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

5824

2013-2014 Regular Sessions

I N S E N A T E

June 17, 2013

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the Hudson river park act, in relation to the rights, powers, duties and jurisdiction of the Hudson river park trust and the boundaries and uses of the Hudson river park

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

Section 1. Legislative findings and intent. The legislature hereby finds, determines and declares the following:

The planning, development and operation of the Hudson River Park as a public park continue to be a matter of importance to the state. As detailed in the 1998 law creating the park and the trust, chapter 592 of the laws of 1998, the creation, development, operation and maintenance of the Hudson River Park will enhance and protect the natural, cultural and historic aspects of the Hudson River, enhance and afford quality public access to the river, allow for an array of cultural and recreational programs and provide a host of other public benefits. The limited changes and additional rights provided by the amendment of the 1998 law by this act are intended to be consistent with the park's general project plan as defined in chapter 592 of the laws of 1998, which continues to be the operative planning document guiding park development, protection and reuse of a portion of the Hudson River waterfront in lower Manhattan south of 59th street, and are intended to ensure the realization of that vision and the park's continuing viability for years to come. Nothing herein is intended to alter or override any prior determinations concerning park planning, development or operation.

S 2. Section 3 of chapter 592 of the laws of 1998, constituting the Hudson river park act, is amended to read as follows:

S 3. Definitions. As used in this act, the following terms shall have the following meanings, unless the context clearly requires otherwise:

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

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(a) "Board" means the board of directors of the Hudson river park trust.

(b) "Compatible governmental use" means a use within the park that is compatible with park use in accordance with the purposes of this act, such as necessary and appropriate sewage, utility, and ventilation connections, and private utilities, including the repair, maintenance, operation, and replacement thereof; public safety facilities necessary for the maintenance and operation of the park; the marine company one fire boat station on pier 53; and the city of New York department of sanitation water-dependent marine transfer station on pier 99.

(c) "Floating structure" means any vessel or other water-supported structure, including a floating dock, which is bordered by either open water or a dock and which is or is intended to be moored or attached to a pier, wharf, dock, platform, bulkhead or floatation system for a period of more than six months; provided however, that such definition shall not include historic ships or vessels, as determined by the trust through rules and regulations. Support by means of a cradle or as a result of natural siltation shall not exclude from this definition a structure normally supported by water.

(d) "General project plan" means the Hudson river park concept & financial plan, dated May, 1995, as modified in the May 20, 1998 final environmental impact statement, and any successor plan or statement of findings created thereafter consistent with the state environmental quality review act; provided that the general project plan shall be consistent with this act.

(e) "Hudson river park" or "park" means the area in the city and county of New York within the following boundaries, but excluding pier 76 except as otherwise provided in paragraph (c) of subdivision nine of section seven of this act and piers 78, 88, 90, 92 and 94 and their associated upland areas:

(i) the southern boundary shall be the northern [boundary of Battery Place and Battery Place extended, provided that the Battery Park city project area as defined in section 1972 of the public authorities law shall not be included within the boundaries of the park] SEAWALL OF BATTERY PARK CITY AS EXTENDED EASTERLY TO THE WESTERN BOUNDARY OF THE ROUTE 9-A BIKEWAY;

(ii) the northern boundary shall be the northern boundary of 59th street and 59th street extended;

(iii) the western boundary shall be the United States pierhead line; and

(iv) the eastern boundary shall be the western boundary of West street, eleventh avenue or twelfth avenue (whichever boundary is more westerly at any point); provided that as any portion of the state highway route 9-A is completed, as certified by the commissioner of transportation of the state, the eastern boundary of the park adjacent to that portion shall be the western boundary of state highway route 9-A; provided that the department of transportation shall retain a temporary easement over all lands east of the bulkhead during the period of construction of route 9-A for the sole purpose of completing construction; and provided further that (A) Thomas F. Smith Park as will be rebuilt as part of the route 9-A project, (B) the area bounded by 14th street, 15th street, tenth avenue and route 9-A, and (C) any additional land adjacent to the park or adjacent to route 9-A acquired in accordance with the provisions of this act to expand the park shall be part of the park; and provided further that any pier or upland area which is privately owned shall not be deemed part of the park for

purposes of this act unless transferred to or acquired by the city or state and made part of the park.

(f) "Incompatible governmental use" means a governmental use within the park that is not a compatible governmental use or is otherwise incompatible with park use in accordance with the purposes of this act, such as sanitation-truck parking, bus parking, and police impound lots and storage facilities.

