

9081

I N A S S E M B L Y

March 13, 2014

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Economic Development

AN ACT to amend the urban development corporation act and the state finance law, in relation to establishing the New York state digital game development and incentive act

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

1 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting
2 the New York state urban development corporation act, is amended by
3 adding a new section 16-w to read as follows:
4 S 16-W. THE NEW YORK STATE DIGITAL GAME DEVELOPMENT AND INCENTIVE ACT.
5 1. AS USED IN THIS SECTION:
6 A. "DIGITAL GAME DEVELOPMENT" OR "DIGITAL GAME SOFTWARE" COMPANIES
7 (COLLECTIVELY, "DIGITAL GAME COMPANIES") AND PUBLISHERS ARE COMPANIES
8 ENGAGED IN DEVELOPING, PRODUCING, OR PUBLISHING ENTERTAINMENT SOFTWARE
9 FOR ONE OR MULTIPLE PLATFORMS OR PLAYING DEVICES THAT MAY OR MAY NOT BE
10 DOWNLOADED ELECTRONICALLY, INCLUDING COMPANIES THAT ARE OR WOULD BE
11 CLASSIFIED UNDER NAIC CODE 511210 OR ANY SUCCESSOR THERETO;
12 B. "NEW YORK STATE INCUBATOR" OR "NEW YORK STATE INNOVATION HOT SPOT"
13 HAVE THE SAME MEANINGS AS "NEW YORK STATE INCUBATORS" AND "NEW YORK
14 STATE INNOVATION HOT SPOTS" AS USED IN SECTION SIXTEEN-V OF THIS ACT;
15 C. "ANCHOR TENANT" MEANS ENTITIES OR PERSONS SO DESIGNATED BY THE
16 COMMISSIONER OF ECONOMIC DEVELOPMENT THAT ARE DIGITAL GAME COMPANIES, OR
17 ARE SUBSIDIARIES OF OR NEW VENTURES OWNED WHOLLY OR IN PART BY DIGITAL
18 GAME COMPANIES. AN ENTITY OR PERSON CANNOT BE AN ANCHOR TENANT UNLESS IT
19 IS RESIDENT IN NEW YORK STATE AND ESTABLISHES OPERATIONS PURSUANT TO THE
20 START-UP NY PROGRAM AUTHORIZED UNDER ARTICLE 21 OF THE ECONOMIC DEVELOP-
21 MENT LAW IN AN INDUSTRY CLUSTER OF DIGITAL GAME COMPANIES.
22 2. THE CORPORATION IS AUTHORIZED AND DIRECTED, WITHIN AMOUNTS MADE
23 AVAILABLE TO IT BY APPROPRIATION THEREFOR AND SUCH OTHER PUBLIC AND
24 PRIVATE FUNDS AS SHALL ADDITIONALLY BE MADE AVAILABLE, TO PROVIDE LOANS
25 AND GRANTS FOR SERVICES AND EXPENSES RELATED TO PLANNING AND IMPLEMENT-
26 ING A NEW YORK STATE DIGITAL GAME SUMMIT, TO SUPPORT AND PROMOTE OTHER
27 LOCAL AND REGIONAL DIGITAL GAME EVENTS, AND TO ORGANIZE STATE REPRESENT-

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

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TATION AT NATIONAL DIGITAL GAME EVENTS DEEMED AFTER CONSULTATION WITH THE NEW YORK STATE DIGITAL GAME DEVELOPMENT ADVISORY BOARD TO BE SIGNIFICANT AND APPROPRIATE TO RAISING NEW YORK'S PROFILE AND STATUS IN THE GAME DEVELOPMENT INDUSTRY. PRIOR TO TAKING SUCH ACTIONS, THE CORPORATION SHALL CONSULT WITH AND DEVELOP A PLAN TO MAXIMIZE THE EFFECT OF SUCH ACTIVITIES WITH THE NEW YORK DIGITAL GAME DEVELOPMENT ADVISORY BOARD. GENERAL REQUIREMENTS AND PARAMETERS FOR THESE ACTIVITIES SHALL BE AS FOLLOWS:

