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

3847--A

2011-2012 Regular Sessions

I N S E N A T E

March 7, 2011

Introduced by Sen. McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation -- recommitted to the Committee on Cultural Affairs, Tourism, Parks and Recreation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the arts and cultural affairs law, the real property tax law and the tax law, in relation to the establishment of arts-based districts; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Legislative findings. The legislature hereby finds that artists and related creative professions have high community value as cultural, social and economic assets. When they live and work in identifiable districts the opportunity exists for capitalizing for the benefit of residents of the district and the community at large through enhancing quality of life and supporting elements of a tourism and artist economy.

The legislature further finds that the cities of New York state have a long tradition of artistic creative activities and major artistic and cultural institutions including being the home to some of the world's major art museums and performing arts venues.

The legislature further finds that collaboration between cities and the state offers the opportunity to establish viable and productive arts-based districts capable of becoming a model for cities and villages throughout the state.

Therefore, the legislature hereby provides for an optional pilot program for the cities of Albany, Buffalo, Rochester, Syracuse and Troy to establish arts-based districts in their cities.

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

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S 2. Article 16 and section 16.01 of the arts and cultural affairs law are redesignated article 17 and section 17.01, and a new article 16 is added to read as follows:

ARTICLE 16

ARTS-BASED DISTRICTS

SECTION 16.01. DEFINITIONS.
16.03. ARTS-BASED DISTRICTS ADVISORY BOARD.
16.05. PILOT ARTS-BASED DISTRICTS.
16.07. STATE ASSISTANCE AND COOPERATION.

S 16.01. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "ARTISTIC WORK" MEANS AN ORIGINAL AND CREATIVE WORK, WHETHER WRITTEN, COMPOSED OR EXECUTED, THAT FALLS UNDER ONE OR MORE OF THE FOLLOWING CATEGORIES:

A. A BOOK OR OTHER WRITING;
B. A PLAY OR PERFORMANCE OF A PLAY;
C. A MUSICAL COMPOSITION OR THE PERFORMANCE OF A MUSICAL COMPOSITION;
D. A PAINTING OR OTHER PICTURE;
E. A PERFORMANCE PIECE;
F. A SCULPTURE;
G. TRADITIONAL OR FINE CRAFTS;
H. THE CREATION OF A FILM OR THE ACTING WITHIN A FILM;
I. THE CREATION OF A DANCE OR THE PERFORMANCE OF A DANCE; OR
J. THE CREATION OF ELECTRONIC ARTS.

2. "ARTS AND ENTERTAINMENT ENTERPRISE" MEANS A FOR-PROFIT OR NOT-FOR-PROFIT ENTITY DEDICATED TO VISUAL OR PERFORMING ARTS.

3. "QUALIFYING RESIDENT ARTISTS" MEANS AN INDIVIDUAL WHO: A. OWNS OR RENTS RESIDENTIAL REAL PROPERTY IN THE DISTRICT; AND

B. DERIVES INCOME FROM THE SALE OR PERFORMANCE WITHIN THE DISTRICT OF ANY ARTISTIC WORK THAT THE INDIVIDUAL WROTE, COMPOSED, OR EXECUTED, EITHER SOLELY OR WITH ONE OR MORE OTHER INDIVIDUALS.

4. "DISTRICT" OR "ARTS-BASED DISTRICT" SHALL MEAN A DISTRICT ESTABLISHED BY LOCAL LAW OR ORDINANCE PURSUANT TO SECTION 16.05 OF THIS ARTICLE.

5. "BOARD" MEANS THE STATE ARTS-BASED DISTRICTS ADVISORY BOARD AS ESTABLISHED IN SECTION 16.03 OF THIS ARTICLE.

S 16.03. ARTS-BASED DISTRICTS ADVISORY BOARD. 1. THERE IS HEREBY ESTABLISHED A STATE ARTS-BASED DISTRICTS ADVISORY BOARD TO ADVISE THE GOVERNOR AND STATE AGENCIES ON THE PILOT PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE. THE BOARD SHALL CONSIST OF THE CHIEF EXECUTIVE OFFICER OF THE URBAN DEVELOPMENT CORPORATION, THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL, THE DIRECTOR OF THE NEW YORK STATE COUNCIL ON THE ARTS, THE SECRETARY OF STATE, OR THEIR DESIGNATED REPRESENTATIVES, AND THREE PRIVATE CITIZENS REPRESENTATIVE OF INTERESTS RELATING TO SUCH PILOT PROGRAM AND APPOINTED BY THE GOVERNOR. THE PRIVATE MEMBERS SHALL HOLD OFFICE AT THE PLEASURE OF THE GOVERNOR. STATE AGENCIES SHALL PROVIDE STAFF SERVICES AS ARE NECESSARY AND APPROPRIATE FOR THE BOARD TO CARRY OUT ITS DUTIES UNDER THIS ARTICLE.