(g) "Park/commercial use" means a use that is not a prohibited use and is compatible with park use, and that is:

(i) a transportation water dependent use, including commercial maritime and marine ferry terminals;

(ii) an entertainment, retail, RESTAURANT, BROADCAST, TELEVISION, or FILM OR MEDIA STUDIO FACILITY, commercial recreational use, COMMERCIAL AMUSEMENTS, PERFORMING ARTS, SCHOOLS AND EDUCATIONAL FACILITIES;

(iii) limited parking spaces incidental to permitted uses;

(iv) solely at piers 59, 60, and 61 and the headhouse

(commonly known as "Chelsea Piers") the uses authorized at such piers and headhouse as of the effective date of this act[, including, but not limited to, sports and studio facilities]; [or]

(v) a non-tourism/non-recreation heliport for commercial and emergency transportation use[.]; AND

(VI) SOLELY AT PIER 57, BUSINESS, PROFESSIONAL OR GOVERNMENTAL OFFICES;

(h) "Park use" means:

(i) public park uses, including passive and active public open space uses;

(ii) public recreation, AMUSEMENT RIDES and entertainment, including the arts and performing arts, on open spaces;

(iii) public recreation, AMUSEMENT RIDES and entertainment, including the arts and performing arts within enclosed structures subject to the limitations on such structures specified in subdivision nine of section seven of this act;

(iv) small-scale boating for recreational and educational purposes that enhance park users' access to, and enjoyment of, the water;

(v) environmental education and research, including museums subject to the limitations specified in subdivision nine of section seven of this act;

(vi) historic or cultural preservation including historic ships and vessels;

(vii) wildlife and habitat protection; and

(viii) facilities incidental to public access to, and use and enjoyment of park uses, such as concession stands, information stands, comfort stations, boathouses, marinas, water taxis, and stands at which bicycles, skates, deck chairs, beach umbrellas, fishing tackle, other sports equipment or other similar products are rented or SOLD ON A SMALL SCALE BASIS WHICH IS INCIDENTAL TO SUCH USE OR at which water-taxi tickets or other tourist attraction passes or meals are PROVIDED OR sold, subject to the limitations on such structures specified in subdivision nine of section seven of this act.

Provided that the following shall apply: (A) enclosed structures on piers and other areas designated for park use shall be subject to the limitations on such structures specified in subdivision nine of section seven of this act, (B) in no event shall the following be deemed to constitute a "park use": any amusement park, television or film studio, commercial cinema or other for-profit entertainment facility, or any parking facilities (except for temporary spaces for deliveries or as

necessary to meet local, state or federal requirements regarding access for disabled persons); [and] (C) AS USED IN THIS SUBDIVISION, "AMUSEMENT RIDES" SHALL MEAN CAROUSELS AND OTHER SMALL SCALE RIDES OWNED OR OPERATED BY OR ON BEHALF OF THE TRUST THAT ARE INTENDED FOR CHILDREN PROVIDED THAT, ANY SUCH "AMUSEMENT RIDES" MUST BE LOCATED WEST OF THE BULKHEAD AND, PROVIDED FURTHER THAT A FERRIS WHEEL OR OTHER OBSERVATION RIDE OR TOURIST ATTRACTION SHALL NOT BE CONSIDERED A "PARK USE"; AND (D) the overall policy within the park shall be to provide free or nominal-cost recreational opportunities to the public on a broad basis.

(i) "Permitted use" means:

(i) park use;

(ii) park/commercial use;

(iii) compatible governmental use;

(iv) uses permitted under any lease, permit, license, or other instrument in effect upon the effective date of this act, whether or not a prohibited use under this act, but only pursuant to the terms of the instrument and only for the term thereof or pursuant to any extension according to the terms thereof if, but only if, the option to extend is exercised solely by and is a contractual right of the lessee, permittee, licensee or other contractual user, and subject to the deadlines for the removal or relocation of incompatible governmental uses under subdivision nine of section seven of this act.

(j) "Prohibited use" means any of the following uses:

(i) residential;

(ii) manufacturing, except in furtherance of and incidental to park uses, PROVIDED THAT SMALL SCALE CREATION OF ARTISAN FOODS OR OTHER CRAFT PRODUCTS SHALL NOT BE CONSIDERED MANUFACTURING;

(iii) [commercial office and] warehousing[, except office space incidental to a permitted use];

(iv) hotel;

(v) incompatible governmental uses;

(vi) casino and riverboat gambling, and the docking of vessels to be used substantially for gambling or for transportation to such a vessel;

(vii) any facility for motorized aircraft, including a heliport except a heliport which is defined as a park/commercial use; [and]

(viii) COMMERCIAL OFFICE, EXCEPT OFFICE SPACE THAT IS INCIDENTAL TO A PERMITTED USE, AND FURTHER PROVIDED THAT SUCH PROHIBITION SHALL NOT APPLY TO PIER 57; AND

(IX) other uses determined by the trust to be incompatible with the purposes of this act.

