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

3949

2011-2012 Regular Sessions

I N A S S E M B L Y

January 31, 2011

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Local Governments

AN ACT to establish the town of Brookhaven land bank and commission

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

Section 1. For purposes of this act, the words and phrases set forth in this section shall have the following meanings:

(a) "Commission" shall mean the town of Brookhaven land bank commission, established by section three of this act.

(b) "Fund" shall mean the town of Brookhaven land bank fund, established pursuant to the provisions of section eight of this act.

(c) "Institutional lender" shall mean any bank, any insurance company, and any mortgage company or investment company that made more than twenty mortgages in the preceding calendar year, and any national bank, federal savings and loan association, federal savings bank, bank holding company, or state or federally chartered credit union.

(d) "Land bank" shall mean the town of Brookhaven land bank, established by section two of this act.

(e) "Purchaser" shall mean the transferee, grantee or recipient of any real property interests.

(f) "Purchase price" shall mean all consideration paid or transferred by or on behalf of a purchaser to a seller or his or her nominee, or for his or her benefit, for the transfer of any real property interest, and shall include, but not be limited to, all cash or its equivalent so paid or transferred; all cash or other property paid or transferred by or on behalf of the purchaser to discharge or reduce any obligation of the seller; the principal amount of all notes or their equivalent, or other deferred payments, given or promised to be given by or on behalf of the purchaser to the seller or his nominee; the outstanding balance of all obligations of the seller which are assumed by the purchaser or to which the real property interest transferred remains subject after the trans-

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

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fer, determined at the time of transfer, but excluding real estate taxes and other municipal liens or assessments which are not overdue at the time of transfer; the fair market value, at the time of transfer, of any other consideration or thing of value paid or transferred by or on behalf of the purchaser including, but not limited to, any property, goods or services paid, transferred or rendered in exchange for such real property interest.

(g) "Real property interest" shall mean any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interest in real property; but shall not include any interest which is limited to any or all of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance, and any estate for years having a term of less than thirty years; any reversionary right, condition or right of entry for condition broken; the interest of a mortgage or other secured party in any mortgage or security agreement; and the interest of a stockholder in a corporation, or a partner in a partnership.

(h) "Seller" shall mean the transferor, grantor or immediate former owner of any real property interest.

(i) "Time of transfer" shall mean the time at which the transfer of real property is legally effective as between the parties thereto, and, in any event, with respect to a transfer evidenced by an instrument recorded with the appropriate registry of deeds or filed with the assistant recorder of the appropriate registry district, not later than the time of such recording or filing.

S 2. There is hereby established a town of Brookhaven land bank, to be administered by a commission established by section three of this act, for the purpose of acquiring, holding and managing land and interests in land of the types set forth in section five of this act. The land bank is hereby constituted a body politic and corporate and a public instrumentality and the exercise of powers conferred by this act upon the land bank shall be deemed to be the performance of an essential governmental function.

S 3. The land bank shall be administered by a commission consisting of five persons elected for staggered five-year terms; and provided that the town board of the town of Brookhaven shall appoint the initial five members of the commission as soon as possible after the effective date of this act, to serve until the first annual election of the members to be held at the first general election following the effective date of this act. Members shall be legal residents of the town of Brookhaven and shall serve without compensation. The commission shall elect a chairman and a secretary/treasurer, from among its members, and may adopt reasonable rules and regulations for the conduct of its affairs and the management of its holdings not inconsistent with the provisions of this act. Decisions of the commission shall be by majority vote of those present and voting, and no business shall be transacted without three members present. The commission shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the annual town report. Any vacancy on the commission shall be filled until the next general election by majority vote of the remaining commissioners then in office. At the next general election a commissioner shall be elected for the balance of the unexpired term.

