

6316

I N S E N A T E

January 25, 2012

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the general municipal law, in relation to the brownfield opportunity area program

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

1 Section 1. The opening paragraph of section S 27-1403 of the environ-
2 mental conservation law, as added by section 1 of part A of chapter 1 of
3 the laws of 2003, is amended to read as follows:

4 The legislature hereby finds that there are thousands of abandoned and
5 likely contaminated properties that threaten the health and vitality of
6 the communities they burden, and that these sites, known as brownfields,
7 are also contributing to sprawl development and loss of open space. It
8 is therefore declared that, to advance the policy of the state of New
9 York to conserve, improve, and protect its natural resources and envi-
10 ronment and control water, land, and air pollution in order to enhance
11 the health, safety, and welfare of the people of the state and their
12 overall economic and social well being, it is appropriate to adopt this
13 act to encourage persons to voluntarily remediate brownfield sites for
14 reuse and redevelopment by establishing within the department a statuto-
15 ry program to encourage cleanup and redevelopment of brownfield sites.
16 All remedies shall be fully protective of public health and the environ-
17 ment including, but not limited to, groundwater according to its classi-
18 fication pursuant to section 17-0301 of this chapter. A remedial program
19 that achieves a permanent cleanup of a contaminated site, including the
20 restoration of groundwater to its classified use, is to be preferred
21 over a remedial program that does not do so. IT IS THE INTENT OF THE
22 LEGISLATURE THAT THE PROVISIONS OF THIS BROWNFIELD CLEANUP PROGRAM SHALL
23 NOT BE CONSTRUED AS LIMITING OR OTHERWISE AFFECTING ANY AUTHORITY
24 CONFERRED UPON THE DEPARTMENT BY ANY OTHER PROVISION OF LAW. IT IS ALSO
25 THE INTENT OF THE LEGISLATURE TO ENCOURAGE THE CLEANUP AND REDEVELOPMENT
26 OF BROWNFIELDS LOCATED IN BROWNFIELD OPPORTUNITY AREAS, AS DEFINED IN
27 SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, AND TO
28 ENCOURAGE SUCH REDEVELOPMENT TO BE IN CONFORMANCE WITH THE BROWNFIELD

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

LBD14046-01-2

1 OPPORTUNITY AREA NOMINATION AND IMPLEMENTATION STRATEGIES APPROVED
2 PURSUANT TO SUCH LAW.

3 S 2. Paragraph (d) of subdivision 3 of section 27-1413 of the environ-
4 mental conservation law, as amended by section 6 of part A of chapter
5 577 of the laws of 2004, is amended and a new paragraph (e) is added to
6 read as follows:

7 (d) the economic benefit to the state to be realized by the expe-
8 ditious remediation of the property[.]; AND

9 (E) FOR SITES WITHIN A BROWNFIELD OPPORTUNITY AREA AS DEFINED IN
10 SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, THE COMPAT-
11 IBILITY OF THE REMEDY WITH THE BROWNFIELD OPPORTUNITY AREA NOMINATION
12 AND IMPLEMENTATION STRATEGIES, AS VERIFIED BY THE SITE OWNER.

13 S 3. Paragraph (d) of subdivision 7 of section 27-1415 of the environ-
14 mental conservation law, as added by section 1 of part A of chapter 1 of
15 the laws of 2003, is amended to read as follows:

16 (d) The commissioner shall create, update, and maintain a database
17 system for public information purposes and to monitor and track all
18 brownfield sites subject to this title. Data incorporated into such
19 system for each site for which information has been collected pursuant
20 to this title shall include, but shall not be limited to, a site summa-
21 ry, name of site owner, location, status of site remedial activity,
22 WHETHER THE SITE IS LOCATED IN A BROWNFIELD OPPORTUNITY AREA AS DEFINED
23 IN SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, and, if
24 one has been created pursuant to title thirty-six of article seventy-one
25 of this chapter, a copy of the environmental easement, and a contact
26 number to obtain additional information. Sites shall be added to such
27 system upon the execution of a brownfield site cleanup agreement pursu-
28 ant to section 27-1409 of this title. If and when an environmental ease-
29 ment is modified or extinguished, the copy of the environmental easement
30 contained in the database shall be updated accordingly. Such database
31 shall be in such a format that it can be readily searched by affected
32 local governments and the public for purposes including but not limited
33 to determining whether an environmental easement has been recorded for a
34 site pursuant to title thirty-six of article seventy-one of this chap-
35 ter. The database shall be available electronically. Information from
36 this database shall be incorporated into the geographic information
37 system created and maintained by the department pursuant to section
38 3-0315 of this chapter.

