

3743

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 29, 2013

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Introduced by M. of A. COOK, ROBERTS, CAMARA, HOOPER, SCARBOROUGH,  
JAFEE, MILLMAN, GOTTFRIED -- Multi-Sponsored by -- M. of A. BRENNAN,  
GLICK, LUPARDO, MAGEE, PEOPLES-STOKES, TITONE -- read once and  
referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to expand-  
ing the powers and duties of the office of community gardens

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

1     Section 1. Article 2-C of the agriculture and markets law is amended  
2     by adding a new section 31-f to read as follows:  
3     S 31-F. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY FINDS AND  
4     DECLARES THAT COMMUNITY GARDENS PROVIDE SIGNIFICANT HEALTH, EDUCATIONAL  
5     AND SOCIAL BENEFITS TO THE GENERAL PUBLIC, ESPECIALLY FOR THOSE WHO  
6     RESIDE IN URBAN AND SUBURBAN AREAS OF THIS STATE. FURTHERMORE, IT IS THE  
7     ARTICULATED PUBLIC POLICY OF THIS STATE TO PROMOTE AND FOSTER GROWTH IN  
8     THE NUMBER OF COMMUNITY GARDENS AND THE ACREAGE OF SUCH GARDENS. THE  
9     COMMUNITY GARDEN MOVEMENT CONTINUES TO PROVIDE LOW COST FOOD THAT IS  
10    FRESH AND NUTRITIOUS FOR THOSE WHO MAY BE UNABLE TO READILY AFFORD FRESH  
11    FRUITS AND VEGETABLES FOR THEMSELVES OR THEIR FAMILIES, PROMOTES PUBLIC  
12    HEALTH AND HEALTHIER INDIVIDUAL LIFESTYLES BY ENCOURAGING BETTER EATING  
13    HABITS AND INCREASED PHYSICAL ACTIVITY BY GROWING THEIR OWN FOOD,  
14    FOSTERS THE RETENTION AND EXPANSION OF OPEN SPACES, PARTICULARLY IN  
15    URBAN ENVIRONMENTS, ENHANCES URBAN AND SUBURBAN ENVIRONMENTAL QUALITY  
16    AND COMMUNITY BEAUTIFICATION, PROVIDES INEXPENSIVE COMMUNITY BUILDING  
17    ACTIVITIES, RECREATION AND PHYSICAL EXERCISE FOR ALL AGE GROUPS, ESTAB-  
18    LISHES A SAFE PLACE FOR COMMUNITY INVOLVEMENT AND HELPS TO REDUCE THE  
19    INCIDENCE OF CRIME, ENGENDERS A CLOSER RELATIONSHIP BETWEEN URBAN RESI-  
20    DENTS, NATURE AND THEIR LOCAL ENVIRONMENT, AND FOSTERS GREEN JOB TRAIN-  
21    ING AND ECOLOGICAL EDUCATION AT ALL LEVELS. IT IS THEREFORE THE INTENT  
22    OF THE LEGISLATURE AND THE PURPOSE OF THIS ARTICLE TO FOSTER GROWTH IN  
23    THE NUMBER, SIZE AND SCOPE OF COMMUNITY GARDENS IN THIS STATE BY ENCOUR-

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

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1 AGING STATE AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES IN THEIR  
2 EFFORTS TO PROMOTE COMMUNITY GARDENS.

3 S 2. Subdivisions 2 and 3 of section 31-g of the agriculture and  
4 markets law, as added by chapter 862 of the laws of 1986, are amended  
5 and a new subdivision 4-a is added to read as follows:

6 2. "Garden" shall mean a piece OR PARCEL of land appropriate for THE  
7 cultivation of herbs, fruits, flowers, NUTS, HONEY, POULTRY FOR EGG  
8 PRODUCTION, MAPLE SYRUP, ORNAMENTAL OR VEGETABLE PLANTS, NURSERY  
9 PRODUCTS, or vegetables.

10 3. "Municipality" shall mean any county, town, village, city, school  
11 district [or], BOARD OF COOPERATIVE EDUCATIONAL SERVICES, other special  
12 district, OR ANY OFFICE OR AGENCY THEREOF.