2. THE BOARD SHALL MEET AT LEAST THREE TIMES A YEAR AND SHALL FACILITATE AS PRACTICABLE THE IMPLEMENTATION OF PILOT PROJECTS UNDER THIS ARTICLE. THE BOARD SHALL REVIEW THE PLANS FOR ARTS-BASED DISTRICTS PURSUANT TO SECTION 16.05 OF THIS ARTICLE AND SHALL FORMALLY APPROVE EACH PLAN THAT MEETS THE PURPOSES OF THIS ARTICLE. IN ADDITION, THE BOARD SHALL REVIEW AND RESPOND TO RECOMMENDATIONS AND COMMENTS FROM THE PILOT COMMUNITIES ON THEIR NEEDS FOR SUPPORT IN IMPLEMENTING THIS ARTICLE.

3. DURING THE FOURTH YEAR NEXT SUCCEEDING THE EFFECTIVE DATE OF THIS ARTICLE, THE BOARD SHALL UNDERTAKE OR CAUSE TO BE UNDERTAKEN A STUDY ON THE EFFECTIVENESS OF THE PILOT PROJECT IN EACH OF THE PILOT CITIES AND SHALL PREPARE RECOMMENDATIONS FOR THE GOVERNOR AND LEGISLATURE ON WHETHER AN ARTS-BASED ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAM SHOULD BE ESTABLISHED STATEWIDE, AND, IF SO, MAKE RECOMMENDATIONS AS TO PROVISIONS INCLUDING STATE INCENTIVES FOR THE PROGRAM.

S 16.05. PILOT ARTS-BASED DISTRICTS. 1. IN ADDITION TO ANY OTHER AUTHORITY FOR SUCH PURPOSE, THE CITIES OF ALBANY, BUFFALO, ROCHESTER, SYRACUSE AND TROY MAY ESTABLISH AN ARTS-BASED DISTRICT WITHIN ITS BOUNDARIES. SUCH DISTRICT SHALL HAVE RESIDENTIAL AND ARTS-RELATED AND SERVICE-RELATED COMMERCIAL USES AND SHALL BE IDENTIFIED AS AN AREA PRIMARILY, BUT NOT EXCLUSIVELY, INTENDED FOR RESIDENTIAL USE BY ARTISTS AND PERSONS WORKING IN ARTS-RELATED ACTIVITIES WHICH SHALL BE DEEMED TO INCLUDE, BUT NOT BE LIMITED TO, ART GALLERIES, CRAFT STORES, THEATERS AND OTHER PERFORMANCE SPACES, MUSEUMS, BOOK STORES AND ARTIST SUPPLY BUSINESSES AND SERVICES-RELATED ACTIVITIES LIKE RESTAURANTS, FOOD STORES, DRY CLEANERS AND TOURISM.

2. SUCH DISTRICT SHALL BE DISTINGUISHED BY PHYSICAL AND CULTURAL RESOURCES THAT PLAY A VITAL ROLE IN THE LIFE AND DEVELOPMENT OF THE COMMUNITY AND CONTRIBUTE TO THE PUBLIC THROUGH INTERPRETATIVE, EDUCATIONAL AND RECREATIONAL USES.

3. SUCH DISTRICT SHALL HAVE AN ARTIST HOME OWNERSHIP PROGRAM TO ASSIST ARTISTS IN PURCHASING AND REHABILITATING A HOME WITHIN THE DISTRICT. SUCH DISTRICT SHALL BE SUBJECT TO A PLAN APPROVED BY THE LOCAL LEGISLATIVE BODY AND BE ORGANIZED AS A BUSINESS IMPROVEMENT DISTRICT PURSUANT TO THE GENERAL MUNICIPAL LAW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PROVISION MAY BE MADE FOR CONTRACT AND/OR INCENTIVE ZONING WITH SUCH DISTRICTS.