39 S 4. Paragraph (a) of subdivision 4 of section 27-1417 of the environ-
40 mental conservation law, as amended by section 8 of part A of chapter
41 577 of the laws of 2004, is amended to read as follows:

42 (a) Within the limits of appropriations made available pursuant to
43 paragraph j of subdivision three of section ninety-seven-b of the state
44 finance law, the commissioner is authorized to provide grants to any
45 not-for-profit corporation exempt from taxation under section 501(c)(3)
46 of the internal revenue code at any site WHICH MAY BE AFFECTED BY A
47 BROWNFIELD SITE REMEDIAL PROGRAM AND IS determined BY THE DEPARTMENT
48 EITHER to pose a significant threat [by the department and which may be
49 affected by a brownfield site remedial program] OR TO BE LOCATED IN A
50 BROWNFIELD OPPORTUNITY AREA AS DEFINED IN SECTION NINE HUNDRED SEVENTY-R
51 OF THE GENERAL MUNICIPAL LAW. To qualify to receive such assistance, a
52 community group must demonstrate that its membership represents the
53 interests of the community affected by such site. Furthermore, the
54 commissioner is authorized to direct any applicant who is a responsible
55 party, as defined in section 27-1313 of this article, to provide such
56 grants. Such grants shall be known as technical assistance grants and

1 may be used to obtain technical assistance in interpreting information
2 with regard to the nature of the hazard posed by contamination located
3 or emanating from a brownfield site or sites and the development and
4 implementation of a brownfield site remedial program or programs. Such
5 grants may also be used to hire health and safety experts to advise
6 affected residents on any health assessments and for the education of
7 interested affected community members to enable them to more effectively
8 participate in the remedy selection process. Grants awarded under this
9 section may not be used for the purposes of collecting field sampling
10 data, political activity or lobbying legislative bodies.

11 S 5. Paragraphs e and f of subdivision 1 of section 27-1420 of the
12 environmental conservation law, as added by chapter 390 of the laws of
13 2008, are amended to read as follows:

14 e. the total number of certificates of completion issued; [and]

15 f. HOW MANY OF THE SITES APPROVED FOR PARTICIPATION, DENIED PARTIC-
16 IPATION, CURRENTLY PARTICIPATING, AND GRANTED CERTIFICATES OF COMPLETION
17 ARE LOCATED IN BROWNFIELD OPPORTUNITY AREAS AS DEFINED IN SECTION NINE
18 HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW; AND

19 G. such other information as the commissioner may determine is rele-
20 vant to the status of the administration of the program.

21 S 6. Subdivision 1 of section 27-1423 of the environmental conserva-
22 tion law, as amended by section 11 of part A of chapter 577 of the laws
23 of 2004, is amended and a new subdivision 3 is added to read as follows:

24 1. Pursuant to timetables contained in the brownfield site cleanup
25 agreement, AND EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF THIS
26 SECTION, the volunteer shall pay all state costs incurred in negotiating
27 and overseeing implementation of such agreement, provided, however, as
28 set forth in a brownfield site cleanup agreement pursuant to this title,
29 that such costs may be based upon a reasonable flat-fee for oversight,
30 which shall reflect the projected future state costs to be incurred in
31 negotiating and overseeing implementation of such agreement. In addi-
32 tion, a participant shall pay all costs incurred by the state up to the
33 effective date of such agreement.

34 3. NO COSTS SHALL BE INCURRED UNDER THIS SECTION FOR THE NEGOTIATION
35 AND OVERSIGHT OF A BROWNFIELD SITE CLEANUP AGREEMENT FOR SITES WITHIN A
36 BROWNFIELD OPPORTUNITY AREA, PROVIDED THAT THE FUTURE USE OF THE SITE,
37 AS DESCRIBED AND VERIFIED BY THE SITE OWNER, IS COMPATIBLE WITH THE
38 BROWNFIELD OPPORTUNITY AREA NOMINATION AND IMPLEMENTATION STRATEGIES,
39 AND DECLARED AS SUCH BY THE SECRETARY OF STATE. THE FULL COST INCURRED
40 IN NEGOTIATING AND OVERSEEING IMPLEMENTATION OF THE BROWNFIELD SITE
41 CLEANUP AGREEMENT SHALL BE IMMEDIATELY PAYABLE UPON DEVELOPMENT OF THE
42 SITE CONSISTENT WITH THE FUTURE USE AS DESCRIBED AND VERIFIED BY THE
43 SITE OWNER AND WITH THE BROWNFIELD OPPORTUNITY AREA IMPLEMENTATION STRA-
44 TEGIES DECLARED AS SUCH BY THE SECRETARY OF STATE.

