

6342--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

March 15, 2011

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Introduced by M. of A. ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. GOTTFRIED -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public buildings law, the general municipal law, the executive law, the environmental conservation law and the state finance law, in relation to enacting the "bird-friendly buildings act"

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "bird-friendly buildings act".  
3     S 2. Legislative findings. The legislature hereby finds that:  
4     (a) a federal multi-agency report issued in 2009, entitled "The State  
5     of the Birds, United States of America", provides the most comprehensive  
6     assessment to date on the status of bird populations;  
7     (b) the multi-agency report concludes that nearly one-third of this  
8     nation's 800 bird species are endangered, threatened or in significant  
9     decline;  
10    (c) daytime and nighttime collisions with man-made structures are the  
11    most significant, quantifiable causes of avian mortality and are  
12    increasing with adverse effects being seen at a population level with  
13    estimates ranging from several hundred million to one billion birds  
14    dying from collisions annually in the United States;  
15    (d) not only are birds beautiful, interesting and fascinating crea-  
16    tures that are eagerly welcomed by millions of Americans into their  
17    backyards every year, but birds also have an impact on the United States  
18    and the New York state economies;  
19    (e) the United States Fish and Wildlife Service has reported that  
20    birdwatchers contribute thirty-six million dollars annually to the econ-  
21    omy, and birds naturally provide billions of dollars worth of pest  
22    control, benefitting farmers, forestry owners and consumers alike;

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

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(f) bird-friendly design features can be incorporated into new construction and major renovation projects at no to minimal extra cost; and existing buildings may be made bird-friendly through the use of simple, low-cost adaptations; and

(g) these design features have already been implemented in buildings constructed and renovated both in this state and throughout the country.

S 3. The public buildings law is amended by adding a new section 8-a to read as follows:

S 8-A. USE OF BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES.

1. EACH PUBLIC BUILDING CONSTRUCTED, ALTERED OR ACQUIRED BY THE OFFICE OF GENERAL SERVICES SHALL INCORPORATE, TO THE EXTENT PRACTICABLE AND AS DETERMINED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES.

2. IN ALL PUBLIC BUILDINGS, THE COMMISSIONER OF GENERAL SERVICES, WHERE PRACTICABLE, SHALL:

(A) INCORPORATE BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES; AND

(B) ADDRESS INTERIOR AND EXTERIOR LIGHTING AND REFLECTIVE GLASS IMPACTS ON NATIVE BIRD SPECIES.

3. FOR THE PURPOSES OF THIS SECTION, "BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES" MAY INCLUDE MATERIALS AND FEATURES RECOMMENDED BY:

(A) FEDERAL LAW, AND THE RULES AND REGULATIONS ADOPTED PURSUANT THERE-TO;

(B) THE CITY OF CHICAGO'S "BIRD-SAFE BUILDING DESIGN GUIDE FOR NEW CONSTRUCTION AND RENOVATION";

(C) THE CITY OF TORONTO'S "BIRD-FRIENDLY DEVELOPMENT GUIDELINES"; AND

(D) THE AMERICAN BIRD CONSERVANCY AND NEW YORK CITY AUDUBON'S "BIRD-SAFE BUILDING GUIDELINES".

S 4. The general municipal law is amended by adding a new section 77-f to read as follows:

S 77-F. USE OF BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES.

1. EACH PUBLIC BUILDING CONSTRUCTED, ALTERED OR ACQUIRED BY A MUNICIPAL CORPORATION OR SCHOOL DISTRICT, OR ANY AGENCY THEREOF SHALL INCORPORATE, TO THE EXTENT PRACTICABLE AND AS DETERMINED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES.

2. IN ALL PUBLIC BUILDINGS, A MUNICIPAL CORPORATION OR SCHOOL DISTRICT, OR ANY AGENCY THEREOF, WHERE PRACTICABLE, SHALL:

(A) INCORPORATE BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES; AND

(B) ADDRESS INTERIOR AND EXTERIOR LIGHTING, AND REFLECTIVE GLASS IMPACTS ON NATIVE BIRD SPECIES.