(k) "Hudson river park trust" or "trust" means the public benefit corporation established pursuant to section five of this act.

(l) "Water section" means all the area of the park west of the bulkhead line, including the water, lands under water and space above the water, but not including the piers and float bridge as they exist on the effective date of this act.

(m) "Water dependent use" excludes any prohibited use and means:

(i) any use that depends on utilization of resources found in the water section;

(ii) recreational activities that depend on access to the water section, such as fishing, boating, swimming in such waters, passive enjoyment of the Hudson river and wildlife protection and viewing;

(iii) facilities and incidental structures needed to dock and service boats; [and]

(iv) scientific and educational activities that by their nature require access to marine reserve waters[.];

(V) THE DEVELOPMENT, OPERATION AND MAINTENANCE OF A NON-TOURISM/NON-RECREATIONAL HELIPORT LOCATED BETWEEN WEST 29TH AND WEST 32ND STREETS PROVIDED (A) THAT THERE SHALL BE NO STRUCTURES OTHER THAN THE HELICOPTER TAKE-OFF OR LANDING PADS BUILT ON FLOATING STRUCTURES; AND (B) SUCH FLOATING STRUCTURES SHALL BE NO HIGHER THAN A PIER DECK AT LOW TIDE; AND

(VI) MOORING OR DOCKING OF A BARGE USED AS PART OF A CULTURAL, EDUCATIONAL, HISTORIC OR OTHER PUBLIC PROGRAMMING IN THE PARK; PROVIDED THAT NO MORE THAN TWO BARGES MAY BE MOORED OR DOCKED PER YEAR AND PROVIDED FURTHER THAT THE DURATION OF ANY SUCH MOORING OR DOCKING OF A BARGE SHALL BE LIMITED TO SIX MONTHS PER YEAR AT ANY LOCATION WITHIN THE BOUNDARIES OF THE PARK.

(n) "Passive and active public open space uses" mean lawns, esplanades, open pier surfaces, areas for strolling and sitting, picnicking areas and open space areas for sports, exercise and active play including, playgrounds, ball fields, playing courts, and areas for running, biking and [rollerblading] IN-LINE SKATING and similar recreational activities.

S 3. Subdivision 1 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, is amended and a new subdivision 1-a is added to read as follows:

1. To fulfill its purposes under this act, the trust shall have the following powers, functions, duties and authority subject to the limitations set forth in this act:

(a) to plan, design, develop, construct, operate, and maintain the Hudson river park;

(b) to provide for the health, safety and welfare of the public using facilities under its jurisdiction;

(c) to establish an advisory council;

(d) to exercise the following general corporate powers:

(i) to make and alter by-laws for its organization and internal management;

(ii) to adopt, amend or rescind such rules, regulations and orders as may be necessary or convenient for the performance or exercise of the functions, powers and duties of the trust in accordance with the provisions of this act;

(iii) to enter into contracts, including customary trade credits in the ordinary course of business, with any person and do all things necessary or convenient to carry out the functions, powers and duties of the trust;

(iv) to conduct meetings and hearings with respect to any matter under the jurisdiction and control of the trust;

(v) to bring or defend such actions, suits or proceedings as may be necessary or proper to perform any of the powers, functions and duties of the trust;

(vi) to exercise and perform such other functions, powers and duties as shall have been or may be from time to time conferred or imposed by or pursuant to law;

(vii) to appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation and to retain or employ such persons as landscape architects, architects, historians, ecologists, marine biologists, educators, engineers, counsel, auditors, and private consultants on a contract basis or otherwise to render professional or technical services and advice;

(viii) to submit legal matters to the attorney general of the state who [may] SHALL furnish any necessary legal services and advice required to assist the trust in accomplishing its corporate purposes;

(ix) to designate the depositories of its money and the persons authorized to sign checks and other such instruments on its behalf;

(x) to establish and re-establish its fiscal year;

(xi) to procure insurance against any loss in connection with its property and other assets and operations in such amount and from such insurers as it deems appropriate, or enter into self-insurance agreements with the city and state of New York to insure against any such loss;

(xii) to apply for or accept any gifts or grants of funds or personal property or financial or other aid in any form from the federal government, the state or the city of New York or any agency or instrumentality of any of the foregoing, or from any other source, in furtherance of the performance of the trust's functions, duties and authority under this act; and

(xiii) to prepare and approve an annual budget for its operations.