S 4. The commission shall, subject to the provisions of this act, have the power and authority to (a) purchase and acquire fee simple inter-

ests, and any lesser interests, in any land in the town of Brookhaven, of the type set forth in section five of this act, including any improvements thereon; (b) accept gifts of any such interests in land or of funds to further the purposes of the land bank; (c) take any such interests in land by eminent domain, and only by a vote of the commission in which at least four members vote in favor of such taking and further only after having been authorized to do so in each instance by a two-thirds vote of the town board of the town of Brookhaven, and further provided that a reasonable effort shall first be made to negotiate the acquisition thereof by purchase prior to such taking; (d) dispose of all or any portion of its interests in any land or interests thereon held by it; (e) incur debt, pledging the full faith and credit of the town of Brookhaven, only after having been authorized to do so in each instance by a two-thirds vote of the town board of the town of Brookhaven; (f) employ such staff and obtain such professional services as are necessary in order to perform its duties; (g) administer and manage land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural and scenic resources thereof; (h) lease real property as may be held by the land bank for purposes consistent with this act; and (i) finance and construct recreational facilities, subject to the provisions of section six of this act.

S 4-a. The town of Brookhaven is hereby authorized to appropriate money to be deposited in the land bank fund as provided in section eight of this act and to provide funds to repay notes of the town and when authorized to incur debt of the town for such purposes.

S 4-b. The land bank is hereby empowered to issue bonds and notes, including notes in anticipation of bonds, for the purpose of acquiring land and interests in land as provided in section four of this act. The proceeds of such bonds or notes may be used to pay, in whole or in part, acquisition costs; to provide reserves for debt service and other expenses; to pay consulting, appraisal, advisory and legal fees and costs incidental to the issuance and sale of such bonds or notes; to purchase, refund or renew bonds or notes previously issued; and to pay any other costs and expenses of the land bank necessary for the accomplishment of its purposes. Bonds or notes issued pursuant to this act shall be authorized by the commission which shall have full power and authority to determine the amount, form, terms, conditions, provisions for the payment of interest, and all other details thereof and to provide for their sale and issuance at such price and in such manner as the commission shall determine, subject only to any limitations set forth in this act.

The commission may enter into any agreements, including without limitation a loan agreement and a trust agreement, necessary to effectuate and to secure any bonds or notes issued by the land bank. Such agreements may pledge or assign, in whole or in part, the revenues and other money held or to be received by the land bank. Such agreements may contain such provisions for protecting and enforcing the rights, security and remedies of the holders of such bonds or notes, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities and covenants setting forth the duties of, and limitations on, the land bank in relation to the custody, safeguarding, investment and application of money, the issuance of additional debt obligations, the use of any surplus proceeds of the borrowing, including any investment earnings thereon, and establishment of special funds and reserves.

The pledge of any such agreement shall be valid and binding and shall be deemed continuously perfected for the purposes of the uniform commercial code from the time when the pledge is made; the revenues, money, rights and proceeds so pledged and then held or thereafter acquired or received by the land bank shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the town or county, irrespective of whether such parties have notice thereof. No document by which a pledge is created need be filed or recorded except in the records of the land bank and no filing need be made under the uniform commercial code.

The trustee with respect to any such trust agreement entered into pursuant to this section shall be a trust company or a bank having the powers of a trust company. Any such trust agreement may provide that any money received thereunder may be held, deposited or invested by the trustee, notwithstanding the provisions of section eight of this act, pending the disbursement thereof, in any deposits or investments which are lawful for the funds of savings banks and shall provide that any officer with whom or any bank or trust company with which such money shall be deposited shall act as trustee of such money and shall hold and apply the same for the purposes of this act, subject to such regulation or limitation as this act or such trust agreement may provide.

It shall be lawful for any bank or trust company to act as depository of the proceeds of bonds or notes, revenues or other money pursuant to this act and to furnish such indemnifying bonds or to pledge such security, if any, as may be required by the commission. Any trust agreement entered into pursuant to this section may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual rights of action by any such holders. In addition to the foregoing, any such trust agreement may contain such other provisions as the commission may deem reasonable and proper. All expenses incurred in carrying out the provisions of such trust agreement may be treated as part of the cost of operation of the land bank and paid from the revenues or other funds pledged or assigned to the payment of the principal of and the premium, if any, and interest on the bonds or notes or from any other funds available to the land bank. In addition to other security required by this section in or otherwise by law, bonds or notes issued under this section may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit facilities issued to the land bank by any bank, trust company or other financial institution, within or without the state, and the land bank may pledge or assign any of its revenues as security for the reimbursement by the land bank to the issuers of such letters or lines of credit, insurance or credit facilities of any payments made thereunder.