13 4-A. "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, BUREAU, COMMISSION,  
14 BOARD, PUBLIC AUTHORITY OR OTHER AGENCY OF THE STATE, INCLUDING ANY  
15 PUBLIC BENEFIT CORPORATION OF WHICH ANY MEMBER OF WHOSE BOARD IS  
16 APPOINTED BY THE GOVERNOR.

17 S 3. Subdivision 2 of section 31-h of the agriculture and markets law,  
18 as added by chapter 862 of the laws of 1986, is amended to read as  
19 follows:

20 2. The duties of the office shall include:

21 a. Upon request, the office shall assist in the identification of  
22 vacant public land within a given geographical location and provide  
23 information regarding agency jurisdiction and the relative suitability  
24 of such lands for community gardening purposes;

25 b. Serve as a coordinator on behalf of interested community groups and  
26 the appropriate state or local agencies to facilitate the use of vacant  
27 public lands for community garden use for not less than one growing  
28 season by receiving and forwarding with recommendation completed appli-  
29 cations to the appropriate STATE OR MUNICIPAL agency. PROVIDED, FURTHER,  
30 THAT THE OFFICE MAY DEVELOP A SINGLE RECOMMENDED APPLICATION FORM TO BE  
31 USED BY COMMUNITY GROUPS WHEN APPLYING TO STATE AGENCIES OR MUNICI-  
32 PALITIES FOR USE OF VACANT PUBLIC LAND FOR COMMUNITY GARDEN PURPOSES;

33 c. Support and encourage contact between community garden programs  
34 already in existence and those programs in the initial stages of devel-  
35 opment; [and]

36 d. Seek and provide such assistance, to the extent funds or grants may  
37 become available, for the purposes identified in this article[.];

38 E. ASSIST, SUPPORT AND ENCOURAGE CONTACT AND COOPERATION BETWEEN, AND  
39 THE COOPERATIVE SHARING OF RESOURCES BETWEEN COMMUNITY GARDEN GROUPS,  
40 SCHOOL GARDEN PROGRAMS AND LOCAL VOLUNTARY FOOD ASSISTANCE PROGRAMS,  
41 SUCH AS COMMUNITY FOOD PANTRIES, SOUP KITCHENS, AND OTHER COMMUNITY AND  
42 NOT-FOR-PROFIT ORGANIZATIONS THAT PROVIDE OR DISTRIBUTE FOOD TO THE POOR  
43 AND DISADVANTAGED. SUCH SUPPORT CAN INCLUDE THE PROVISION OF SURPLUS  
44 COMMUNITY GARDEN FOOD OR OTHER AGRICULTURAL PRODUCTS TO SUCH LOCAL  
45 VOLUNTARY FOOD ASSISTANCE PROGRAMS; AND

46 F. ASSIST, SUPPORT AND ENCOURAGE COMMUNICATION, AND THE SHARING OF  
47 RESOURCES BETWEEN COMMUNITY GARDEN ORGANIZATIONS AND THE NEW YORK  
48 HARVEST FOR NEW YORK KIDS WEEK PROGRAM ESTABLISHED BY THE DEPARTMENT  
49 PURSUANT TO SUBDIVISION FIVE-B OF SECTION SIXTEEN OF THIS CHAPTER, AND  
50 INDIVIDUAL FARM-TO-SCHOOL AND SCHOOL GARDEN PROGRAMS.

51 S 4. Section 31-i of the agriculture and markets law, as added by  
52 chapter 862 of the laws of 1986, is amended to read as follows:

53 S 31-i. Use of state OR MUNICIPALLY owned land for community gardens.  
54 1. Any state agency[, department, board, public benefit corporation,  
55 public authority] or [commission] MUNICIPALITY with title IN FEE OR OF A  
56 LESSER INTEREST to vacant public land may permit community organizations

1 to use such lands for community gardening purposes. Such use of vacant  
2 public land may be conditioned on the community organization possessing  
3 liability insurance and accepting liability for injury or damage result-  
4 ing from use of the vacant public land for community gardening purposes.