(e) to work with the state, the city of New York, agencies and instrumentalities thereof and other public and private entities in order to develop interim programming for both recreational and revenue-producing uses within the boundaries of the park;

(f) to provide for meaningful public notice, participation, consultation and review in the planning, development and operation of the park, which shall include, but not limited to (i) consultation with community boards one, two and four within the Borough of Manhattan, the Advisory Council, elected officials representing communities neighboring the park and appropriate community, civic and advocacy organizations and (ii) timely and reasonable notification to such individuals and groups and appropriate news media of each meeting of the trust and any public hearings regarding significant plans or proposed actions with respect to the park;

(g) to develop and oversee an annual financing plan that will combine contributions from the federal government, the state, the city of New York and private sources for the planning and development of the park;

(h) to contract with any governmental entity for the trust to operate and maintain any public property (that could be acquired to be added to the park under this act) as if it were part of the park; [and]

(i) to regulate the safe operation of vessels within the pier head line[.];

(J) TO TRANSFER BY SALE ANY UNUSED DEVELOPMENT RIGHTS AS MAY BE AVAILABLE FOR TRANSFER TO PROPERTIES LOCATED UP TO ONE BLOCK EAST OF THE BOUNDARIES OF THE PARK ALONG THE WEST SIDE OF MANHATTAN, IF AND TO THE EXTENT DESIGNATED AND PERMITTED UNDER LOCAL ZONING ORDINANCES PROVIDED HOWEVER THAT REVENUES DERIVED FROM THE TRANSFER OF AIR RIGHTS FROM PIER 40 MUST BE USED IN THE FIRST INSTANCE FOR THE REPAIR OF PIER 40 INFRASTRUCTURE INCLUDING PILES AND ROOF, AFTER WHICH ANY EXCESS REVENUES MAY BE USED BY THE TRUST FOR OTHER USES PERMITTED BY THIS ACT. THE PROCEEDS OF SUCH SALES SHALL BE PAID TO AND BE THE PROPERTY OF THE TRUST. THE STATE AND THE CITY OF NEW YORK, EACH WITH RESPECT TO ANY TRANSFER OF UNUSED DEVELOPMENT RIGHTS RELATED TO ITS REAL PROPERTY IN THE PARK, SHALL EXPEDITIOUSLY EXECUTE ANY REQUIRED DOCUMENTS AS MAY BE NEEDED TO EFFECTUATE SUCH TRANSFER;

(K) TO ESTABLISH, FIX, REVISE, LEVY AND COLLECT OR CAUSE TO BE ESTABLISHED, FIXED, REVISED, LEVIED AND COLLECTED, A FEE FROM EACH PASSENGER TRAVELING ON A COMMERCIAL PASSENGER VESSEL OF UP TO TWO DOLLARS ON EACH

TICKET, OTHER THAN THOSE TRAVELING ABOARD A FERRY BOAT, AS SUCH FERRY BOAT IS SPECIFIED IN PARAGRAPH 43 OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW, WHICH CARRIES PASSENGERS FOR THE PRIMARY PURPOSE OF ENTERTAINMENT, SIGHTSEEING, DAY OR DINNER CRUISES, AND WHICH EMBARKS OR DISEMBARKS WITHIN THE BOUNDARIES OF THE HUDSON RIVER PARK.

(I) DEFINITIONS. FOR PURPOSES OF THIS PARAGRAPH, THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "COMMERCIAL PASSENGER VESSEL." A BOAT OR VESSEL THAT IS USED IN THE COMMON CARRIAGE OF PASSENGERS IN COMMERCE, NOT INCLUDING LAND BASED VEHICLES OR NONCOMMERCIAL VESSELS.

(2) "PASSENGER." AN INDIVIDUAL WHOM A COMMON CARRIER HAS CONTRACTED TO CARRY FROM ONE PLACE TO ANOTHER, INCLUDING CARRIAGE WITH THE SAME DEPARTURE AND ARRIVAL LOCATIONS.

(3) "LIABILITY FOR PAYMENT OF FEE." THE PERSON WHO PROVIDES TRAVEL ABOARD A COMMERCIAL PASSENGER VESSEL SHALL BE LIABLE FOR THE FEE IMPOSED BY THIS PARAGRAPH.