S 5. Land to be acquired and held as part of the land bank, or interests in which are to be so acquired and held, shall be situated in the town of Brookhaven, and may consist of any of the following types of land and interests therein; (a) ocean, harbor and pond frontage in the form of beaches, dunes and adjoining backlands; (b) barrier beaches; (c) fresh and salt water marshes, estuaries and adjoining uplands; (d) heathland and moors; (e) land providing access to ocean, harbor and pond frontage and land for bicycle paths; (f) land for future public recreational facilities and use; (g) recreation land to protect existing and future wellfields and aquifer recharge areas; and (h) land used or to be used for agricultural purposes.

S 6. The commission shall retain any real property interest relating to land and water areas acquired pursuant to this act predominantly in its natural, scenic or open condition except as provided for by this section. Except upon the approval of the commissioner of environmental conservation and where appropriate, subject to law and the constitution, the commission shall not allow (a) construction or placing of buildings, roads, signs, billboards or other advertising utilities or other structures on or above the surface, (b) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (c) removal or destruction of trees, shrubs or other vegetation, (d) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (e) surface use except for purposes permitting the land or water area to remain predominantly in its natural condition, (f) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (g) other acts or uses detrimental to such retention of land or water areas. In determining whether or not to approve a request from the commission to use, improve or dispose of any real property interest acquired by such commission in a manner otherwise prohibited by this section, the secretary shall consider whether such request is in the interest of conservation and any natural, state, regional or local program in furtherance thereof, and also any public, state, regional or local comprehensive land use or development plan affecting the land, and any known proposal by a governmental body for use of the land.

S 7. The commission shall file annually with the commissioner of environmental conservation, a public access and outdoor recreation plan which shall be, as far as possible, consistent with the town master plan and with any regional planning relating to the area. The commission may, from time to time, amend such plan. The plan shall show all real property interests then held by the commission including a description of the use thereof, and all acquisitions, improvements or dispositions of real property interests held by the commission at any time during the year preceding each filing, including the reasons for such acquisition, improvement or disposition; the commissioner of environmental conservation may require any other information he or she deems important.

S 8. The commission shall meet its financial obligations by drawing upon a land bank fund, to be set up as a revolving or sinking account within the treasury of the town of Brookhaven. Deposits into the fund shall include (a) funds appropriated to be deposited into the fund by vote of the town board of the town of Brookhaven; (b) voluntary contributions of money and other liquid assets to the fund; (c) revenues from fees imposed upon the transfer of real property interests as set forth in section ten of this act occurring after the effective date of this act as set forth in section fifteen of this act, together with payments of interest and penalties under section thirteen of this act; (d) proceeds from disposal of real property or interests; and (e) funds received from any federal, state, county, region, district or municipal source. The commission is further authorized to accept state and federal funds to carry out the purposes of this act as if the commission were in fact a district, city, town, region, county, state or state agency within the meaning of any provision of law authorizing any grant consistent with the purposes of this act. All expenses lawfully incurred by the commission in carrying out the provisions of this act shall be evidenced by proper vouchers and the town comptroller only upon submission of warrants duly approved by the commission. The town comptroller shall

prudently invest available assets of the fund, and all income thereon shall accrue to the fund. Real property held in the name of the land bank or its designee shall be exempt from property taxes as of the date of the acquisition of title by the land bank or its designee; and any taxes assessed against such real property interests shall be abated for that portion of any fiscal year during which the real property interests were owned by the land bank or its designee.

S 9. (a) The commission shall keep a full and accurate account of its actions including a record as to when, from or to whom, and on what account money has been paid or received relative to this act, and as to when, from and to whom and for what consideration real property interests have been acquired, improved or disposed of. Such records and accounts shall be subject to examination by the state comptroller.

