WHICH ANY MEMBER OF WHOSE BOARD IS
19 APPOINTED BY THE GOVERNOR.

20 S 3. Subdivision 2 of section 31-h of the agriculture and markets law,
21 as added by chapter 862 of the laws of 1986, is amended to read as
22 follows:

23 2. The duties of the office shall include:

24 a. Upon request, the office shall assist in the identification of
25 vacant public land within a given geographical location and provide
26 information regarding agency jurisdiction and the relative suitability
27 of such lands for community gardening purposes;

28 b. Serve as a coordinator on behalf of interested community groups and
29 the appropriate state or local agencies to facilitate the use of vacant
30 public lands for community garden use for not less than one growing
31 season by receiving and forwarding with recommendation completed appli-
32 cations to the appropriate STATE OR MUNICIPAL agency. PROVIDED, FURTHER,
33 THAT THE OFFICE MAY DEVELOP A SINGLE RECOMMENDED APPLICATION FORM TO BE
34 USED BY COMMUNITY GROUPS WHEN APPLYING TO STATE AGENCIES OR MUNICI-
35 PALITIES FOR USE OF VACANT PUBLIC LAND FOR COMMUNITY GARDEN PURPOSES;

36 c. Support and encourage contact between community garden programs
37 already in existence and those programs in the initial stages of devel-
38 opment; [and]

39 d. Seek and provide such assistance, to the extent funds or grants may
40 become available, for the purposes identified in this article[.];

41 E. ASSIST, SUPPORT AND ENCOURAGE CONTACT AND COOPERATION BETWEEN, AND
42 THE COOPERATIVE SHARING OF RESOURCES BETWEEN COMMUNITY GARDEN GROUPS,
43 SCHOOL GARDEN PROGRAMS AND LOCAL VOLUNTARY FOOD ASSISTANCE PROGRAMS,
44 SUCH AS COMMUNITY FOOD PANTRIES, SOUP KITCHENS, AND OTHER COMMUNITY AND
45 NOT-FOR-PROFIT ORGANIZATIONS THAT PROVIDE OR DISTRIBUTE FOOD TO THE POOR
46 AND DISADVANTAGED. SUCH SUPPORT CAN INCLUDE THE PROVISION OF SURPLUS
47 COMMUNITY GARDEN FOOD OR OTHER AGRICULTURAL PRODUCTS TO SUCH LOCAL
48 VOLUNTARY FOOD ASSISTANCE PROGRAMS; AND

49 F. ASSIST, SUPPORT AND ENCOURAGE COMMUNICATION, AND THE SHARING OF
50 RESOURCES BETWEEN COMMUNITY GARDEN ORGANIZATIONS AND THE NEW YORK
51 HARVEST FOR NEW YORK KIDS WEEK PROGRAM ESTABLISHED BY THE DEPARTMENT
52 PURSUANT TO SUBDIVISION FIVE-B OF SECTION SIXTEEN OF THIS CHAPTER, AND
53 INDIVIDUAL FARM-TO-SCHOOL AND SCHOOL GARDEN PROGRAMS.

54 S 4. Section 31-i of the agriculture and markets law, as added by
55 chapter 862 of the laws of 1986, is amended to read as follows:

1 S 31-i. Use of state OR MUNICIPALLY owned land for community gardens.
2 1. Any state agency[, department, board, public benefit corporation,
3 public authority] or [commission] MUNICIPALITY with title IN FEE OR OF A
4 LESSER INTEREST to vacant public land may permit community organizations
5 to use such lands for community gardening purposes. Such use of vacant
6 public land may be conditioned on the community organization possessing
7 liability insurance and accepting liability for injury or damage result-
8 ing from use of the vacant public land for community gardening purposes.
9 2. State agencies AND MUNICIPALITIES which have received an applica-
10 tion for use of public lands for community garden purposes shall respond
11 to the applicant within thirty days and make a final determination with-
12 in one hundred eighty days.