45 S 7. Subdivision 1 of section 970-r of the general municipal law is
46 amended by adding a new paragraph j to read as follows:

47 J. "BROWNFIELD OPPORTUNITY AREA" SHALL MEAN A STUDY AREA ACCEPTED BY
48 THE SECRETARY IN CONNECTION WITH A FUNDING AWARD MADE PURSUANT TO THIS
49 SECTION OR A BROWNFIELD OPPORTUNITY AREA DESIGNATED BY THE SECRETARY
50 PURSUANT TO THIS SECTION.

51 S 8. Paragraph b of subdivision 2 of section 970-r of the general
52 municipal law, as added by section 1 of part F of chapter 1 of the laws
53 of 2003, is amended to read as follows:

54 b. Activities eligible to receive such assistance shall include, but
55 are not limited to, the assembly and development of basic information
56 about:

- 1 (1) the borders of the [proposed] brownfield opportunity area;
- 2 (2) the number and size of brownfield sites;
- 3 (3) current and anticipated uses of the properties in the [proposed]
- 4 BROWNFIELD OPPORTUNITY area;
- 5 (4) current and anticipated future conditions of groundwater in the
- 6 [proposed] BROWNFIELD OPPORTUNITY area;
- 7 (5) known data about the environmental conditions of the properties in
- 8 the [proposed] BROWNFIELD OPPORTUNITY area;
- 9 (6) ownership of the properties in the [proposed] BROWNFIELD OPPORTU-
- 10 NITY area; and
- 11 (7) preliminary descriptions of possible remediation strategies, reuse
- 12 opportunities, necessary infrastructure improvements and other public or
- 13 private measures needed to stimulate investment, promote revitalization,
- 14 and enhance community health and environmental conditions.

15 S 9. Subdivision 2 of section 970-r of the general municipal law is
16 amended by adding a new paragraph h to read as follows:

17 H. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE
18 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE
19 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH
20 FUNDS TO THE SECRETARY.

21 S 10. Subdivision 3 of section 970-r of the general municipal law, as
22 added by section 1 of part F of chapter 1 of the laws of 2003, para-
23 graphs a, b, g, h, i, the opening paragraph and subparagraph 6 of para-
24 graph f as amended by chapter 390 of the laws of 2008, paragraph f as
25 amended by section 1 of part F of chapter 577 of the laws of 2004, is
26 amended to read as follows:

27 3. State assistance for nominations to designate brownfield opportu-
28 nity areas. a. Within the limits of appropriations therefor, the secre-
29 tary is authorized to provide, on a competitive basis, financial assist-
30 ance to municipalities, to community based organizations, to community
31 boards, or to municipalities and community based organizations acting in
32 cooperation to prepare a nomination for designation of a brownfield
33 opportunity area. Such financial assistance shall not exceed ninety
34 percent of the costs of such nomination for any such area.

35 b. An application for such financial assistance shall include an indi-
36 cation of support from owners of brownfield sites in the [proposed]
37 brownfield opportunity area. All residents and property owners in the
38 [proposed] brownfield opportunity area shall receive notice OF THE
39 APPLICATION in such form and manner as the secretary shall prescribe.

40 c. No application for such financial assistance shall be considered
41 unless the applicant demonstrates that it has, to the maximum extent
42 practicable, solicited and considered the views of residents of the
43 [proposed] brownfield opportunity area, the views of state and local
44 officials elected to represent such residents and the local organiza-
45 tions representing such residents.

46 d. Activities eligible to receive such financial assistance shall
47 include the identification, preparation, creation, development and
48 assembly of information and elements to be included in a nomination for
49 designation of a brownfield opportunity area, including but not limited
50 to:

51 (1) A PLAN FOR THE REDEVELOPMENT AND REVITALIZATION OF THE BROWNFIELD
52 OPPORTUNITY AREA, THAT CONTAINS BUT IS NOT LIMITED TO:

- 53 (I) the borders of the [proposed] brownfield opportunity area;
- 54 [(2)] (II) the location of each known or suspected brownfield site in
- 55 the [proposed] brownfield opportunity area;

1 [(3)] (III) EXISTING DETAILED ASSESSMENTS OF INDIVIDUAL BROWNFIELD
2 SITES AND, WHERE THE CONSENT OF THE SITE OWNER HAS BEEN OBTAINED, THE
3 NEED FOR CONDUCTING ON-SITE ASSESSMENTS;

4 (IV) KNOWN DATA ABOUT THE ENVIRONMENTAL CONDITIONS OF PROPERTIES IN
5 THE BROWNFIELD OPPORTUNITY AREA;

6 (V) OWNERSHIP OF THE PROPERTIES IN THE BROWNFIELD OPPORTUNITY AREA;

