

1678

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

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 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

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

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1 the intent of the legislature to encourage the cleanup and redevelopment
2 of brownfields located in brownfield opportunity areas, as defined in
3 section nine hundred seventy-r of the general municipal law, and to
4 encourage such redevelopment to be in conformance with the brownfield
5 opportunity area nomination and implementation strategies approved
6 pursuant to such law.

7 S 2. Paragraph (d) of subdivision 3 of section 27-1413 of the environ-
8 mental conservation law, as amended by section 6 of part A of chapter
9 577 of the laws of 2004, is amended and a new paragraph (e) is added to
10 read as follows:

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

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

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

20 (d) The commissioner shall create, update, and maintain a database
21 system for public information purposes and to monitor and track all
22 brownfield sites subject to this title. Data incorporated into such
23 system for each site for which information has been collected pursuant
24 to this title shall include, but shall not be limited to, a site summa-
25 ry, name of site owner, location, status of site remedial activity,
26 WHETHER THE SITE IS LOCATED IN A BROWNFIELD OPPORTUNITY AREA AS DEFINED
27 IN SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, and, if
28 one has been created pursuant to title thirty-six of article seventy-one
29 of this chapter, a copy of the environmental easement, and a contact
30 number to obtain additional information. Sites shall be added to such
31 system upon the execution of a brownfield site cleanup agreement pursu-
32 ant to section 27-1409 of this title. If and when an environmental ease-
33 ment is modified or extinguished, the copy of the environmental easement
34 contained in the database shall be updated accordingly. Such database
35 shall be in such a format that it can be readily searched by affected
36 local governments and the public for purposes including but not limited
37 to determining whether an environmental easement has been recorded for a
38 site pursuant to title thirty-six of article seventy-one of this chap-
39 ter. The database shall be available electronically. Information from
40 this database shall be incorporated into the geographic information
41 system created and maintained by the department pursuant to section
42 3-0315 of this chapter.

43 S 4. Paragraph (a) of subdivision 4 of section 27-1417 of the environ-
44 mental conservation law, as amended by section 8 of part A of chapter
45 577 of the laws of 2004, is amended to read as follows:

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

1 represents the interests of the community affected by such site.
2 Furthermore, the commissioner is authorized to direct any applicant who
3 is a responsible party, as defined in section 27-1313 of this article,
4 to provide such grants. Such grants shall be known as technical assist-
5 ance grants and may be used to obtain technical assistance in interpret-
6 ing information with regard to the nature of the hazard posed by contam-
7 ination located AT or emanating from a brownfield site or sites and the
8 development and implementation of a brownfield site remedial program or
9 programs. Such grants may also be used to hire health and safety experts
10 to advise affected residents on any health assessments and for the
11 education of interested affected community members to enable them to
12 more effectively participate in the remedy selection process. Grants
13 awarded under this section may not be used for the purposes of collect-
14 ing field sampling data, political activity or lobbying legislative
15 bodies.

16 S 5. Paragraphs e and f of subdivision 1 of section 27-1420 of the
17 environmental conservation law, as added by chapter 390 of the laws of
18 2008, are amended to read as follows:

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

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

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

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

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

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

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

52 J. "BROWNFIELD OPPORTUNITY AREA" SHALL MEAN A STUDY AREA ACCEPTED BY
53 THE SECRETARY IN CONNECTION WITH A FUNDING AWARD MADE PURSUANT TO THIS
54 SECTION OR A BROWNFIELD OPPORTUNITY AREA DESIGNATED BY THE SECRETARY
55 PURSUANT TO THIS SECTION.

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

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

7 (1) the borders of the [proposed] brownfield opportunity area;

8 (2) the number and size of brownfield sites;

9 (3) current and anticipated uses of the properties in the [proposed]
10 BROWNFIELD OPPORTUNITY area;

11 (4) current and anticipated future conditions of groundwater in the
12 [proposed] BROWNFIELD OPPORTUNITY area;

13 (5) known data about the environmental conditions of the properties in
14 the [proposed] BROWNFIELD OPPORTUNITY area;

15 (6) ownership of the properties in the [proposed] BROWNFIELD OPPORTU-
16 NITY area; and

17 (7) preliminary descriptions of possible remediation strategies, reuse
18 opportunities, necessary infrastructure improvements and other public or
19 private measures needed to stimulate investment, promote revitalization,
20 and enhance community health and environmental conditions.

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

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

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

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

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

46 c. No application for such financial assistance shall be considered
47 unless the applicant demonstrates that it has, to the maximum extent
48 practicable, solicited and considered the views of residents of the
49 [proposed] brownfield opportunity area, the views of state and local
50 officials elected to represent such residents and the local organiza-
51 tions representing such residents.

52 d. Activities eligible to receive such financial assistance shall
53 include the identification, preparation, creation, development and
54 assembly of information and elements to be included in a nomination for
55 designation of a brownfield opportunity area, including but not limited
56 to:

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

[(1)] (I) the borders of the [proposed] brownfield opportunity area;

[(2)] (II) the location of each known or suspected brownfield site in the [proposed] brownfield opportunity area;

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

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

[(5)] (V) OWNERSHIP OF THE PROPERTIES IN THE BROWNFIELD OPPORTUNITY AREA;

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

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

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

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

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

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

[(12)] (III) priorities for public and private investment in infrastructure, open space, economic development, housing, or community facilities in the [proposed] brownfield opportunity area, INCLUDING THOSE THAT MAY BE ELIGIBLE FOR PRIORITY OR PREFERENCE IN ACCORDANCE WITH SUBDIVISION FIVE OF THIS SECTION;

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

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

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

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

[(17)] (VIII) descriptions of possible remediation strategies, brownfield redevelopment, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions[;

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

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

(3) ACTIVITIES TO ADDRESS KNOWN CONTAMINATION:

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

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

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

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

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

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

11 (2) areas with concentrations of brownfield sites;

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

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

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

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

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

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

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

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

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

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

46 (7) the financial commitments the applicant will make to the brown-
47 field opportunity area for activities including, but not limited to,
48 marketing of the area for business development, human resource services
49 for residents and businesses in the brownfield opportunity area, and
50 services for small and minority and women-owned businesses.