13 S 5. The agriculture and markets law is amended by adding a new
14 section 31-j to read as follows:

15 S 31-J. COMMUNITY GARDENS TASK FORCE. 1. THE COMMISSIONER MAY CONVENE
16 A COMMUNITY GARDENS TASK FORCE TO IDENTIFY AND DEVELOP WAYS TO ENCOURAGE
17 STATE AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES TO ESTABLISH AND
18 EXPAND COMMUNITY GARDENS AND THE ACTIVITIES CONDUCTED BY SUCH GARDENS.

19 2. THE TASK FORCE SHALL BE CHAIRED BY THE COMMISSIONER, OR BY SUCH
20 OFFICER OR EMPLOYEE OF THE DEPARTMENT AS SHALL BE DESIGNATED BY THE
21 COMMISSIONER. THE MEMBERSHIP OF THE TASK FORCE MAY INCLUDE REPRESENTA-
22 TION FROM APPROPRIATE STATE AGENCIES AND MEMBERS THAT REPRESENT EXIST-
23 ING COMMUNITY GARDENS, COUNTIES, CITIES, TOWNS, VILLAGES, SCHOOL
24 DISTRICTS, OTHER SPECIAL USE DISTRICTS, PUBLIC AUTHORITIES AND COOPER-
25 ATIVE EXTENSION SERVICES.

26 3. THE COMMISSIONER, MAY REQUEST THE ASSISTANCE OF STATE AGENCIES TO
27 CARRY OUT THE WORK OF THE TASK FORCE.

28 4. (A) THE GOALS OF THE TASK FORCE MAY INCLUDE, BUT ARE NOT LIMITED
29 TO, THE STUDY, EVALUATION AND DEVELOPMENT OF RECOMMENDATIONS: (I) TO
30 ENCOURAGE THE ESTABLISHMENT AND EXPANSION OF COMMUNITY GARDENS BY STATE
31 AGENCIES, MUNICIPAL GOVERNMENTS AND PRIVATE PARTIES, (II) TO ENCOURAGE
32 COOPERATION BETWEEN THE ACTIVITIES AND OPERATIONS OF COMMUNITY GARDENS
33 AND PROVISION OF DONATED FOOD TO LOCAL VOLUNTARY FOOD ASSISTANCE
34 PROGRAMS FOR THE POOR AND DISADVANTAGED, AND (III) TO INCREASE THE BENE-
35 FITS THAT COMMUNITY GARDENS MAY PROVIDE TO THE LOCAL COMMUNITY IN WHICH
36 THEY ARE LOCATED.

37 (B) IN ACHIEVING THE GOALS OF THE TASK FORCE, THE TASK FORCE MAY
38 CONSIDER RECOMMENDATIONS THAT: (I) ENCOURAGE THE EXECUTION OF CONSERVA-
39 TION EASEMENTS BY STATE AGENCIES, MUNICIPALITIES OR PRIVATE PARTIES TO
40 ESTABLISH OR PROTECT COMMUNITY GARDENS, (II) ENCOURAGE THE CREATION OF
41 MECHANISMS TO TRANSFER DEVELOPMENT RIGHTS TO PROTECT COMMUNITY GARDENS
42 OR ENCOURAGE THE DONATION OR LEASE OF LANDS FOR COMMUNITY GARDENS, (III)
43 DEVELOPMENT OF MODEL ZONING CODES, LOCAL LAND USE LAWS OR OTHER MUNICI-
44 PAL POLICIES THAT COULD ENCOURAGE THE ESTABLISHMENT OR RETENTION OF
45 COMMUNITY GARDENS, AND (IV) ANY OTHER ACTIVITY TO ACHIEVE THE GOALS
46 DEEMED APPROPRIATE BY THE TASK FORCE ACCORDING TO THE PROVISIONS OF THIS
47 ARTICLE.

48 S 6. This act shall take effect on the first of January next succeed-
49 ing the date on which it shall have become a law.