7 (VI) THE GOALS AND OBJECTIVES, BOTH SHORT TERM AND LONG TERM, FOR THE
8 ECONOMIC REVITALIZATION OF THE BROWNFIELD OPPORTUNITY AREA;

9 (VII) IDENTIFICATION OF THE PUBLICLY CONTROLLED AND DEVELOPABLE LAND
10 AND BUILDINGS WITHIN THE BROWNFIELD OPPORTUNITY AREA WHICH ARE OR COULD
11 BE MADE AVAILABLE FOR DEVELOPMENT; AND

12 (VIII) the identification of strategic sites within the [proposed]
13 brownfield opportunity area AND THE DEVELOPMENT OF STRATEGIES FOR
14 IMPROVING THE LIKELIHOOD THAT SUCH STRATEGIC SITES ARE REUSED OR DEVEL-
15 OPED CONSISTENT WITH THE BROWNFIELD OPPORTUNITY AREA;

16 [(4)] (2) AN IMPLEMENTATION STRATEGY THAT INCLUDES, BUT IS NOT LIMITED
17 TO:

18 (I) the type of potential developments anticipated for sites within
19 the [proposed] brownfield opportunity area proposed by either the
20 current or the prospective owners of such sites;

21 [(5)] (II) local legislative or regulatory action which may be
22 required to implement a plan for the redevelopment of the [proposed]
23 brownfield opportunity area;

24 [(6)] (III) priorities for public and private investment in infras-
25 tructure, open space, economic development, housing, or community facil-
26 ities in the [proposed] brownfield opportunity area, INCLUDING THOSE
27 THAT MAY BE ELIGIBLE FOR PRIORITY OR PREFERENCE IN ACCORDANCE WITH
28 SUBDIVISION FIVE OF THIS SECTION;

29 [(7)] (IV) mapping of current and anticipated uses of the properties
30 and groundwater in the [proposed] brownfield opportunity area;

31 [(8)] (V) existing detailed assessments of individual brownfield sites
32 and, where the consent of the site owner has been obtained, the need for
33 conducting on-site assessments;

34 [(9)] (VI) known data about the environmental conditions of properties
35 in the [proposed] brownfield opportunity area;

36 [(10)] (VII) ownership of the properties in the [proposed] brownfield
37 opportunity area; AND

38 [(11)] (VIII) descriptions of possible remediation strategies, brown-
39 field redevelopment, necessary infrastructure improvements and other
40 public or private measures needed to stimulate investment, promote revi-
41 talization, and enhance community health and environmental conditions[;

42 (12) the goals and objectives, both short term and long term, for the
43 economic revitalization of the proposed brownfield opportunity area; and

44 (13) the publicly controlled and other developable lands and buildings
45 within the proposed brownfield opportunity area which are or could be
46 made available for residential, industrial and commercial development].

47 (3) ACTIVITIES TO ADDRESS KNOWN CONTAMINATION:

48 (I) THE TESTING OF PROPERTIES TO DETERMINE THE NATURE AND EXTENT OF
49 THE CONTAMINATION (INCLUDING SOIL AND GROUNDWATER);

50 (II) ENVIRONMENTAL ASSESSMENTS, IN CONFORMANCE WITH APPLICABLE
51 REQUIREMENTS OF THE COMMISSIONER;

52 (III) THE DEVELOPMENT OF A PROPOSED REMEDIATION STRATEGY TO ADDRESS
53 ANY IDENTIFIED CONTAMINATION, IN CONFORMANCE WITH APPLICABLE REQUIRE-
54 MENTS OF THE COMMISSIONER; AND

55 (IV) ANY OTHER ACTIVITIES RELATING TO ENVIRONMENTAL CONTAMINATION
56 DEEMED APPROPRIATE BY THE SECRETARY.

1 e. Funding preferences shall be given to applications for such assist-
2 ance that relate to areas having one or more of the following character-
3 istics:

4 (1) areas for which the application is a partnered application by a
5 municipality and a community based organization;

6 (2) areas with concentrations of brownfield sites;

7 (3) areas for which the application demonstrates support from a muni-
8 cipality and a community based organization;

9 (4) areas showing indicators of economic distress including low resi-
10 dent incomes, high unemployment, high commercial vacancy rates,
11 depressed property values; and

12 (5) areas with brownfield sites presenting strategic opportunities to
13 stimulate economic development, community revitalization or the siting
14 of public amenities.