3. FOR THE PURPOSES OF THIS SECTION, "BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES" MAY INCLUDE MATERIALS AND FEATURES RECOMMENDED BY:

(A) FEDERAL LAW, AND THE RULES AND REGULATIONS ADOPTED PURSUANT THERE-TO;

(B) THE CITY OF CHICAGO'S "BIRD-SAFE BUILDING DESIGN GUIDE FOR NEW CONSTRUCTION AND RENOVATION";

(C) THE CITY OF TORONTO'S "BIRD-FRIENDLY DEVELOPMENT GUIDELINES"; AND

(D) THE AMERICAN BIRD CONSERVANCY AND NEW YORK CITY AUDUBON'S "BIRD-SAFE BUILDING GUIDELINES".

S 5. Section 378 of the executive law is amended by adding a new subdivision 17 to read as follows:

17. A. REQUIRE EVERY BUILDING, CONSTRUCTED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, WHICH HAS ONE THOUSAND SIX HUNDRED OR MORE SQUARE FEET OF EXTERIOR GLASS TO INCORPORATE, TO THE EXTENT PRACTICABLE

1 AND AS DETERMINED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION,  
2 BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES. ALL SUCH BUILDINGS  
3 SHALL:

4 (I) INCORPORATE BIRD-FRIENDLY BUILDING MATERIALS AND DESIGN FEATURES;  
5 AND

6 (II) ADDRESS INTERIOR AND EXTERIOR LIGHTING, AND REFLECTIVE GLASS  
7 IMPACTS ON NATIVE BIRD SPECIES.

8 B. FOR THE PURPOSES OF THIS SUBDIVISION, "BIRD-FRIENDLY BUILDING MATE-  
9 RIALS AND DESIGN FEATURES" MAY INCLUDE MATERIALS AND FEATURES RECOM-  
10 MENDED BY:

11 (I) FEDERAL LAW, AND THE RULES AND REGULATIONS ADOPTED PURSUANT THERE-  
12 TO;

13 (II) THE CITY OF CHICAGO'S "BIRD-SAFE BUILDING DESIGN GUIDE FOR NEW  
14 CONSTRUCTION AND RENOVATION";

15 (III) THE CITY OF TORONTO'S "BIRD-FRIENDLY DEVELOPMENT GUIDELINES";  
16 AND

17 (IV) THE AMERICAN BIRD CONSERVANCY AND NEW YORK CITY AUDUBON'S "BIRD-  
18 SAFE BUILDING GUIDELINES".