5 2. State agencies AND MUNICIPALITIES which have received an applica-  
6 tion for use of public lands for community garden purposes shall respond  
7 to the applicant within thirty days and make a final determination with-  
8 in one hundred eighty days.

9 S 5. The agriculture and markets law is amended by adding a new  
10 section 31-j to read as follows:

11 S 31-J. COMMUNITY GARDENS TASK FORCE. 1. THE COMMISSIONER MAY CONVENE  
12 A COMMUNITY GARDENS TASK FORCE TO IDENTIFY AND DEVELOP WAYS TO ENCOURAGE  
13 STATE AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES TO ESTABLISH AND  
14 EXPAND COMMUNITY GARDENS AND THE ACTIVITIES CONDUCTED BY SUCH GARDENS.

15 2. THE TASK FORCE SHALL BE CHAIRED BY THE COMMISSIONER, OR BY SUCH  
16 OFFICER OR EMPLOYEE OF THE DEPARTMENT AS SHALL BE DESIGNATED BY THE  
17 COMMISSIONER. THE MEMBERSHIP OF THE TASK FORCE MAY INCLUDE REPRESENTA-  
18 TION FROM APPROPRIATE STATE AGENCIES AND MEMBERS THAT REPRESENT EXIST-  
19 ING COMMUNITY GARDENS, COUNTIES, CITIES, TOWNS, VILLAGES, SCHOOL  
20 DISTRICTS, OTHER SPECIAL USE DISTRICTS, PUBLIC AUTHORITIES AND COOPER-  
21 ATIVE EXTENSION SERVICES.

22 3. THE COMMISSIONER, MAY REQUEST THE ASSISTANCE OF STATE AGENCIES TO  
23 CARRY OUT THE WORK OF THE TASK FORCE.

24 4. (A) THE GOALS OF THE TASK FORCE MAY INCLUDE, BUT ARE NOT LIMITED  
25 TO, THE STUDY, EVALUATION AND DEVELOPMENT OF RECOMMENDATIONS: (I) TO  
26 ENCOURAGE THE ESTABLISHMENT AND EXPANSION OF COMMUNITY GARDENS BY STATE  
27 AGENCIES, MUNICIPAL GOVERNMENTS AND PRIVATE PARTIES, (II) TO ENCOURAGE  
28 COOPERATION BETWEEN THE ACTIVITIES AND OPERATIONS OF COMMUNITY GARDENS  
29 AND PROVISION OF DONATED FOOD TO LOCAL VOLUNTARY FOOD ASSISTANCE  
30 PROGRAMS FOR THE POOR AND DISADVANTAGED, AND (III) TO INCREASE THE BENE-  
31 FITS THAT COMMUNITY GARDENS MAY PROVIDE TO THE LOCAL COMMUNITY IN WHICH  
32 THEY ARE LOCATED.

33 (B) IN ACHIEVING THE GOALS OF THE TASK FORCE, THE TASK FORCE MAY  
34 CONSIDER RECOMMENDATIONS THAT: (I) ENCOURAGE THE EXECUTION OF CONSERVA-  
35 TION EASEMENTS BY STATE AGENCIES, MUNICIPALITIES OR PRIVATE PARTIES TO  
36 ESTABLISH OR PROTECT COMMUNITY GARDENS, (II) ENCOURAGE THE CREATION OF  
37 MECHANISMS TO TRANSFER DEVELOPMENT RIGHTS TO PROTECT COMMUNITY GARDENS  
38 OR ENCOURAGE THE DONATION OR LEASE OF LANDS FOR COMMUNITY GARDENS, (III)  
39 DEVELOPMENT OF MODEL ZONING CODES, LOCAL LAND USE LAWS OR OTHER MUNICI-  
40 PAL POLICIES THAT COULD ENCOURAGE THE ESTABLISHMENT OR RETENTION OF  
41 COMMUNITY GARDENS, AND (IV) ANY OTHER ACTIVITY TO ACHIEVE THE GOALS  
42 DEEMED APPROPRIATE BY THE TASK FORCE ACCORDING TO THE PROVISIONS OF THIS  
43 ARTICLE.

44 S 6. This act shall take effect on the first of January next succeed-  
45 ing the date on which it shall have become a law.