15 f. Each application for such assistance shall be submitted to the
16 secretary in a format, and containing such information, as prescribed by
17 the secretary but shall include, at a minimum, the following:

18 (1) a statement of the rationale or relationship between the proposed
19 assistance and the criteria set forth in this section for the evaluation
20 and ranking of assistance applications;

21 (2) the processes by which local participation in the development of
22 the application has been sought;

23 (3) the process to be carried out under the state assistance includ-
24 ing, but not limited to, the goals of and budget for the effort, the
25 work plan and timeline for the attainment of these goals, and the
26 intended process for public participation in the process;

27 (4) the manner and extent to which public or governmental agencies
28 with jurisdiction over issues that will be addressed in the data gather-
29 ing process will be involved in this process;

30 (5) other planning and development initiatives proposed or in progress
31 in the [proposed] brownfield opportunity area;

32 (6) for each community based organization which is an applicant or a
33 co-applicant, a copy of its determination of tax exempt status issued by
34 the federal internal revenue service pursuant to section 501 of the
35 internal revenue code, a description of the relationship between the
36 community based organization and the area that is the subject of the
37 application, its financial and institutional accountability, its experi-
38 ence in conducting and completing planning initiatives and in working
39 with the local government associated with the [proposed] brownfield
40 opportunity area; and

41 (7) the financial commitments the applicant will make to the brown-
42 field opportunity area for activities including, but not limited to,
43 marketing of the area for business development, human resource services
44 for residents and businesses in the brownfield opportunity area, and
45 services for small and minority and women-owned businesses.

46 g. The secretary, upon the receipt of an application for such assist-
47 ance from a community based organization not in cooperation with the
48 local government having jurisdiction over the [proposed] brownfield
49 opportunity area, shall request the municipal government to review and
50 state the municipal government's support or lack of support. The munici-
51 pal government's statement shall be considered a part of the applica-
52 tion.

53 h. Prior to making an award for assistance, the secretary shall notify
54 the temporary president of the senate and speaker of the assembly.

55 i. Following notification to the applicant that assistance has been
56 awarded, and prior to disbursement of funds, a contract shall be

1 executed between the department and the applicant or co-applicants. The
2 secretary shall establish terms and conditions for such contracts as the
3 secretary deems appropriate, including provisions to define: applicant's
4 work scope, work schedule, and deliverables; fiscal reports on budgeted
5 and actual use of funds expended; and requirements for submission of a
6 final fiscal report. The contract shall also require the distribution of
7 work products to the department, and, for community based organizations,
8 to the applicant's municipality. Applicants shall be required to make
9 the results publicly available. Such contract shall further include a
10 provision providing that if any responsible party payments become avail-
11 able to the applicant, the amount of such payments attributable to
12 expenses paid by the award shall be paid to the department by the appli-
13 cant; provided that the applicant may first apply such responsible party
14 payments toward any actual project costs incurred by the applicant.

15 J. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE
16 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE
17 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH
18 FUNDS TO THE SECRETARY.

19 S 11. Subdivision 4 of section 970-r of the general municipal law, as
20 amended by chapter 390 of the laws of 2008, is amended to read as
21 follows:

22 4. Designation of brownfield opportunity area. A. Upon completion of a
23 nomination for designation of a brownfield opportunity area, it shall be
24 forwarded by the applicant to the secretary, who shall determine whether
25 it is consistent with the provisions of this section. If the secretary
26 determines that the nomination is consistent with the provisions of this
27 section, the brownfield opportunity area shall be designated. If the
28 secretary determines that the nomination is not consistent with the
29 provisions of this section, the secretary shall make recommendations in
30 writing to the applicant of the manner and nature in which the nomi-
31 nation should be amended.

32 B. THE SECRETARY SHALL MAKE THE DETERMINATION REGARDING WHETHER A
33 QUALIFIED SITE SUBJECT TO A BROWNFIELD SITE CLEANUP AGREEMENT PURSUANT
34 TO SECTION 27-1409 OF THE ENVIRONMENTAL CONSERVATION LAW IS CONSISTENT
35 WITH A DESIGNATED BROWNFIELD OPPORTUNITY AREA. THE SECRETARY SHALL
36 PROMULGATE REGULATIONS TO ESTABLISH THE PROCESS, CRITERIA AND TIMING FOR
37 MAKING DETERMINATIONS WHETHER A QUALIFIED SITE IS CONSISTENT WITH A
38 DESIGNATED BROWNFIELD OPPORTUNITY AREA.

39 S 12. Subdivision 5 of section 970-r of the general municipal law, as
40 added by section 1 of part F of chapter 1 of the laws of 2003, is
41 amended to read as follows:

42 5. Priority and preference. The designation of a brownfield opportu-
43 nity area pursuant to this section is intended to serve as a planning
44 tool. It alone shall not impose any new obligations on any property or
45 property owner.