The town comptroller shall keep a full and accurate account stating when, from or to whom, and on what account money has been paid or received relative to the activities of the commission and the land bank. Such account shall be subject to examination by the state comptroller.

(b) Schedules of beneficiaries of trusts, lists of stockholders of corporations and lists of partnerships filed with the commission for the purpose of determining or fixing the amount of the fee imposed under section ten of this act or for the purpose of determining the existence of any exemption under section twelve of this act shall not be public records for purposes of the freedom of information law.

S 10. There is hereby imposed a fee equal to two percent of the purchase price upon the transfer of any interest in any real property situated in the town of Brookhaven. Such fee shall be the liability of the purchaser of such real property interest, and any agreement between the purchaser and the seller or any other person with reference to the allocation of the responsibility for bearing such fee shall not affect such liability of the purchaser. The fee shall be paid to the commission, or its designee, and shall be accompanied by a copy of the deed or other instrument evidencing such transfer, if any, and an affidavit signed under oath or under the penalty of perjury by the purchaser or his or her legal representative, attesting to the true and complete purchase price and the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the fee imposed by this section. The commission, or its designee, shall promptly thereafter execute and issue a certificate indicating that the appropriate fee has been paid or that the transfer is exempt from the fee, stating the basis for the exemption. The county clerk of the county of Suffolk shall not record or register, or receive or accept for recording or registration, any deed, except a mortgage deed, to which has not been affixed such a certificate executed by the commission or its designee. Failure to comply with this requirement shall not affect the validity of any instrument. The commission shall deposit all fees received pursuant to this section with the town comptroller of the town of Brookhaven, as a part of the fund established by section eight of this act. The fee imposed pursuant to this section shall be due simultaneously with the time of transfer of the transfer upon which it is imposed. Notwithstanding the foregoing, whenever there is a conveyance of real property interests and a conveyance of personalty related thereto at or about the same time, the allocations of payments between real and personal property agreed to by the purchaser and seller shall not determine the amount of the fee due pursuant to this section; instead, the commission may require payment of the fee referred to in real property interests so conveyed as determined by the commission.

S 10-a. To the extent not otherwise subject to payment of a fee pursuant to section ten of this act, and notwithstanding the exemptions set forth in paragraphs (i) and (j) of section twelve of this act, unless otherwise exempted pursuant to such section twelve excluding such paragraphs (i) and (j), there shall be paid a fee equal to two percent of the fair market value of real property interests held in the name of or otherwise owned by a corporation upon the transfer by the controlling stockholders of their interest of the stock of such corporation. Such fee shall be due on or before the time of transfer of the stock.

To the extent not otherwise subject to payment of a fee pursuant to section ten of this act and notwithstanding the exemptions referred to in said paragraphs (i) and (j) of section twelve of this act, unless otherwise exempted pursuant to such section twelve excluding such paragraphs (i) and (j), there shall be paid a fee equal to two percent of the fair market value of real property interests held in the name of a partnership or otherwise owned by a partnership upon the change in composition of such partnership either in one transaction or a series of related transactions which change in composition results in a transfer of capital interests in excess of fifty percent of the total capital interests within such partnerships or results in a transfer of the ownership rights to profit interests within such partnership in excess of fifty percent of the total profit interests within such partnerships.

S 11. At any time within seven days following the issuance of the certificate of payment of the fee imposed by section ten of this act, the purchaser or his legal representative may return such certificate to the commission or its designee for cancellation, together with an affidavit signed under oath or under the penalty of perjury that the transfer, with respect to which such certificate was issued, has not been consummated, and thereupon the fee paid with respect to such transfer shall be forthwith returned to the purchaser or his or her legal representative.

S 12. The following transfers of real property interests shall be exempt from the fee established by section ten or ten-a of this act. Except as otherwise provided, the purchaser shall have the burden of proof that any transfer is exempt pursuant to this section.