S 16.07. STATE ASSISTANCE AND COOPERATION. 1. TO EFFECTUATE THE PURPOSES OF THIS ARTICLE, A PILOT COMMUNITY MAY REQUEST FROM ANY DEPARTMENT, BOARD, BUREAU, COMMISSION OR OTHER AGENCY OF THE STATE, AND THE SAME ARE AUTHORIZED TO PROVIDE, SUCH COOPERATION AND ASSISTANCE, SERVICES AND DATA AS WILL ENABLE SUCH PILOT COMMUNITY TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

2. THE DEPARTMENT OF ECONOMIC DEVELOPMENT THROUGH THE STATE "I LOVE NEW YORK" PROGRAM SHALL PROVIDE TECHNICAL ASSISTANCE IN DEVELOPING A TOURISM MARKETING PLAN FOR EACH PILOT COMMUNITY AND SHALL AT THE APPROPRIATE TIME PREPARE OR CAUSE TO BE PREPARED A NATIONAL MARKETING EFFORT FOCUSING GENERALLY ON WORKING ARTISTS IN THE STATE AND PARTICULARLY ON THE DISTRICTS ESTABLISHED PURSUANT TO THIS ARTICLE.

3. THE DEPARTMENT OF ECONOMIC DEVELOPMENT IN CONSULTATION WITH THE BOARD SHALL CREATE A GRANT PROGRAM DESIGNED TO ASSIST IN THE DEVELOPMENT OF DISTRICTS PURSUANT TO THIS ARTICLE. WITHIN FUNDS MADE AVAILABLE THEREFOR, GRANTS SHALL BE MADE TO PILOT CITIES FOR THE PURPOSES OF INFRASTRUCTURE IMPROVEMENTS IN DISTRICTS, HOUSING ASSISTANCE FOR ARTISTS IN DISTRICTS AND DEVELOPMENT OF A THEMATIC APPROACH TO TOURISM PROMOTION IN DISTRICTS. THE COMMISSIONER IS DIRECTED TO ESTABLISH GUIDELINES AND AN APPLICATION PROCESS.

S 3. The real property tax law is amended by adding a new section 411 to read as follows:

S 411. CERTAIN ARTS-BASED DISTRICTS. 1. AFTER A PUBLIC HEARING, THE GOVERNING BODY OF THE CITIES OF ALBANY, BUFFALO, ROCHESTER, SYRACUSE AND TROY MAY ADOPT A LOCAL LAW OR A SCHOOL DISTRICT MAY ADOPT A RESOLUTION, PROVIDING FOR AN EXEMPTION PURSUANT TO THE PROVISIONS OF THIS SECTION. SUCH LOCAL LAW OR RESOLUTION MAY PROVIDE THAT AN IMPROVEMENT TO ANY REAL

PROPERTY USED SOLELY FOR RESIDENTIAL PURPOSES AS A ONE, TWO OR THREE FAMILY RESIDENCE PURSUANT TO AN ARTS-BASED DISTRICT PLAN PURSUANT TO ARTICLE SIXTEEN OF THE ARTS AND CULTURAL AFFAIRS LAW SHALL BE EXEMPT FROM TAXATION TO THE EXTENT OF ANY INCREASE IN VALUE ATTRIBUTABLE TO SUCH IMPROVEMENT IF SUCH IMPROVEMENT IS USED FOR THE PURPOSE OF FACILITATING AND ACCOMMODATING THE USE AND ACCESSIBILITY OF SUCH REAL PROPERTY BY A RESIDENT OWNER OF THE REAL PROPERTY WHO IS A QUALIFYING RESIDENT ARTIST PURSUANT TO SUCH ARTICLE SIXTEEN OF THE ARTS AND CULTURAL AFFAIRS LAW.

2. A LOCAL LAW OR RESOLUTION ADOPTED PURSUANT TO THIS SECTION MAY PROVIDE THAT THE EXEMPTION SHALL APPLY TO IMPROVEMENTS CONSTRUCTED PRIOR TO THE EFFECTIVE DATE OF SUCH LOCAL LAW OR RESOLUTION. IF THE ASSESSOR IS SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND ENTER THE TAXABLE ASSESSED VALUE OF THE PARCEL FOR WHICH AN EXEMPTION HAS BEEN GRANTED PURSUANT TO THIS SECTION ON THE ASSESSMENT ROLL WITH THE TAXABLE PROPERTY, WITH THE AMOUNT OF THE EXEMPTION IN A SEPARATE COLUMN.

S 4. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 44 to read as follows:

44. TANGIBLE PERSONAL PROPERTY CREATED BY A QUALIFIED RESIDENT ARTIST RESIDING IN AN ARTS-BASED DISTRICT PURSUANT TO ARTICLE SIXTEEN OF THE ARTS AND CULTURAL AFFAIRS LAW AND SOLD WITHIN THE MUNICIPAL CORPORATION IN WHICH THE ARTIST RESIDES.

S 5. This act shall take effect immediately and shall expire March 31, 2018 when upon such date the provisions of this act shall be deemed repealed.