51 g. The secretary, upon the receipt of an application for such assist-
52 ance from a community based organization not in cooperation with the
53 local government having jurisdiction over the [proposed] brownfield
54 opportunity area, shall request the municipal government to review and
55 state the municipal government's support or lack of support. The munici-

1 pal government's statement shall be considered a part of the applica-
2 tion.

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

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

21 J. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE
22 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE
23 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH
24 FUNDS TO THE SECRETARY.

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

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

38 B. THE SECRETARY SHALL MAKE THE DETERMINATION REGARDING WHETHER A
39 QUALIFIED SITE SUBJECT TO A BROWNFIELD SITE CLEANUP AGREEMENT PURSUANT
40 TO SECTION 27-1409 OF THE ENVIRONMENTAL CONSERVATION LAW IS CONSISTENT
41 WITH A DESIGNATED BROWNFIELD OPPORTUNITY AREA. THE SECRETARY SHALL
42 PROMULGATE REGULATIONS TO ESTABLISH THE PROCESS, CRITERIA AND TIMING FOR
43 MAKING DETERMINATIONS WHETHER A QUALIFIED SITE IS CONSISTENT WITH A
44 DESIGNATED BROWNFIELD OPPORTUNITY AREA.

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

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

52 A. UPON THE AWARD OF FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION,
53 THE SECRETARY SHALL NOTIFY THE DIVISION OF HOUSING AND COMMUNITY
54 RENEWAL, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPARTMENT OF
55 TRANSPORTATION, THE DEPARTMENT OF PARKS, RECREATION AND HISTORIC PRESER-
56 VATION, AND THE EMPIRE STATE DEVELOPMENT CORPORATION OF SUCH ASSISTANCE,

1 AND INCLUDE IN SUCH NOTIFICATION A DESCRIPTION OF THE BROWNFIELD OPPOR-
2 TUNITY AREA STUDY AREA AND A REQUEST FOR RELEVANT INFORMATION CONCERN-
3 ING, WITHOUT LIMITATION, LAND USES, CAPITAL PROJECTS AND PLANS RELATING
4 TO PROPERTIES OR THE COMMUNITY WITHIN SUCH BROWNFIELD OPPORTUNITY AREA
5 STUDY AREA, EXISTING PLANS AND PLANNING DOCUMENTS, DEMOGRAPHICS, AND
6 LOCATION, MAPS AND DESCRIPTION OF EXISTING AND PROPOSED PUBLIC FACILI-
7 TIES AND INFRASTRUCTURE.

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

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

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

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

30 F. THE SECRETARY SHALL TAKE SUCH MEASURES AS MAY BE NECESSARY TO
31 DETERMINE THE AVAILABILITY OF SUCH FINANCIAL AND OTHER ASSISTANCE AND TO
32 SEEK COOPERATION WITH OTHER STATE, FEDERAL AND LOCAL OFFICIALS IN
33 PROVIDING A PRIORITY AND PREFERENCE TO APPLICANTS PURSUANT TO THIS
34 SUBDIVISION.

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

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

55 S 13. Subdivision 6 of section 970-r of the general municipal law, as
56 added by section 1 of part F of chapter 1 of the laws of 2003, paragraph

1 a as amended by chapter 386 of the laws of 2007 and paragraph h as
2 amended by section 1 of part F of chapter 577 of the laws of 2004, is
3 amended to read as follows:

4 6. State assistance for [brownfield site assessments in] IMPLEMENTA-
5 TION STRATEGIES FOR brownfield opportunity areas. a. Within the limits
6 of appropriations therefor, the [commissioner, in consultation with the]
7 secretary [of state,] is authorized to provide, on a competitive basis,
8 financial assistance to municipalities, to community based organiza-
9 tions, to community boards, or to municipalities and community based
10 organizations acting in cooperation to conduct [brownfield site assess-
11 ments] IMPLEMENTATION STRATEGIES in a brownfield opportunity area
12 [designated pursuant to this section]. Such financial assistance shall
13 not exceed ninety percent of the costs of such brownfield [site assess-
14 ment] OPPORTUNITY AREA IMPLEMENTATION STRATEGIES.

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

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

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

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

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

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

48 (2) areas with concentrations of brownfield sites;

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

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

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

[f.] E. The [commissioner] SECRETARY, upon the receipt of an application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the [proposed] brownfield opportunity area, shall request the municipal government to review and state the municipal government's support or lack of support. The municipal government's statement shall be considered a part of the application.

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

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

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

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

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

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

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

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

(2) identification of major issues of public concern;

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

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

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

7 (1) a comment period of at least thirty days on a draft application;

8 (2) a public meeting on a brownfield opportunity area draft applica-
9 tion.

10 C. AN APPLICANT THAT HAS SATISFACTORILY SUBMITTED INFORMATION EQUIV-
11 ALENT TO A PRE-NOMINATION STUDY MAY FORGO A PRE-NOMINATION STUDY AND IS
12 ELIGIBLE TO APPLY FOR STATE ASSISTANCE FOR NOMINATIONS TO DESIGNATE A
13 BROWNFIELD OPPORTUNITY AREA.

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

17 S 16. This act shall take effect immediately.