(II) RETURNS. EVERY PERSON LIABLE FOR THE FEE IMPOSED BY THIS PARAGRAPH SHALL FILE A RETURN QUARTERLY WITH THE TRUST. EACH RETURN SHALL SHOW THE NUMBER OF PASSENGERS IN THE QUARTER FOR WHICH THE RETURN IS FILED, TOGETHER WITH SUCH OTHER INFORMATION AS THE TRUST MAY REQUIRE. THE RETURNS REQUIRED BY THIS PARAGRAPH SHALL BE FILED FOR QUARTERLY PERIODS ENDING ON THE LAST DAY OF MARCH, JUNE, SEPTEMBER AND DECEMBER OF EACH YEAR, AND EACH RETURN SHALL BE FILED WITHIN TWENTY DAYS AFTER THE END OF THE QUARTERLY PERIOD COVERED THEREBY. IF THE TRUST DEEMS IT NECESSARY IN ORDER TO ENSURE THE PAYMENT OF THE FEE IMPOSED BY THIS PARAGRAPH, THE TRUST MAY REQUIRE RETURNS TO BE MADE FOR SHORTER PERIODS THAN PRESCRIBED BY THE FOREGOING PROVISIONS OF THIS PARAGRAPH, AND UPON SUCH DATES AS THE TRUST MAY DEEM NECESSARY FOR THE PROPER ADMINISTRATION OF THIS PARAGRAPH. THE TRUST MAY REQUIRE AMENDED RETURNS TO BE FILED WITHIN TWENTY DAYS AFTER NOTICE AND TO CONTAIN THE INFORMATION SPECIFIED IN THE NOTICE. THE TRUST MAY REQUIRE THAT THE RETURNS BE FILED ELECTRONICALLY.

(III) PAYMENT OF FEE. EVERY PERSON REQUIRED TO FILE A RETURN UNDER THIS PARAGRAPH SHALL, AT THE TIME OF FILING SUCH RETURN, PAY TO THE TRUST THE TOTAL OF ALL FEES IMPOSED BY THIS PARAGRAPH, ON THE CORRECT NUMBER OF PASSENGERS SUBJECT TO FEES UNDER THIS PARAGRAPH. THE AMOUNT SO PAYABLE TO THE TRUST FOR THE PERIOD FOR WHICH A RETURN IS REQUIRED TO BE FILED SHALL BE DUE AND PAYABLE TO THE TRUST ON THE DATE LIMITED FOR FILING OF THE RETURN FOR SUCH PERIOD, WITHOUT REGARD TO WHETHER A RETURN IS FILED OR WHETHER THE RETURN WHICH IS FILED CORRECTLY SHOWS THE CORRECT NUMBER OF PASSENGERS OR THE AMOUNT OF FEES DUE THEREON. THE TRUST MAY REQUIRE THAT THE FEE BE PAID ELECTRONICALLY.

1-A. THE TRUST SHALL NOT BE AUTHORIZED TO FORGO OR ASSIGN ANY REVENUES OR PAYMENTS DUE TO IT BY LAW, PROVIDED HOWEVER THAT THE TRUST MAY ASSIGN REVENUES OR PAYMENTS TO MAINTAIN, RECONSTRUCT AND REPAIR THE PIERS AND BULKHEADS EXISTING AND AS DEPICTED IN THE MAY 20, 1998 FINAL ENVIRONMENTAL IMPACT STATEMENT WITHIN THEIR HISTORIC FOOTPRINTS OR BOUNDARIES SUBJECT TO A DETERMINATION BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION THAT, TO THE MAXIMUM EXTENT PRACTICABLE, ANY SIGNIFICANT ADVERSE IMPACT ON THE MARINE ENVIRONMENT RESULTING FROM SUCH MAINTENANCE, RECONSTRUCTION OR REPAIR WILL BE MINIMIZED OR AVOIDED, AND PROVIDED FURTHER THAT THE RECONSTRUCTION OF PIER 54 SHALL NOT BE SUBJECT TO THE HISTORIC FOOTPRINT RESTRICTION.

S 4. Subdivision 2 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, is amended to read as follows:

2. The trust shall not be authorized to issue bonds, notes or other similar obligations, whether or not negotiable or to contract to pay debt service on such obligations issued by any other entity. The trust shall not have the power of eminent domain and shall not be authorized to acquire or hold title to real property. The trust shall not provide direct financial assistance to attract, expand or retain a business within the park. NOTWITHSTANDING THE PROHIBITIONS SET FORTH IN THIS SUBDIVISION, THE TRUST SHALL BE PERMITTED TO PAY FOR OR TO ENTER INTO ASSIGNMENT CONTRACTS IN CONNECTION WITH SITE SPECIFIC IMPROVEMENTS TO EXISTING INFRASTRUCTURE, AS AUTHORIZED PURSUANT TO SUBDIVISION ONE-A OF THIS SECTION, WITHIN THE PARK UNDERTAKEN BY OR ON BEHALF OF THE TRUST FOR THE PURPOSE OF MAINTAINING AN ASSET WITHIN THE PARK, WHICH SHALL NOT BE DEEMED DIRECT FINANCIAL ASSISTANCE IRRESPECTIVE OF WHETHER SUCH INFRASTRUCTURE ALSO SERVES A BUSINESS.

