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

5600

2013-2014 Regular Sessions

I N S E N A T E

May 24, 2013

Introduced by Sen. SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation

AN ACT to amend the parks, recreation and historic preservation law, in relation to the reporting of alienation of municipal parkland

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

Section 1. The parks, recreation and historic preservation law is amended by adding a new article 16 to read as follows:

ARTICLE 16

MUNICIPAL PARKLAND ALIENATION

SECTION 16.01 DEFINITIONS.
16.03 PARKLAND ALIENATION REPORTING.
16.05 PARKLAND ALIENATION ENFORCEMENT.

S 16.01 DEFINITIONS. WHEN USED IN THIS ARTICLE:

1. "MUNICIPAL PARKLAND" SHALL MEAN REAL PROPERTY OR INTERESTS THEREIN THAT IS OWNED BY A MUNICIPALITY THAT PROVIDES PUBLIC PARK, RECREATION, OR OPEN SPACE PROTECTION PURPOSES. MUNICIPAL PARKLAND INCLUDES: LANDS THAT HAVE BEEN DEDICATED FOR SUCH PURPOSES BY THE MUNICIPALITY THROUGH A FORMAL RESOLUTION OR SIMILAR ACTION; LANDS THAT HAVE BEEN PURCHASED OR ACCEPTED FOR SUCH PURPOSES; OR LANDS THAT CURRENTLY OR HISTORICALLY HAVE BEEN AVAILABLE TO AND USED BY THE PUBLIC FOR SUCH PURPOSES.

2. "MUNICIPAL PARKLAND ALIENATION" SHALL MEAN ANY ACTION BY A MUNICIPALITY TO SELL, LEASE, DISCONTINUE, OR CHANGE THE USE OF MUNICIPAL PARKLAND.

3. "MUNICIPALITY" SHALL MEAN A COUNTY, TOWN, CITY, OR VILLAGE. IT SHALL ALSO MEAN A SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION IN INSTANCES WHERE SUCH ENTITY HAS OBTAINED STATE OR FEDERAL GRANT FUNDING FOR THE CREATION OF MUNICIPAL PARKLAND.

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

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4. "PARKLAND ALIENATION LEGISLATION" SHALL MEAN LEGISLATION INTRODUCED IN THE STATE LEGISLATURE AUTHORIZING A MUNICIPALITY TO ALIENATE PARKLAND UNDER ITS JURISDICTION.

S 16.03 PARKLAND ALIENATION REPORTING. ANY MUNICIPALITY THAT HAS RECEIVED ALIENATION AUTHORIZATION THROUGH ENACTMENT OF MUNICIPAL PARKLAND ALIENATION LEGISLATION SHALL SUBMIT A REPORT TO THE OFFICE NO LATER THAN DECEMBER THIRTY-FIRST OF THE CALENDAR YEAR FOLLOWING THE ENACTMENT OF THE LEGISLATION. SUCH REPORT SHALL BE SIGNED BY THE MUNICIPALITY'S CHIEF EXECUTIVE OFFICER AND SHALL INCLUDE:

1. A NARRATIVE DESCRIPTION OF THE STATUS OF THE PARKLAND ALIENATION ACTIONS AUTHORIZED AND REQUIRED IN THE LEGISLATION; AND

2. AN ATTESTATION THAT THE MUNICIPALITY HAS COMPLIED WITH ALL CONDITIONS OF THE PARKLAND ALIENATION LEGISLATION, INCLUDING THE DEDICATION OF ANY REQUIRED REPLACEMENT PARKLAND OR, IN THE CASE OF UTILITY EASEMENTS, THE DEDICATION OF FUNDING FOR THE ACQUISITION OF ADDITIONAL PARKLAND OR CAPITAL IMPROVEMENTS TO EXISTING PARKLAND FACILITIES; OR

3. IN THE EVENT THAT ANY CONDITION OF THE PARKLAND ALIENATION LEGISLATION HAS NOT BEEN FULLY COMPLIED WITH, THE MUNICIPALITY SHALL PROVIDE THE OFFICE WITH AN INTERIM REPORT DETAILING THE STATUS OF ITS ACTIONS AND AN EXPLANATION AS TO WHY CERTAIN CONDITIONS HAVE NOT BEEN MET, ALONG WITH THE ANTICIPATED DATE BY WHICH SUCH CONDITIONS WILL BE MET. THE MUNICIPALITY SHALL CONTINUE TO FILE INTERIM REPORTS ANNUALLY UNTIL SUCH TIME AS THE CONDITIONS HAVE BEEN MET AND A FINAL REPORT IS FILED. UNLESS A LONGER TIME PERIOD IS SPECIFIED IN THE LEGISLATION AUTHORIZING THE ALIENATION, IF THE CONDITIONS OF THE ALIENATION HAVE NOT BEEN MET BY DECEMBER THIRTY-FIRST OF THE THIRD CALENDAR YEAR FOLLOWING THE ENACTMENT OF PARKLAND ALIENATION LEGISLATION, THE MUNICIPALITY SHALL BE SUBJECT TO ENFORCEMENT PURSUANT TO SECTION 16.05 OF THIS ARTICLE.

S 16.05 PARKLAND ALIENATION ENFORCEMENT. AN ACTION FOR INJUNCTIVE RELIEF AS PROVIDED IN THIS SECTION AGAINST A MUNICIPALITY VIOLATING ANY PROVISION OF THIS ARTICLE MAY BE BROUGHT BY THE ATTORNEY GENERAL UPON REFERRAL BY THE OFFICE OR UPON HIS OR HER OWN INITIATIVE. A MUNICIPALITY MAY BE ENJOINED FROM ALIENATING PARKLAND WHERE IT ACTS OR HAS ACTED IN FURTHERANCE OF PARKLAND ALIENATION WITHOUT COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE, INCLUDING REPORTING REQUIREMENTS AND PARKLAND ALIENATION LEGISLATION REQUIREMENTS.

S 2. The state commissioner of parks, recreation and historic preservation is authorized to promulgate such guidelines and/or rules and regulations as he or she deems necessary to implement the provisions of this act on or before its effective date.

S 3. This act shall take effect January 1, 2015.