19 S 6. The environmental conservation law is amended by adding a new  
20 section 3-0121 to read as follows:

21 S 3-0121. BIRD-FRIENDLY BUILDING COUNCIL.

22 1. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT A BIRD-FRIENDLY  
23 BUILDING COUNCIL. SUCH COUNCIL SHALL BE COMPOSED OF NOT LESS THAN ELEVEN  
24 NOR MORE THAN FIFTEEN MEMBERS, WHICH SHALL INCLUDE THE COMMISSIONER, WHO  
25 SHALL BE THE CHAIR OF THE COUNCIL, AND NOT LESS THAN TEN, NOR MORE THAN  
26 FOURTEEN MEMBERS APPOINTED BY THE COMMISSIONER. THE MEMBERS APPOINTED BY  
27 THE COMMISSIONER SHALL INCLUDE PERSONS REPRESENTING THE FOLLOWING INTER-  
28 ESTS: WILDLIFE CONSERVATION ORGANIZATIONS, STATE AND FEDERAL WILDLIFE  
29 AGENCIES, ARCHITECTS, LANDSCAPE ARCHITECTS, WINDOW MANUFACTURERS AND  
30 DISTRIBUTORS, COMMERCIAL BUILDING MANAGERS, AND ACADEMIA. THE WILDLIFE  
31 CONSERVATION ORGANIZATIONS REPRESENTED ON THE COUNCIL SHALL INCLUDE THE  
32 AMERICAN BIRD CONSERVANCY, NEW YORK CITY AUDUBON AND THE LONG ISLAND  
33 AUDUBON COUNCIL. THE FEDERAL WILDLIFE AGENCY REPRESENTATION ON THE COUN-  
34 CIL SHALL INCLUDE THE DIVISION OF MIGRATORY BIRD MANAGEMENT OF THE U.S.  
35 FISH AND WILDLIFE SERVICE. THE MEMBERSHIP OF THE COUNCIL SHALL BE  
36 BROADLY REPRESENTATIVE OF THE GEOGRAPHIC AREAS OF THE STATE. FURTHER-  
37 MORE, THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR  
38 SERVICES BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES  
39 INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.  
40 IN ADDITION, THE COMMISSIONER OF GENERAL SERVICES SHALL SERVE AS AN  
41 EX-OFFICIO MEMBER OF THE COUNCIL.

42 2. THE BIRD FRIENDLY BUILDING COUNCIL SHALL:

43 A. DEVELOP SUCH RULES, REGULATIONS AND PROCEDURES AS NECESSARY FOR IT  
44 TO EFFECTIVELY ADMINISTER ITS RESPONSIBILITIES;

45 B. ATTEMPT TO ASSESS AND QUANTIFY THE EXTENT AND MAGNITUDE OF THE  
46 PROBLEM STATEWIDE CAUSED BY DIURNAL AND NOCTURNAL BIRDS COLLIDING WITH  
47 BUILDINGS. THIS EFFORT SHALL IDENTIFY THOSE SPECIES MOST COMMONLY KILLED  
48 DURING DAYTIME COLLISIONS, THOSE SPECIES MORE COMMONLY KILLED DURING  
49 NIGHTTIME COLLISIONS AND SHALL INCLUDE AN ASSESSMENT ON SPECIES AT RISK  
50 DUE TO RARITY AND ENDANGERMENT;

51 C. DEVELOP CRITERIA AND GUIDELINES FOR IDENTIFYING AND PRIORITIZING  
52 EXISTING BUILDINGS WHICH POSE A DANGER TO BIRD SPECIES DUE TO THE THREAT  
53 OF COLLISIONS;

54 D. IDENTIFY EXISTING AND EMERGING PRODUCTS, TECHNOLOGIES, STRATEGIES  
55 AND CONCEPTS WHICH CAN REDUCE OR ELIMINATE BIRD MORTALITY FROM BUILDING  
56 COLLISIONS;

1 E. IDENTIFY POTENTIAL FUNDING SOURCES, IN ADDITION TO THE PROCEEDS  
2 FROM THE SALE OF THE MIGRATORY BIRD PROTECTION STAMP ESTABLISHED PURSU-  
3 ANT TO SECTION 11-0307 OF THIS CHAPTER, TO FUND THE RETROFITTING AND/OR  
4 REPLACEMENT OF WINDOWS OF EXISTING PROBLEMATIC BUILDINGS, IDENTIFIED  
5 PURSUANT TO PARAGRAPH C OF THIS SUBDIVISION, WHICH POSE A THREAT TO  
6 BIRDS AND THE IMPLEMENTATION OF OTHER MITIGATIVE STRATEGIES;

7 F. PROMOTE PUBLIC AWARENESS OF THIS ISSUE AND WHAT MEMBERS OF THE  
8 PUBLIC CAN DO TO MITIGATE IMPACTS;

9 G. SUPPORT AND FUND ADDITIONAL RESEARCH TO BETTER UNDERSTAND PARTIC-  
10 ULAR ASPECTS OF THE BUILDING-BIRD COLLISION ISSUE; AND