S 5. Paragraph (b) of subdivision 3 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, is amended to read as follows:

(b) Upon the coming into existence of the trust, it shall exercise its rights, powers, responsibilities, and duties with respect to the park under this act. The state and the city of New York, each with respect to its real property in the park, shall expeditiously enter into agreements with the trust, whether by lease or otherwise, for a term not to exceed 99 years [and], PROVIDED THAT THE STATE AND CITY OF NEW YORK SHALL EXTEND SUCH LEASE OR OTHER AGREEMENTS UNTIL MARCH 31, 2112 PURSUANT TO THIS CHAPTER OF THE LAWS OF 2013 AND TO MODIFY THE INSURANCE AND INDEMNIFICATION PROVISIONS THEREOF SUCH THAT THE STATE AND CITY, EACH TO THE EXTENT OF ITS OWNERSHIP OF THE REAL PROPERTY IN THE PARK, SHALL PROVIDE FOR INSURANCE, DEFENSE AND INDEMNIFICATION OBLIGATIONS RUNNING FROM THE STATE OR CITY, AS THE CASE MAY BE, TO THE TRUST IN CONNECTION WITH AND TO THE EXTENT OF ANY AND ALL BODILY INJURY OR PROPERTY DAMAGE CLAIMS ALLEGED TO OCCUR ON OR RELATE TO THEIR RESPECTIVE REAL PROPERTY IN THE PARK AND TO ELIMINATE ANY OBLIGATIONS ON THE PART OF THE TRUST IN SUCH LEASE AGREEMENTS TO PROVIDE INSURANCE, DEFENSE OR INDEMNIFICATION TO THE STATE OR CITY, AS THE CASE MAY BE, IN CONNECTION WITH SUCH ALLEGED BODILY INJURY OR PROPERTY DAMAGE CLAIMS. THE STATE AND CITY, AS APPLICABLE, SHALL execute such other instruments as necessary, whereby the trust shall receive a possessory interest in the real property and exercise its rights, powers, responsibilities, and duties, all in accordance with this act.

S 6. Subdivision 7 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, is amended to read as follows:

7. [No later than February 1 of each year following the effective date of this act and within 60] EACH YEAR WITHIN 90 days after the [later of the effective date of this act] CLOSE OF THE TRUST'S FISCAL YEAR or the adoption of the general project plan or any amendment, the trust shall deliver to the governor, the speaker of the assembly, the temporary president of the senate, the state comptroller, the mayor of the city of New York, the speaker of the city council of the city of New York, the comptroller of the city of New York and community boards one, two, and four within the borough of Manhattan, a current copy of the annual financing plan and any amendments to the general project plan for the park and the trust shall, within the same time, make such plan and a current copy of its regulations available for public inspection during business hours at the offices of the trust within the city of New York.

S 7. Subdivision 11 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, is amended to read as follows:

11. Except as otherwise provided in THIS SUBDIVISION, IN PARAGRAPH (J) OF SUBDIVISION 1 OF THIS SECTION, IN paragraph (b) of subdivision 3 of this section OR IN CHAPTER 288 OF THE LAWS OF 2005, the trust may not enter into a lease, concession agreement, license or other agreement relating to any part of the park for periods in excess of thirty years in total; EXCEPT THAT SUCH DURATION RESTRICTION SHALL NOT APPLY TO PIERS 57, 59, 60, 61, 76, 81, 83 AND 98 WHERE THE TRUST MAY ENTER INTO A LEASE, CONCESSION AGREEMENT, LICENSE OR OTHER AGREEMENT FOR A TERM OR TERMS THAT MAY BE UP TO FORTY-NINE YEARS AND EXCEPT THAT SUCH DURATION RESTRICTION SHALL NOT APPLY TO SUCH PIERS WHERE THE TRUST MAY ENTER INTO A LEASE, CONCESSION AGREEMENT, LICENSE OR OTHER AGREEMENT FOR A TERM OR TERMS THAT MAY BE UP TO NINETY-NINE YEARS, PROVIDED, HOWEVER, SUCH LEASE, CONCESSION AGREEMENT, LICENSE OR OTHER AGREEMENT SHALL ONLY OCCUR UPON THE CONDITION THAT SUCH AGREEMENTS ARE IDENTIFIED AND AUTHORIZED IN A MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNOR, THE MAYOR OF THE CITY OF NEW YORK, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY AFTER CONSULTATION WITH THE MEMBERS OF THE ASSEMBLY AND SENATE REPRESENTING THE AREA WHERE THE PIER THAT IS THE SUBJECT OF THE AGREEMENT IS LOCATED; AND provided FURTHER that any such agreement for a period in excess of ten years shall be for the purpose of assuring a lessee, licensee, concessionaire or other party to an agreement with adequate protection against loss of investments in developing, renovating, improving, furnishing, and equipping properties within the park. Any proposed lease, concession agreement, license or other agreement by the trust for a period in excess of ten years shall constitute a proposed significant action subject to the requirements of subdivision six of this section. The trust shall promulgate rules and regulations governing leases, concession agreements, licenses or other agreements. Such rules and regulations shall require the trust to issue a bid prospectus for any leases, concession agreements, licenses and other agreements which would provide for a total capital investment in the park of no less than one million dollars over the proposed term of the agreement. The bid prospectus submitted to prospective bidders shall contain specific information concerning the nature of the capital improvements or equipment to be provided by the successful bidder and shall be provided to community boards one, two and four within the borough of Manhattan.