46 A. UPON THE AWARD OF FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION,
47 THE SECRETARY SHALL NOTIFY THE DIVISION OF HOUSING AND COMMUNITY
48 RENEWAL, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPARTMENT OF
49 TRANSPORTATION, THE DEPARTMENT OF PARKS, RECREATION AND HISTORIC PRESER-
50 VATION, AND THE EMPIRE STATE DEVELOPMENT CORPORATION OF SUCH ASSISTANCE,
51 AND INCLUDE IN SUCH NOTIFICATION A DESCRIPTION OF THE BROWNFIELD OPPOR-
52 TUNITY AREA STUDY AREA AND A REQUEST FOR RELEVANT INFORMATION CONCERN-
53 ING, WITHOUT LIMITATION, LAND USES, CAPITAL PROJECTS AND PLANS RELATING
54 TO PROPERTIES OR THE COMMUNITY WITHIN SUCH BROWNFIELD OPPORTUNITY AREA
55 STUDY AREA, EXISTING PLANS AND PLANNING DOCUMENTS, DEMOGRAPHICS, AND

1 LOCATION, MAPS AND DESCRIPTION OF EXISTING AND PROPOSED PUBLIC FACILI-
2 TIES AND INFRASTRUCTURE.

3 B. UPON THE AWARD OF FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION,
4 THE SECRETARY SHALL NOTIFY RELEVANT FEDERAL AND LOCAL AGENCIES OF SUCH
5 ASSISTANCE, AND INCLUDE IN SUCH NOTIFICATION A DESCRIPTION OF THE BROWN-
6 FIELD OPPORTUNITY AREA STUDY AREA AND A REQUEST FOR RELEVANT INFORMATION
7 CONCERNING, WITHOUT LIMITATION, LAND USES, CAPITAL PROJECTS AND PLANS
8 RELATING TO PROPERTIES OR THE COMMUNITY WITHIN SUCH BROWNFIELD OPPORTU-
9 NITY AREA STUDY AREA, EXISTING PLANS AND PLANNING DOCUMENTS, DEMOGRAPH-
10 ICS, AND LOCATION, MAPS AND DESCRIPTION OF EXISTING AND PROPOSED PUBLIC
11 FACILITIES AND INFRASTRUCTURE.

12 C. WITHIN SIX MONTHS OF AN AWARD OF FINANCIAL ASSISTANCE PURSUANT TO
13 THIS SECTION, THE SECRETARY SHALL SEEK COOPERATION FROM RELEVANT FEDER-
14 AL, STATE AND LOCAL AGENCIES IN THE GATHERING OF INFORMATION ABOUT
15 RESOURCES AND OR PROGRAMS THAT MAY BE RELEVANT TO THE BROWNFIELD OPPOR-
16 TUNITY AREA STUDY AREA.

17 D. To the extent authorized by law, projects in brownfield opportunity
18 areas designated pursuant to this section shall receive a priority and
19 preference when considered for financial assistance pursuant to articles
20 fifty-four and fifty-six of the environmental conservation law.

21 E. To the extent authorized by law, projects in brownfield opportunity
22 areas designated pursuant to this section may receive a priority and
23 preference when considered for financial assistance pursuant to any
24 other state, federal or local law.

25 F. THE SECRETARY SHALL TAKE SUCH MEASURES AS MAY BE NECESSARY TO
26 DETERMINE THE AVAILABILITY OF SUCH FINANCIAL AND OTHER ASSISTANCE AND TO
27 SEEK COOPERATION WITH OTHER STATE, FEDERAL AND LOCAL OFFICIALS IN
28 PROVIDING A PRIORITY AND PREFERENCE TO APPLICANTS PURSUANT TO THIS
29 SUBDIVISION.

30 G. THE SECRETARY SHALL, IN CONSULTATION WITH OTHER STATE AGENCIES,
31 ISSUE A BROWNFIELD OPPORTUNITY AREA PREFERENCE AND PRIORITY REPORT TO
32 THE GOVERNOR, LEGISLATURE AND MEMBERS SERVING ON THE NEW YORK BROWN-
33 FIELDS ADVISORY BOARD PURSUANT TO SECTION 27-1435 OF THE ENVIRONMENTAL
34 CONSERVATION LAW WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION
35 AND EACH SUBSEQUENT YEAR THEREAFTER, IDENTIFYING FUNDING PROGRAMS AND
36 RESOURCES RELEVANT TO AND UTILIZED IN THE IMPLEMENTATION OF BROWNFIELD
37 OPPORTUNITY AREAS. STATE AGENCIES SHALL PROVIDE INFORMATION ABOUT HOW
38 THEY HAVE SOUGHT TO ACHIEVE PREFERENCE AND PRIORITY FOR PROJECTS BUILT
39 CONSISTENT WITH A DESIGNATED BROWNFIELD OPPORTUNITY AREA IN FUNDING
40 PROGRAMS IDENTIFIED IN THE REPORT, INCLUDING BUT NOT LIMITED TO, MODIFY-
41 ING PROGRAM ELIGIBILITY AND RANKING CRITERIA TO PROVIDE FOR PREFERENCE
42 AND PRIORITY FOR PROJECTS BUILT CONSISTENT WITH A DESIGNATED BROWNFIELD
43 OPPORTUNITY AREA.

