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

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I N A S S E M B L Y

April 18, 2012

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

AN ACT to amend the general municipal law, in relation to community benefits agreements

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

Section 1. The general municipal law is amended by adding a new article 12-I to read as follows:

ARTICLE 12-I

COMMUNITY BENEFITS AGREEMENTS

SECTION 239-BB. COMMUNITY BENEFITS AGREEMENTS.

S 239-BB. COMMUNITY BENEFITS AGREEMENTS. 1. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY FOR THE PURPOSE OF ISSUANCE OF ANY APPROVALS OR PERMITS ANY BENEFIT THAT IS TANGIBLE MAY BE PLACED AT THE DISCRETION OF THE APPLICANT SO LONG AS THE BENEFIT IS PUBLICLY ACCESSIBLE. IF THE EXERCISE OF SUCH DISCRETION AS PERMITTED UNDER THIS SECTION RESULTS IN THE PLACEMENT OF A TANGIBLE COMMUNITY BENEFIT ON, OR ADJACENT TO, THE DEVELOPER'S PROJECT SITE, IT SHALL BE REQUIRED THAT THE BENEFIT BE REASONABLY RELATED TO THE PROJECT UNDERTAKEN BY SUCH APPLICANT. FOR PURPOSES OF THIS SECTION A COMMUNITY BENEFITS AGREEMENT IS A PRIVATE AGREEMENT BETWEEN AN APPLICANT SEEKING ANY APPROVALS OR PERMITS PURSUANT TO ARTICLE SIXTEEN OF THE TOWN LAW, ARTICLE SEVEN OF THE VILLAGE LAW OR ARTICLE FIVE-A OF THE GENERAL CITY LAW AND A COMMUNITY ORGANIZATION OR ORGANIZATIONS, WHERE SUPPORT OR FORBEARANCE WITH RESPECT TO SUCH APPROVALS OR PERMITS IS THE CONSIDERATION FOR SUCH AGREEMENT, EXCEPT THAT THIS SECTION SHALL NOT APPLY TO A CITY WITH A POPULATION OF ONE MILLION OR MORE.

2. PRIOR TO ENTERING INTO A COMMUNITY BENEFIT AGREEMENT WITH A DEVELOPER, THE MUNICIPALITY SHALL SET FORTH A MONETARY AMOUNT THAT THE DEVELOPER SHALL ALLOCATE TO PROVIDING THE BENEFIT. SUCH AMOUNT SHALL BE BASED ON A PERCENTAGE OF THE TOTAL PROJECT COST THAT SHALL NOT EXCEED FIVE PERCENT OF THE INCREASED DENSITY ABOVE WHAT IS ALLOWABLE FOR THE PROJECT UNDER CURRENT ZONING LAW. SUCH AMOUNT SHALL BE THE MAXIMUM FOR THE ENTIRE COMMUNITY BENEFIT AGREEMENT, INCLUDING ANY AGREEMENT MADE WITH

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

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ANY OR ALL COMMUNITY ORGANIZATIONS OR OTHER MUNICIPALITIES. AFTER ESTABLISHING SUCH AMOUNT, THE MUNICIPALITY SHALL NOT BE PERMITTED TO INCREASE THE COST THAT THE DEVELOPER SHALL BE REQUIRED TO INCUR IN PROVIDING THE BENEFIT.

S 2. This act shall take effect immediately.