A. NEW YORK STATE GAME SUMMIT SHALL BE A MULTI-DAY CONVENTION AND CELEBRATION OF NEW YORK'S DIGITAL GAME INDUSTRY, INCLUDING ENTREPRENEURS, STUDENTS, ACADEMIC INSTITUTIONS, AND COMPANIES, TO BE HELD IN NEW YORK CITY AT A TIME WHEN THERE IS THE LEAST AMOUNT OF COMPETITION FROM OTHER NATIONAL AND IN-STATE EVENTS, AT A VENUE WITH A HISTORY AND INTEREST IN DIGITAL GAMING OR IN CONVENTIONS WHICH ARE ABLE TO HOUSE THE LAUNCH OF A GROWING EVENT. THE GAME SUMMIT WILL ALSO INCLUDE THE FINALS OF THE NEW YORK DIGITAL GAME DEVELOPMENT COMPETITION, CREATED AND AUTHORIZED BY THIS SECTION, AND SHALL INCLUDE DEMONSTRATIONS AND DISCUSSIONS OF GAMES, EDUCATIONAL FORUMS IN WHICH EDUCATORS CAN LEARN ABOUT USING GAMES IN THE CLASSROOM, AND OTHER ACTIVITIES DEEMED APPROPRIATE BY THE CORPORATION TO SUCH AN EVENT. THE CORPORATION SHALL PARTNER WITH AND SUPPORT ONE OR MORE PRIVATE ENTITIES AND TRADE ASSOCIATIONS THAT CREATE AND IMPLEMENT THE SUMMIT.

B. REGIONAL SUPPORT SHALL INCLUDE SUPPORT OF AND COLLABORATIONS WITH REGIONAL AND LOCAL DIGITAL GAME PUBLISHERS AND DEVELOPER EVENTS, FOR THE PURPOSE OF CREATING AN ECOSYSTEM OF RELATED GATHERINGS, MEETINGS, AND COMPETITIONS IN THIS STATE.

C. REPRESENTATION AT EVENTS WILL ENTAIL THE CORPORATION ORGANIZING AND/OR PARTICIPATING IN REPRESENTATION OF NEW YORK DIGITAL GAME COMPANIES, ENTREPRENEURS, ACADEMICS, AND OTHERS AT MAJOR GAME EVENTS AND VENUES.

3. THE CORPORATION IS AUTHORIZED, WITHIN AMOUNTS MADE AVAILABLE TO IT BY APPROPRIATION THEREFOR AND WITH SUCH OTHER PUBLIC AND PRIVATE FUNDS AS SHALL ADDITIONALLY BE MADE AVAILABLE, TO PLAN AND IMPLEMENT THE NEW YORK STATE DIGITAL GAME DEVELOPMENT COMPETITION, THE PURPOSE OF WHICH SHALL BE TO ANNUALLY RECOGNIZE AND ENCOURAGE EMERGING TALENT IN GAME DEVELOPMENT IN THIS STATE THROUGH A THREE STAGE JUDGED COMPETITION FOR PRIZES OVER A PERIOD NOT LONGER THAN TWENTY-FOUR MONTHS. THE CORPORATION SHALL CONSULT WITH AND DEVELOP A PLAN FOR THE GAME DEVELOPMENT COMPETITION WITH THE NEW YORK DIGITAL GAME DEVELOPMENT ADVISORY BOARD. GENERAL REQUIREMENTS AND PARAMETERS FOR THESE ACTIVITIES ARE AS FOLLOWS:

A. THE FIRST COMPETITION SHALL TAKE PLACE WITHIN EACH ECONOMIC DEVELOPMENT REGION IN THE STATE, AND SHALL RESULT IN TEN WINNERS PER REGION. NOTHING CONTAINED HEREIN SHALL PREVENT TWO OR MORE REGIONS FROM COLLABORATING IN THIS STAGE OF THE COMPETITION, AND THE CORPORATION SHALL ESTABLISH RULES OR GUIDELINES TO GOVERN SUCH COLLABORATIONS. THE SECOND COMPETITION SHALL TAKE PLACE AMONG THE WINNERS OF THE FIRST COMPETITION, AND SHALL RESULT IN TEN WINNERS. THIS COMPETITION SHALL BE SCHEDULED AT DIFFERENT VENUES WITHIN THE STATE EACH YEAR TO ASSURE GEOGRAPHICAL BALANCE. THE FINAL COMPETITION SHALL RESULT IN TWO WINNERS AND SHALL BE CONDUCTED AS PART OF THE NEW YORK STATE DIGITAL GAME SUMMIT. WINNERS OF THE FIRST COMPETITION SHALL RECEIVE PRIZES OF TEN THOUSAND DOLLARS EACH. WINNERS OF THE SECOND COMPETITION SHALL RECEIVE MATCHING FUND PRIZES OF UP TO ONE HUNDRED THOUSAND DOLLARS EACH. WINNERS OF THE THIRD COMPETITION SHALL RECEIVE PRIZES OF FIVE HUNDRED THOUSAND DOLLARS EACH.