11 H. CONSULT WITH OTHER SUSTAINABLE BUILDING DESIGN ORGANIZATIONS.

12 S 7. Subdivision 2 of section 3-0301 of the environmental conservation  
13 law is amended by adding a new paragraph dd to read as follows:

14 DD. ESTABLISH, IN CONSULTATION WITH THE BIRD-FRIENDLY BUILDING COUNCIL  
15 ESTABLISHED PURSUANT TO SECTION 3-0121 OF THIS ARTICLE, CRITERIA TO  
16 IDENTIFY AND PROVIDE FOR THE RETROFITTING OF BUILDINGS WHICH POSE A  
17 THREAT TO BIRD POPULATIONS IN THE STATE.

18 S 8. Subdivisions 2 and 3 of section 11-0307 of the environmental  
19 conservation law, subdivision 2 as added by chapter 494 of the laws of  
20 1984 and subdivision 3 as amended by chapter 42 of the laws of 1991, are  
21 amended to read as follows:

22 2. The department shall, by rule and regulation, establish the means  
23 or method for creation of both voluntary migratory bird stamps and  
24 migratory bird art prints, their administration, sale and distribution  
25 and other matters relating to such voluntary stamps and art prints. The  
26 department shall select appropriate works of art that will reflect  
27 migratory bird species and/or aquatic ecosystem scenes. The department  
28 may prepare or cause to be prepared voluntary migratory bird stamps and  
29 prints for any year in excess of the number otherwise to be issued for  
30 sale to collectors or other persons desiring to purchase such voluntary  
31 stamps or prints. THE DEPARTMENT SHALL ANNUALLY PRINT AND MAKE AVAIL-  
32 ABLE FOR SALE A UNIQUE MIGRATORY BIRD PROTECTION STAMP.

33 3. The department shall prepare or cause to be prepared voluntary  
34 migratory bird stamps, INCLUDING THE MIGRATORY BIRD PROTECTION STAMP,  
35 and shall furnish such migratory bird stamps annually to license issuing  
36 agents and officers for issuance or sale in the same manner as other  
37 types of licenses. The department shall, by rule and regulation, estab-  
38 lish the fee for such voluntary stamps which shall not exceed five  
39 dollars as a fee and fifty cents for the issuing agent or officer for a  
40 stamp sold in the year in which it was issued. ALL MONEYS FROM THE SALE  
41 OF THE MIGRATORY BIRD PROTECTION STAMP SHALL BE DEPOSITED IN THE "BIRD-  
42 FRIENDLY BUILDING FUND" ESTABLISHED PURSUANT TO SECTION NINETY-THREE-A  
43 OF THE STATE FINANCE LAW. The purchase of a stamp is voluntary and need  
44 not be possessed in order to hunt migratory waterfowl.

45 S 9. The state finance law is amended by adding a new section 93-a to  
46 read as follows:

47 S 93-A. BIRD-FRIENDLY BUILDING FUND. 1. THERE IS HEREBY ESTABLISHED  
48 IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF TAXATION  
49 AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "BIRD-FRIENDLY BUILDING  
50 FUND".

51 2. SUCH FUND SHALL CONSIST OF MONEYS PAID THERETO FROM THE SALE OF THE  
52 MIGRATORY BIRD PROTECTION STAMP PURSUANT TO SECTION 11-0307 OF THE ENVI-  
53 RONMENTAL CONSERVATION LAW, AND ALL OTHER MONEYS APPROPRIATED, CREDITED  
54 OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

1       3. MONEYS OF THE FUND FOLLOWING APPROPRIATION THEREOF, SHALL BE  
2 EXPENDED PURSUANT TO PARAGRAPH DD OF SUBDIVISION TWO OF SECTION 3-0301  
3 OF THE ENVIRONMENTAL CONSERVATION LAW.  
4       S 10. This act shall take effect on the first of January next succeed-  
5 ing the date on which it shall have become a law.