(a) Transfers to the government of the United States, the state, or any of their instrumentalities, agencies or subdivisions.

(b) Transfers which, without additional consideration, confirm, correct, modify or supplement a transfer previously made.

(c) Transfers made as gifts without consideration. In any proceeding to determine the amount of any fee due pursuant to this act, it shall be presumed that any transfer for consideration of less than fair market value of the real property interests transferred was made as a gift without consideration to the extent of the difference between the fair market value of the real property interests transferred and the amount of consideration claimed by the purchaser to have been paid or transferred, if the purchaser shall have been at the time of transfer the spouse, the lineal descendant or the lineal ancestor of the seller, by blood or adoption, and otherwise it shall be presumed that consideration was paid in an amount equal to the fair market value of the real property interest transferred, at the time of transfer.

(d) Transfer to the trustees of a trust in exchange for a beneficial interest received by the seller in such trust; distributions by the trustees of a trust to the beneficiaries of such trust.

(e) Transfers by operation of law without actual consideration, including but not limited to transfers occurring by virtue of the death or bankruptcy of the owner of a real property interest.

(f) Transfers made in partition of land and improvements thereto.

(g) Transfers to any charitable organization or any religious organization, provided that the real property interests so transferred will be held by the charitable or religious organization solely for its public charitable or religious purposes.

(h) Transfers to a mortgagee in foreclosure of the mortgage held by such mortgagee, and transfers of the property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from foreclosing said mortgage.

(i) Transfers made to a corporation or partnership at the time of its formation, pursuant to which transfer no gain or loss is recognized under the provisions of section three hundred and fifty-one or seven hundred and twenty-one of the Internal Revenue Code of 1986, as amended; provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation, the transferor retains a controlling interest in such corporation after such formation or (ii) with respect to a partnership, the transferor retains after such formation rights to capital interests in excess of fifty percent of the capital interests within such partnership or retains rights to profit interests within such partnership in excess of fifty percent of the total profit interests within such partnership.

(j) Transfers made to a stockholder of a corporation in liquidation of the corporation, and transfers made to a partner of a partnership in dissolution of the partnership; provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation, the transferee had prior to the transfer a controlling interest in such corporation or (ii) with respect to a partnership, the transferee had prior to the transfer rights to capital interests in excess of fifty percent of the total capital interests within such partnership or had rights to profit interest within such partnership in excess of fifty percent of the total profit interests within such partnership.

(k) Transfers consisting of the equitable distribution of marital assets.

(l) Transfers of property consisting in part of real property interests situated in the town of Brookhaven and in part of other property interests, to the extent that the property transferred consists of property other than real property situated in the town of Brookhaven; provided that the purchaser shall furnish the commission with such information as it shall require or request in support of the claim of exemption and manner of allocation of the consideration for such transfers.

(m) The first one hundred thousand dollars of the purchase price of a transfer made to a purchaser who, or whose spouse at the time of transfer, has at no time prior to such transfer owned or possessed any real property interest as defined in section one of this act either within or without the town of Brookhaven; provided that the purchaser shall make the real property interest which is the subject of the transfer the purchaser's actual domicile within two years of the time of transfer; provided further that in the event of a subsequent transfer within five years of the transfer exempted from the fee pursuant to this subdivision, other than the transfer of a mortgage to an institutional lender, the fee exempted shall become due, together with the accumulated interest and penalties, and in addition to any fee otherwise due as a result

of the subsequent transfer. The purchaser shall certify as to the foregoing, and the commission shall attach to the deed a certificate which shall recite the fact that there is running with the land a lien equal to the amount of the fee exempted plus accumulated interest and penalties until such time as all conditions of this subdivision have been met.

S 13. A purchaser who fails to pay all or any portion of the fee established by section ten or ten-a of this act on or before the time when the same is due shall be liable for the following additional payments in addition to such fee:

(a) Interest. The purchaser shall pay interest on the unpaid amount of the fee to be calculated from the time of transfer at a rate equal to fourteen percent per annum.