44 H. FOR TEN YEARS FOLLOWING NOTIFICATION OF FINANCIAL ASSISTANCE, MUNI-
45 CIPALITIES, COMMUNITY BASED ORGANIZATIONS AND COMMUNITY BOARDS AWARDED
46 FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION SHALL BE REQUIRED TO
47 SUBMIT AN ANNUAL REPORT TO THE SECRETARY PROJECTING THE FUNDING,
48 PROGRAMS AND ANY OTHER RESOURCES NEEDED OVER THE UPCOMING FIVE YEARS TO
49 ADVANCE THEIR BROWNFIELD OPPORTUNITY AREA.

50 S 13. Subdivision 6 of section 970-r of the general municipal law, as
51 added by section 1 of part F of chapter 1 of the laws of 2003, paragraph
52 a as amended by chapter 386 of the laws of 2007 and paragraph h as
53 amended by section 1 of part F of chapter 577 of the laws of 2004, is
54 amended to read as follows:

55 6. State assistance for [brownfield site assessments in] IMPLEMENTA-
56 TION STRATEGIES FOR brownfield opportunity areas. a. Within the limits

1 of appropriations therefor, the [commissioner, in consultation with the]
2 secretary [of state,] is authorized to provide, on a competitive basis,
3 financial assistance to municipalities, to community based organiza-
4 tions, to community boards, or to municipalities and community based
5 organizations acting in cooperation to conduct [brownfield site assess-
6 ments] IMPLEMENTATION STRATEGIES in a brownfield opportunity area
7 [designated pursuant to this section]. Such financial assistance shall
8 not exceed ninety percent of the costs of such brownfield [site assess-
9 ment] OPPORTUNITY AREA IMPLEMENTATION STRATEGIES.

10 b. [Brownfield sites eligible for such assistance must be owned by a
11 municipality, or volunteer as such term is defined in section 27-1405 of
12 the environmental conservation law.

13 c. Brownfield site assessment] IMPLEMENTATION STRATEGIES activities
14 eligible for funding include, but are not limited to, (I) testing of
15 properties to determine the nature and extent of the contamination
16 (including soil and groundwater), environmental assessments IN CONFORM-
17 ANCE WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER, the development
18 of a proposed remediation strategy to address any identified contam-
19 ination IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER,
20 and any other activities deemed appropriate by the [commissioner in
21 consultation with the] secretary [of state]. [Any environmental assess-
22 ment shall be subject to the review and approval of such commissioner.

23 d.] BROWNFIELD SITES ELIGIBLE FOR SUCH ASSISTANCE MUST BE OWNED BY A
24 MUNICIPALITY, OR VOLUNTEER AS SUCH TERM IS DEFINED IN SECTION 27-1405 OF
25 THE ENVIRONMENTAL CONSERVATION LAW; (II) ACTIONS TO EFFECTUATE LOCAL
26 LAND USE CHANGES, INCLUDING ZONING AND NECESSARY LOCAL LAW AMENDMENTS
27 IDENTIFIED IN THE BROWNFIELD OPPORTUNITY AREA; (III) ESTABLISHING DESIGN
28 STANDARDS AND DESIGN GUIDELINES, INCLUDING REQUIREMENTS FOR ENERGY EFFI-
29 CIENCY, GREEN INFRASTRUCTURE AND WATER RE-USE AND OTHER SUSTAINABILITY
30 AND GREEN DESIGN ELEMENTS; (IV) ACTIVITIES TO MARKET STRATEGIC SITES IN
31 A BROWNFIELD OPPORTUNITY AREA AND OTHER ACTIVITIES TO ATTRACT DEVELOPER
32 INTEREST; AND (V) PRE-DEVELOPMENT ACTIVITIES TO ADVANCE THE BROWNFIELD
33 OPPORTUNITY AREA.

34 C. Applications for such assistance shall be submitted to the [commis-
35 sioner] SECRETARY in a format, and containing such information, as
36 prescribed by the [commissioner in consultation with the] secretary [of
37 state].