S 8. Paragraphs (c), (h) and (i) of subdivision 9 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, are amended to read as follows:

(c) The city of New York shall use best efforts to relocate the tow pound on Pier 76. Subsequent to relocation of the tow pound, [the city of New York shall convey to the trust a possessory interest in fifty percent of Pier 76 for passive and active public open space use for a period not to exceed 99 years, provided that such open space portion of Pier 76 shall be contiguous to water. Upon such conveyance, the portion so conveyed will become part of the park and will be used solely for passive and active public open space uses.] THE CITY OF NEW YORK SHALL PROMPTLY CONVEY TO THE TRUST A POSSESSORY INTEREST IN PIER 76 CONSISTENT WITH SUCH INTEREST PREVIOUSLY CONVEYED WITH RESPECT TO OTHER PORTIONS OF THE PARK, PROVIDED THAT AT LEAST FIFTY PERCENT OF THE PIER 76 FOOTPRINT SHALL BE USED FOR PARK USES THAT ARE LIMITED TO PASSIVE AND ACTIVE OPEN SPACE AND WHICH SHALL BE CONTIGUOUS TO WATER AND PROVIDED FURTHER THAT THE REMAINING PORTION SHALL BE FOR PARK/COMMERCIAL USE. UPON SUCH CONVEYANCE, PIER 76 SHALL BECOME PART OF THE PARK.

(h) On each of the piers identified in paragraph (a) of this subdivision (i) not less than eighty percent of the surface area of each such pier shall be used solely for passive and active public open space uses, or for habitat and wildlife protection in the case of any pier for that purpose, and (ii) not more than ten percent of the surface area of each such pier shall be covered by enclosed structures; [provided that] EXCEPT THAT AN ENCLOSED, TWO STORY STRUCTURE WITH A COVERAGE LIMITATION OF 12,000 SQUARE FEET THAT IS BUILT FOR USE AS AN ESTUARIUM FACILITY IS PERMITTED at Pier 26, [the coverage limitation shall be fifteen percent and at Pier 64, the existing structures at that pier (or any portions thereof) may be retained for permitted park uses without regard to the requirements of subparagraphs (i) and (ii) of this paragraph] AND THE COVERAGE LIMITATION AT PIER 97 SHALL BE NO MORE THAN A TOTAL OF 12,000 SQUARE FEET.

(i) Consistent with the general project plan, the area of the park east of the bulkhead line shall be used solely for park use and to permit access to permitted uses; provided that this limitation shall not apply to (I) those areas east of the bulkhead line that are occupied by pier headhouses or other pier-related structures at the base of piers 57, 59, 60, and 61; (II) A ONE STORY HELIPORT TERMINAL BUILDING, FUEL TANK STRUCTURE AND FIVE ACCESSORY PARKING SPACES USED IN CONNECTION WITH A WATER DEPENDENT NON-TOURISM/NON-RECREATIONAL HELIPORT TO BE LOCATED ON A FLOATING STRUCTURE LOCATED BETWEEN WEST 29TH AND WEST 32ND STREETS PROVIDED THAT THE LANDING AND TAKEOFF AREA LOCATED EAST OF THE BULKHEAD MAY CONTINUE TO OPERATE UNTIL THE LANDING AND TAKEOFF AREA WEST OF THE BULKHEAD IS COMPLETED AND OPERATIONAL; OR (III) AN INTERIM COMMERCIAL RECREATIONAL USE ALONG THE UPLAND PARK AREA BETWEEN 29TH AND 34TH STREETS, PROVIDED THAT: (A) ANY SUCH RELATED ENCLOSED STRUCTURE SHALL NOT EXCEED TWO STORIES; (B) ANY SUCH USE AND ANY RELATED ENCLOSED STRUCTURE SHALL NOT EXCEED A MAXIMUM OF TWO HUNDRED FEET IN LENGTH AND SHALL MAINTAIN OPEN VIEW CORRIDORS TO THE HUDSON RIVER FROM STREETS RUNNING TOWARDS AND AWAY FROM THE PARK AND SHALL NOT BE LOCATED WITHIN ANY DESIGNATED VISUAL CORRIDORS CONSISTENT WITH AND TO THE EXTENT REQUIRED UNDER THE CITY OF NEW YORK ZONING REQUIREMENTS; AND (C) SUCH INTERIM UPLAND COMMERCIAL RECREATIONAL USE SHALL NOT BE PERMITTED TO BE LOCATED OR CONTINUE TO OPERATE AFTER JULY 1, 2024.