B. EACH COMPETITION SHALL BE JUDGED BY A SEVEN-MEMBER PANEL OF INDUSTRY OFFICIALS, ENTREPRENEURS, ACADEMICS, AND ECONOMIC DEVELOPMENT OFFI-

1 CIALS IN THE REGION OR IN THE STATE AS APPROPRIATE TO THE LEVEL OF THE
2 COMPETITION, SELECTED BY THE CORPORATION BASED ON RECOMMENDATIONS FROM
3 THE COMMUNITY, THE GAMING INDUSTRY, AND GOVERNMENT AND OTHER OFFICIALS
4 IN THE REGION. THE PANELS SHOULD INCLUDE A PREPONDERANCE OF JUDGES WHO
5 ARE INDUSTRY OFFICIALS, ENTREPRENEURS, ACADEMICS, AND SUCH JUDGES SHOULD
6 HAVE A BACKGROUND IN OR KNOWLEDGE OF DIGITAL GAMES, GAME PUBLISHING, AND
7 GAME DEVELOPMENT AND AN UNDERSTANDING OF COMMERCIAL APPEAL AND MARKET-
8 BILITY OF GAMES.

9 C. THE CORPORATION SHALL ESTABLISH CRITERIA FOR ELIGIBILITY OF COMPE-
10 TITION ENTRANTS THAT REQUIRE RESIDENCY IN THIS STATE AND THAT LIMIT
11 ENTRANTS TO NEW AND EMERGING TALENT AND EARLY SEED STAGE STARTUP ENTRE-
12 PRENEURS AS EVIDENCED BY FACTORS SUCH AS THAT THE ENTRANT HAS NOT
13 PUBLISHED A GAME PREVIOUSLY OR, IF SUCH ENTRANT HAS PUBLISHED A GAME IT
14 HAS EARNED A SMALL AMOUNT AS DETERMINED BY THE CORPORATION, OR THAT SUCH
15 ENTRANT IS CURRENTLY A CLIENT OF A NEW YORK STATE INCUBATOR OR NEW YORK
16 STATE INNOVATION HOT SPOT, AND THE COMPANY HAS BEEN IN EXISTENCE FOR
17 LESS THAN THREE YEARS, AND OTHER SIMILAR FACTORS.

18 D. FACTORS TO BE INCLUDED IN JUDGING EACH PHASE OF THE COMPETITION ARE
19 AS FOLLOWS:

20 (I) FOR THE FIRST PHASE ENTRANTS SHOULD SHOW CONCEPTUALIZATION, A
21 DESIGN DOCUMENT, AND PRE-PRODUCTION WITH CODING COMPLETED TO AT LEAST A
22 DIGITAL PROTOTYPE THAT SHOWS HOW THE GAME WOULD WORK. ADDITIONALLY, THE
23 JUDGES SHALL CONSIDER THE QUALITY OF THE GAME CONCEPT, THE PITCH OF THE
24 INDIVIDUAL TEAMS, THE TEAM DYNAMIC, AND THE LEVEL OF REAL, SUBSTANTIAL,
25 AND CONTINUING CONTROL OF THE I.P. WINNERS SHALL USE THE FUNDS TO LINK
26 WITH NEW YORK STATE INCUBATORS FOR COUNSELING AND MENTORING AND TO
27 DEVELOP THE NECESSARY BUSINESS ATTRIBUTES AS WELL AS ADDITIONAL PRODUCT
28 COMPLETION NECESSARY FOR THE NEXT PHASE OF THE COMPETITION;

29 (II) FOR THE SECOND PHASE COMPETITION AMONG THE WINNERS OF THE FIRST
30 PHASE, ENTRANTS SHOULD BE IN PRE-PRODUCTION, AND SHOULD HAVE RAISED
31 FUNDS FROM INVESTORS OR FUNDING SITES OR OTHER SOURCES. PRIZES WILL BE A
32 MATCH TO SUCH FUNDS, UP TO ONE HUNDRED THOUSAND DOLLARS, PLUS ACCESS TO
33 INCUBATOR SPACE AND MENTORING, SKILL BUILDING, AND OTHER SERVICES AVAIL-
34 ABLE TO BEING AN INCUBATOR CLIENT, AS NEGOTIATED AND DEVELOPED BY THE
35 CORPORATION. JUDGES WILL LOOK AT ASPECTS OF THE PRODUCT AS WELL AS THE
36 BUSINESS PROPOSAL. COMPETITORS SHOULD HAVE COMPLETED AND SUBMITTED
37 EVIDENCE SATISFACTORY TO THE CORPORATION OF:

38 (A) A BUSINESS TEAM (BAIL TEAM) AND A BUSINESS AND MARKETING PLAN;

39 (B) A STRATEGIC MONETIZATION INVESTMENT AND FUNDING PLAN;

40 (C) A BUSINESS (INCLUDING A DBA, OR ANY OTHER FORM OF BUSINESS ORGAN-
41 IZATION);

42 (D) A COMPLETED PRODUCT PLAN FOR MARKETING AND FINAL DEVELOPMENT;

43 (E) PROOF OF CONCEPT CONSISTING AT LEAST OF A "VERTICAL SLICE" OF THE
44 GAME, MEANING AT LEAST ONE LEVEL OF PLAY, POLISH AND FINISH, WITH THE
45 INFRASTRUCTURE LARGELY COMPLETED;

46 (F) PUBLIC TESTING OR ACCEPTANCE OR OTHER EVIDENCE OF MARKETING VALUE
47 OF THE GAME;

48 (III) FOR THE THIRD PHASE COMPETITION AMONG WINNERS OF THE SECOND
49 PHASE, ENTRANTS MUST HAVE A COMPLETED GAME SUBMITTED FOR JUDGING, AND
50 UPDATE THE INFORMATION REQUIRED IN PHASE TWO OF THE COMPETITION. CONTE-
51 STANTS SHOULD ALSO REVEAL WHAT THEY INTEND TO DO WITH THE AWARD MONEY IF
52 THEY WIN.

53 E. AS A CONDITION OF RECEIPT OF AWARDS RECEIVED IN PHASES TWO AND
54 THREE, CONTESTANTS SHALL AGREE TO REMAIN RESIDENT IN THE STATE FOR GAME
55 DEVELOPMENT PURPOSES FOR A PERIOD OF FIVE YEARS, AND TO RETURN THE AWARD
56 TO THE STATE SHOULD THEY LEAVE OR SELL THE GAME OR THE GAME COMPANY

1 PRIOR TO THAT FIVE-YEAR PERIOD. WINNERS IN PHASES ONE AND TWO SHALL ALSO
2 AGREE, AS A CONDITION OF RECEIPT OF THE AWARD, TO CONTRIBUTE ONE PERCENT
3 OF PROFITS OF THE GAME TO THE NEW YORK STATE DIGITAL GAME DEVELOPMENT
4 FUND CREATED PURSUANT TO SECTION NINETY-NINE-V OF THE STATE FINANCE LAW,
5 FOR A PERIOD OF THREE YEARS AFTER PUBLICATION OF THE GAME, OR UNTIL THE
6 AMOUNT CONTRIBUTED MATCHES THE AMOUNT OF THE AWARD RECEIVED, WHICHEVER
7 TIME PERIOD IS LESS.

8 F. THE CORPORATION SHALL TAKE SUCH STEPS AS ARE NECESSARY OR CONVEN-
9 IENT IN ASSOCIATION WITH GAME PUBLISHERS TO PROVIDE OPPORTUNITIES FOR
10 PHASE TWO AWARD RECIPIENTS TO OBTAIN CONSIDERATION OF PUBLICATION OF
11 THEIR GAMES.

12 S 2. The state finance law is amended by adding a new section 99-v to
13 read as follows:

14 S 99-V. NEW YORK STATE DIGITAL GAME DEVELOPMENT FUND. 1. THERE IS
15 HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE
16 COMMISSIONER OF ECONOMIC DEVELOPMENT AN ACCOUNT IN THE MISCELLANEOUS
17 SPECIAL REVENUE FUND TO BE KNOWN AS THE "NEW YORK STATE DIGITAL GAME
18 DEVELOPMENT FUND".

19 2. SUCH ACCOUNT SHALL CONSIST OF MONIES DEPOSITED INTO IT FROM THE
20 REQUIREMENTS ESTABLISHED PURSUANT TO PARAGRAPH E OF SUBDIVISION THREE OF
21 SECTION SIXTEEN-W OF THE URBAN DEVELOPMENT CORPORATION ACT.

22 3. ALL MONIES IN THE ACCOUNT SHALL BE AVAILABLE, SUBJECT TO APPROPRI-
23 ATION, FOR THE PAYMENT OF EXPENSES AND PRIZES OF THE NEW YORK DIGITAL
24 GAME DEVELOPMENT COMPETITION.

25 S 3. This act shall take effect on the ninetieth day after it shall
26 have become a law.