38 [e.] D. Funding preferences shall be given to applications for such
39 assistance that relate to areas having one or more of the following
40 characteristics:

41 (1) areas for which the application is a partnered application by a
42 municipality and a community based organization;

43 (2) areas with concentrations of brownfield sites;

44 (3) areas for which the application demonstrates support from a muni-
45 cipality and a community based organization;

46 (4) areas showing indicators of economic distress including low resi-
47 dent incomes, high unemployment, high commercial vacancy rates,
48 depressed property values; and

49 (5) areas with brownfield sites presenting strategic opportunities to
50 stimulate economic development, community revitalization or the siting
51 of public amenities.

52 [f.] E. The [commissioner] SECRETARY, upon the receipt of an applica-
53 tion for such assistance from a community based organization not in
54 cooperation with the local government having jurisdiction over the
55 [proposed] brownfield opportunity area, shall request the municipal
56 government to review and state the municipal government's support or

1 lack of support. The municipal government's statement shall be consid-
2 ered a part of the application.

3 [g.] F. Prior to making an award for assistance, the [commissioner]
4 SECRETARY shall notify the temporary president of the senate and the
5 speaker of the assembly.

6 [h.] G. Following notification to the applicant that assistance has
7 been awarded, and prior to disbursement of funds, a contract shall be
8 executed between the department and the applicant or co-applicants. The
9 [commissioner] SECRETARY shall establish terms and conditions for such
10 contracts as the [commissioner] SECRETARY deems appropriate [in consul-
11 tation with the secretary of state], including provisions to define:
12 applicant's work scope, work schedule, and deliverables; fiscal reports
13 on budgeted and actual use of funds expended; and requirements for
14 submission of a final fiscal report. The contract shall also require the
15 distribution of work products to the department, and, for community
16 based organizations, to the applicant's municipality. Applicants shall
17 be required to make the results publicly available. Such contract shall
18 further include a provision providing that if any responsible party
19 payments become available to the applicant, the amount of such payments
20 attributable to expenses paid by the award shall be paid to the depart-
21 ment by the applicant; provided that the applicant may first apply such
22 responsible party payments towards actual project costs incurred by the
23 applicant.

24 H. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE
25 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE
26 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH
27 FUNDS TO THE SECRETARY.

28 S 14. Subdivision 7 of section 970-r of the general municipal law, as
29 amended by chapter 390 of the laws of 2008, is amended to read as
30 follows:

31 7. Amendments to designated area. Any proposed amendment to a brown-
32 field opportunity area designated pursuant to this section shall be
33 proposed TO, and reviewed by the secretary[, in the same manner and
34 using the same criteria set forth in this section and applicable to an
35 initial nomination for the designation of a brownfield opportunity
36 area]. THE SECRETARY SHALL PROMULGATE RULES THAT CONTAIN CRITERIA AND
37 TIMEFRAMES FOR REVIEW AND APPROVAL OF AMENDMENTS.

38 S 15. Subdivision 8 of section 970-r of the general municipal law, as
39 added by section 1 of part F of chapter 1 of the laws of 2003, is
40 amended to read as follows:

41 8. Applications. a. All applications for pre-nomination study assist-
42 ance or applications for designation of a brownfield opportunity area
43 shall demonstrate that the following community participation activities
44 have been or will be performed by the applicant:

45 (1) identification of the interested public and preparation of a
46 contact list;

47 (2) identification of major issues of public concern;

48 (3) provision [to] FOR access to the draft and final application for
49 pre-nomination assistance and brownfield opportunity area designation
50 supporting documents in a manner convenient to the public;

51 (4) public notice and newspaper notice of (i) the intent of the muni-
52 cipality and/or community based organization to undertake a pre-nomina-
53 tion process or prepare a brownfield opportunity area plan, and (ii) the
54 availability of such application.

55 b. Application for nomination of a brownfield opportunity area shall
56 provide the following minimum community participation activities:

1 (1) a comment period of at least thirty days on a draft application;
2 (2) a public meeting on a brownfield opportunity area draft applica-
3 tion.

4 C. AN APPLICANT THAT HAS SATISFACTORILY SUBMITTED INFORMATION EQUIV-
5 ALENT TO A PRE-NOMINATION STUDY MAY FORGO A PRE-NOMINATION STUDY AND IS
6 ELIGIBLE TO APPLY FOR STATE ASSISTANCE FOR NOMINATIONS TO DESIGNATE A
7 BROWNFIELD OPPORTUNITY AREA.

8 D. APPLICATIONS FOR PRE-NOMINATION OR NOMINATION PURSUANT TO THIS
9 SECTION MAY BE SUBMITTED TO THE SECRETARY AT ANY TIME DURING THE CALEN-
10 DAR YEAR.

11 S 16. This act shall take effect immediately.