S 9. Subdivision 3 of section 8 of chapter 592 of the laws of 1998, constituting the Hudson river park act, is amended by adding a new paragraph (e) to read as follows:

(E) NOTWITHSTANDING THE PROHIBITION IN PARAGRAPH (B) OF THIS SUBDIVISION ON THE PLACING OF PILINGS IN THE HUDSON RIVER, PARAGRAPH (C) OF THIS SUBDIVISION ON BUILDINGS OUTSIDE OF HISTORIC FOOTPRINTS, OR LIKE PROHIBITIONS IN SECTION 382-A OF CHAPTER 190 OF THE LAWS OF 1990 TO THE CONTRARY, PIER 54 MAY BE RECONSTRUCTED OUTSIDE OF ITS HISTORIC FOOTPRINT PROVIDED THAT THE LENGTH OF SUCH PIER DOES NOT EXCEED 700 FEET AND THE TOTAL SQUARE FOOTAGE OF SUCH RECONSTRUCTED PIER, INCLUDING ANY ADJACENT PLATFORM AREAS OR ACCESS WAYS, DOES NOT EXCEED 150,000 SQUARE FEET AND PROVIDED FURTHER THAT SUCH RECONSTRUCTION COMPLIES WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND PROVIDED FURTHER THAT THE HISTORIC ELEMENTS FROM THE WHITE STAR LINE, INCLUDING THE IRON ARCH, MUST BE INCORPORATED IN ANY RECONSTRUCTION/REDESIGN.

S 10. Subdivision 5 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, is amended to read as follows:

5. The only uses or structures within the park which shall not be subject to zoning and other land use laws and regulations of the city of New York shall be passive and active public open space uses; PROVIDED,

HOWEVER, THAT FOR DEVELOPMENT ON EXISTING PIERS, WITH USES OR PROPOSED USES THAT: (1) QUALIFY AS "PARK USE" OR "PARK/COMMERCIAL USE" AS EACH IS DEFINED IN THIS ACT, AND (2) PROVIDE FOR A MINIMUM OF FIFTY PERCENT OF THE FOOTPRINT OF SUCH PIER DEDICATED TO PUBLIC OPEN SPACE INCLUDING A PERIMETER WATERSIDE WALKWAY SURROUNDING THE ENTIRETY OF THE PIER OR SO MUCH OF THE PIER AS IS FEASIBLE, THEN IN SUCH CASE ZONING REGULATIONS OF THE CITY OF NEW YORK WHICH REQUIRE CERTAIN DESIGN AND PLACEMENT OF BENCHES AND LIGHTING SHALL NOT APPLY IN CONNECTION WITH ANY DEVELOPMENT THAT IS OTHERWISE IN ACCORDANCE WITH THIS ACT.

S 11. Section 14 of chapter 592 of the laws of 1998, constituting the Hudson River park act, is amended by adding a new subdivision 4 to read as follows:

4. SHOULD THIS ACT PERMIT THE CONSTRUCTION, OPERATION AND USE OF A HOTEL OR MEETING SPACE WITHIN ANY PORTION OF THE PARK, THE TRUST OR THE CONTRACTOR OR SUB-CONTRACTOR OF SUCH PROJECT SHALL ENTER INTO A VALID AGREEMENT ENFORCEABLE UNDER 29 U.S.C.S 185 WITH EACH LABOR ORGANIZATION THAT IS ACTIVELY ENGAGED IN REPRESENTING OR ATTEMPTING TO REPRESENT HOSPITALITY INDUSTRY WORKERS IN THE STATE. SUCH AGREEMENT SHALL, AT A MINIMUM, PROTECT THE TRUST'S PROPRIETARY INTERESTS BY PROHIBITING THE LABOR ORGANIZATION AND ITS MEMBERS FROM ENGAGING IN PICKETING, WORK STOPPAGES, BOYCOTTS, AND ANY OTHER ECONOMIC INTERFERENCE WITH THE OPERATION OF THE FACILITY OR ASSOCIATED HOSPITALITY OPERATIONS FOR THE DURATION OF THE TRUST'S PROPRIETARY INTEREST.

S 12. Severability. If any judgment or order of any court shall nullify, limit or invalidate any provision or application of this act, or if any provision or application of this act is legally determined to violate or be inconsistent with any federal law or regulation, that judgment or order shall not be construed as nullifying, limiting or invalidating any other provisions or application of this act.

S 13. This act shall take effect immediately.