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

3699

2011-2012 Regular Sessions

I N A S S E M B L Y

January 26, 2011

Introduced by M. of A. MOLINARO -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the not-for-profit corporation law, in relation to requiring a corporation that is petitioning for sale of all or substantially all of its assets to set forth the impact on the public and requiring the court to consider the same

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

Section 1. Subparagraph 6 of paragraph (a) and paragraph (d) of section 511 of the not-for-profit corporation law, as amended by chapter 961 of the laws of 1972, are amended to read as follows:

6. That the consideration and the terms of the sale, lease, exchange or other disposition of the assets of the corporation are fair and reasonable to the PUBLIC AND TO THE corporation, and that the purposes of the corporation, or the interests of its members AND THE PUBLIC will be promoted thereby, and a concise statement of the reasons therefor. FOR CORPORATIONS SEEKING TO DISPOSE OF PROPERTY WITH PUBLIC ACCESS AND NATIONAL, STATE AND/OR LOCAL LANDMARK DESIGNATION, THE STATEMENT SHALL INCLUDE THE FOLLOWING: INFORMATION REGARDING THE PUBLIC INVESTMENT MADE IN THE ASSET, SUCH AS STATE AND/OR FEDERAL GRANTS; THE POTENTIAL IMPACT THE DISPOSITION MAY HAVE ON THE COMMUNITY; THE NATIONAL, FEDERAL OR LOCAL DESIGNATIONS GRANTED TO THE ASSET, IF APPLICABLE; AND HOW THE DISPOSITION WILL PROMOTE OR LIMIT THE PUBLIC MISSION OF THE ORGANIZATION.

(d) If it shall appear, to the satisfaction of the court, that the consideration and the terms of the transaction are fair and reasonable to the corporation AND THE PUBLIC and that the purposes of the corporation or the interests of the members AND THE PUBLIC will be promoted, it may authorize the sale, lease, exchange or other disposition of all or substantially all the assets of the corporation, as described in the petition, for such consideration and upon such terms as the court may

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

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prescribe. The order of the court shall direct the disposition of the consideration to be received thereunder by the corporation.

S 2. Section 511 of the not-for-profit corporation law is amended by adding a new paragraph (e) to read as follows:

(E) 1. FOR PURPOSES OF THIS PARAGRAPH, NATIONAL, STATE AND/OR LOCAL LANDMARK SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY BUILDINGS, STATUES, STRUCTURES OR LANDS THAT HAVE BEEN DESIGNATED A NATIONAL, STATE, AND/OR LOCAL LANDMARK OR HISTORIC SITE.

2. CORPORATIONS SEEKING TO SELL, LEASE, EXCHANGE OR OTHERWISE DISPOSE OF PROPERTY WITH PUBLIC ACCESS AND NATIONAL, STATE AND/OR LOCAL LANDMARK DESIGNATION, IN ADDITION TO COMPLIANCE WITH PARAGRAPHS (A) THROUGH (D) OF THIS SECTION, SHALL, PRIOR TO SEEKING APPROVAL FROM THE COURT, CONDUCT A PUBLIC HEARING AT A TIME AND PLACE DESIGNATED IN A NOTICE TO THE VILLAGE, TOWN OR MUNICIPALITY WHERE SUCH LANDMARK IS LOCATED.

3. NOTICE TO THE VILLAGE, TOWN OR MUNICIPALITY AS REQUIRED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL BE GIVEN AT LEAST TEN DAYS PRIOR TO THE PUBLIC HEARING. AT SUCH PUBLIC HEARING, THE CORPORATION SHALL:

(A) DISCLOSE THE PUBLIC INVESTMENT MADE IN THE ASSET, SUCH AS STATE OR FEDERAL GRANTS; AND

(B) DISCLOSE THE POTENTIAL IMPACT THE DISPOSITION MAY HAVE ON THE COMMUNITY, INCLUDING THE POTENTIAL ALTERATION, IMPROVEMENT OR DESTRUCTION OF SUCH LANDMARK; AND

(C) DISCLOSE THE NATIONAL, FEDERAL OR LOCAL DESIGNATIONS GRANTED TO THE LANDMARK AND THE IMPACT OF SUCH SALE, LEASE, EXCHANGE OR OTHER DISPOSITION UPON SUCH LANDMARK'S DESIGNATIONS; AND

(D) PROVIDE THE NAME AND ADDRESS OF THE COURT TO WHICH IT IS SEEKING LEAVE FOR SUCH SALE, LEASE, EXCHANGE OR OTHER DISPOSITION OF A LANDMARK, FOR THE PURPOSE OF INFORMING THE COMMUNITY AS TO WHERE TO DIRECT ITS COMMENTS FOLLOWING THE HEARING.

4. AT THE CONCLUSION OF SUCH PUBLIC HEARING AS REQUIRED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, THE COMMUNITY SHALL TAKE A VOTE ON THE SINGULAR ISSUE OF WHETHER IT APPROVES OR DISAPPROVES OF THE POTENTIAL SALE, LEASE, EXCHANGE OR OTHER DISPOSITION OF SUCH LANDMARK. THE RESULTS OF SUCH VOTE SHALL BE RECORDED BY THE CORPORATION AND INCLUDED IN ITS PETITION TO THE COURT.

5. FOLLOWING THE PUBLIC HEARING AS REQUIRED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, THE COURT SHALL REQUIRE A THIRTY DAY PUBLIC COMMENT PERIOD, DURING WHICH RESIDENTS OF THE VILLAGE, TOWN OR MUNICIPALITY MAY EXPRESS THEIR APPROVAL OR DISAPPROVAL OF THE SALE, LEASE, EXCHANGE OR OTHER DISPOSITION OF SUCH LANDMARK. COMMENTS SHALL BE IN CORRESPONDENCE DIRECTED TO THE COURT.

6. AT THE CONCLUSION OF THE THIRTY DAY PERIOD REQUIRED UNDER SUBPARAGRAPH FIVE OF THIS PARAGRAPH, THE COURT SHALL ENTERTAIN THE PETITION FOR THE SALE, LEASE, EXCHANGE OR OTHER DISPOSITION OF SUCH LANDMARK; PROVIDED THAT SUCH PETITION COMPLIES WITH PARAGRAPHS (A) THROUGH (D) OF THIS SECTION.

7. WHEN CONTEMPLATING THE FAIRNESS AND REASONABLENESS OF THE TERMS OF THE PROPOSED TRANSACTION INVOLVING A NATIONAL, STATE AND/OR LOCAL LANDMARK, THE COURT SHALL CONSIDER THE VOTE OF THE COMMUNITY AT THE PUBLIC HEARING AND ANY SUCH COMMENTS THAT IT DEEMS REFLECTIVE OF COMMUNITY OR VOTER SENTIMENT REGARDING THE PROPOSED TRANSACTION.

S 3. This act shall take effect immediately.