(b) Penalties. Any person who, without fraud or willful intent to defeat or evade a fee imposed by this act, fails to pay all or a portion of the fee within thirty days after the time of transfer, shall pay a penalty equal to five percent of the outstanding fee as determined by the commission for each month or portion thereof thereafter that the fee is not paid in full; provided, however, that in no event shall the amount of any penalty imposed pursuant to this subdivision exceed twenty-five percent of the unpaid fee due at the time of transfer. Whenever the commission determines that all or a portion of a fee due under this act was unpaid due to fraud with intent to defeat or evade the fee imposed by this act, a penalty equal to the amount of such fee as determined by the commission shall be paid by the purchaser in addition to such fee.

S 14. (a) The commission shall notify a purchaser by registered or certified mail of any failure to discharge in full the amount of the fee due under this act and any penalty or interest assessed. The commission shall grant a hearing on the matter of the imposition of such fee, or of any penalty or interest assessed, if a petition requesting such hearing is received by the commission within thirty days after the mailing of such notice. The commission shall notify the purchaser in writing by registered or certified mail of its determination concerning the deficiency, penalty or interest within fifteen days after such hearing. Any party aggrieved by a determination of the commission concerning a deficiency, penalty or interest may, after payment of such deficiency, appeal to the supreme court within three months after the mailing of notification of the determination of the commission. Upon the failure to timely petition for a hearing, or appeal to such court, within the time limits established by this section, the purchaser shall be bound by the terms of the notification, assessment or determination, as the case may be, and shall be barred from contesting the fee, and any interest and penalty, as determined by the commission. All decisions of such court shall be appealable. Every notice to be given under this section by the commission shall be effective if mailed by certified or registered mail to the purchaser at the address stated in a recorded or registered instrument by virtue of which the purchaser holds any interest in land, the transfer of which gives rise to the fee which is the subject of such notice; and if no such address is stated or if such transfer is not evidenced by an instrument recorded or registered in the public records in Suffolk county, such notice shall be effective when so mailed to the purchaser in care of any person appearing of record to have a fee interest in such land, at the address of such person as set forth in an instrument recorded or registered in the county of Suffolk.

(b) All fees, penalties and interest required to be paid pursuant to this act shall constitute a personal debt of the purchaser and may be recovered in an action of contract or in any other appropriate action, suit or proceeding brought by the commission.

(c) If any purchaser liable to pay the fee established by this act neglects or refuses to pay the same, the amount, including any interest and penalty thereon, shall be a lien in favor of the commission upon all property and rights to property, whether real or personal, belonging to such purchaser. Such lien shall arise at the time of transfer and shall continue until the liability for such amount is satisfied. Such lien shall in any event terminate not later than six years following the time of transfer. Such lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor unless notice thereof has been filed by the commission (i) with respect to real property or fixtures, in the office of the county clerk of the county of Suffolk or (ii) with respect to personal property, in the office in which a security or financing statement or notice with respect to the property would be filed in order to perfect a nonpossessory security interest belonging to the person named in the relevant notice.

In any case where there has been a refusal or neglect to pay any fee, interest or penalties imposed by this act, whether or not levy has been made, the commission, in addition to other modes of relief, may direct a civil action to be filed in supreme court to enforce the lien of the commission under this section with respect to such liability or to subject any property of whatever nature of the delinquent, or in which he or she has any right, title or interest, to the payment of such liability.

The commission may issue a waiver or release of any lien imposed by this section. Such waiver or release shall be conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

S 15. Upon termination of dissolution of the land bank, the title to all funds and other properties owned by it which remain after payment or the making of provision for payment of all bonds, notes and other obligations of the land bank shall vest in the town of Brookhaven.

S 16. This act, being necessary for the welfare of the town of Brookhaven and its inhabitants, shall be liberally construed to effect the purposes thereof.

S 17. The provisions of this act are severable, and if any provision thereof, including without limitation any exemption from the fee imposed thereby, shall be held invalid in any circumstances such invalidity shall not affect any other provisions or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

S 18. This act shall take effect immediately.