

1535

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. PERKINS, ADAMS, HASSELL-THOMPSON, KRUEGER, MONTGOMERY, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the eminent domain procedure law and the New York state urban development corporation act, in relation to defining blight; and to repeal certain provisions of the New York state urban development corporation act relating thereto

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

1 Section 1. Legislative findings and intent. The legislature hereby
2 finds and declares that eminent domain, while a meaningful tool for
3 government to move forward on important projects, has come under a great
4 deal of criticism in recent years for many alleged abuses that have
5 occurred within the state of New York. Traditionally, the right of
6 eminent domain, or the state's ability to seize private land was limited
7 for "public use". However, over the years, phrases such as "public use"
8 and "blighted" have taken on more expansive meanings.
9 Since *Kelo v. City of New London*, the 2005 decision in which the U.S.
10 Supreme Court approved the forcible transfer of property from one
11 private owner to another in the name of "economic development", forty-
12 three states have passed eminent domain reform legislation. New York has
13 thus far failed to take such action but continues again and again to
14 approve eminent domain condemnation for projects that benefit private
15 entities at the public's expense. A 2009 report by the Institute for
16 Justice entitled "Building Empires, Destroying Homes: Eminent Domain
17 Abuse in New York" detailed widespread eminent domain abuse throughout
18 the state.
19 Furthermore, two recent court decisions, *Goldstein v. New York State*
20 *Urban Development Corporation* and *Kaur v. New York State Urban Develop-*
21 *ment Corporation* demonstrate the need to balance the rights of property

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

LBD04202-01-3

owners without stifling positive economic development programs. Instead, New Yorkers suffer under an inequitable system of eminent domain laws that greatly favors private developers partnered with public actors at the expense of homeowners, businesses, and tenants.

The use of "blight" as a basis for condemnation is vaguely defined and in need of clarification. Under the loose standards of existing law practically anything can qualify as blighted. Consequently it is imperative that the legislature enact objective criteria to ensure that blight determinations are consistent, predictable, and based on factors actually related to the public's health and safety. There also needs to be better protections in place so that tenants and low income residents are ensured that they are not excluded from the development process.

As Judge Catterson notes for the majority in the Kaur decision, it has been well documented that the urban renewal schemes of the 1950s and 1960s displaced millions of people and destroyed hundreds of neighborhoods. By and far, these programs disproportionately harmed low income and minority families. Legislative reforms are needed to prevent a repeat of these injustices. It is now time for New York to make the necessary reforms that will ensure a fair and equitable use of our eminent domain laws.

S 2. Section 103 of the eminent domain procedure law is amended by adding five new subdivisions (H), (I), (J), (K) and (L) to read as follows:

(H) "BLIGHTED PROPERTY" AND "BLIGHTED AREA" MEAN PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER.

(I) "SLUM" MEANS PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER.

(J) "SUBSTANDARD AND INSANITARY PROPERTY" MEANS PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER.

(K) "UNFIT FOR HUMAN HABITATION" MEANS PREMISES WHICH HAVE IDENTIFIABLE CONDITIONS THAT ENDANGER THE LIFE, HEALTH AND SAFETY OF THE OWNERS, OCCUPANTS, OR THE PUBLIC. CONDITIONS RENDERING PROPERTY UNFIT FOR HUMAN HABITATION INCLUDE, BUT ARE NOT LIMITED TO, SUBSTANTIAL STRUCTURAL DEFECTS OR DETERIORATION, VERMIN INFESTATION, LACK OF NECESSARY UTILITIES, AND FIRE HAZARDS.

(L) "ABANDONED PROPERTY" MEANS:

(1) UNOCCUPIED PROPERTY WHICH HAS BEEN TAX DELINQUENT FOR AT LEAST TWO YEARS; OR

(2) A BUILDING:

(A) THAT IS UNOCCUPIED BY OWNER OR TENANT;

(B) THAT IS UNFIT FOR HABITATION;

(C) THAT HAS DETERIORATED TO THE POINT WHERE:

(I) THE BUILDING IS STRUCTURALLY UNSOUND OR POSES AN IMMEDIATE THREAT TO LIFE OR OTHER PROPERTY; OR

(II) THE COST OF REHABILITATION SIGNIFICANTLY EXCEEDS THE POST-REHABILITATION MARKET VALUE; AND

(D) THE OWNER IS UNKNOWN OR THE OWNER FAILS TO RESPOND WITHIN SIX MONTHS TO A VIOLATION NOTICE FROM THE APPROPRIATE GOVERNING BODY REQUIRING THE OWNER TO:

(I) REHABILITATE THE BUILDING TO CONFORM TO MINIMUM CODE HABITABILITY REQUIREMENTS; OR

(II) DEMOLISH THE BUILDING FOR HEALTH AND SAFETY REASONS; OR

(3) A VACANT LOT ON WHICH A BUILDING HAS BEEN DEMOLISHED AND FOR WHICH A MUNICIPAL LIEN FOR DEMOLITION COSTS REMAINS UNPAID FOR SIX MONTHS.

1 S 3. Paragraph 4 of subdivision (B) of section 204 of the eminent
2 domain procedure law is amended and a new paragraph 5 is added to read
3 as follows:

4 (4) such other factors as it considers relevant[.];

5 (5) THE FINDINGS REQUIRED PURSUANT TO SUBDIVISION (D) OF SECTION TWO
6 HUNDRED FOUR-A OF THIS ARTICLE.

7 S 4. The eminent domain procedure law is amended by adding a new
8 section 204-a to read as follows:

9 S 204-A. BLIGHTED PROPERTIES AND AREAS. (A) SUBJECT TO THE EXCEPTIONS
10 LISTED IN PARAGRAPH TWO OF SUBDIVISION (B) OF THIS SECTION, ANY SINGLE
11 PROPERTY MAY BE DECLARED BLIGHTED IF IT MEETS ANY OF THE FOLLOWING
12 CONDITIONS:

13 (1) ANY PREMISES, WHICH BECAUSE OF DILAPIDATION, DETERIORATION, STRUC-
14 TURAL DEFECTS, VERMIN INFESTATION, HEALTH HAZARDS, FIRE HAZARDS, LACK OF
15 UTILITIES, LACK OF FACILITIES OR EQUIPMENT REQUIRED BY STATUTE OR MUNIC-
16 IPAL CODE, NEGLECT, OR LACK OF MAINTENANCE:

17 (A) IS UNFIT FOR HUMAN HABITATION;

18 (B) HAS DETERIORATED TO THE POINT WHERE:

19 (I) THE BUILDING IS STRUCTURALLY UNSOUND OR POSES AN IMMEDIATE THREAT
20 TO LIFE OR OTHER PROPERTY; OR

21 (II) THE COST OF REHABILITATION SIGNIFICANTLY EXCEEDS THE POST-REHABI-
22 LITATION MARKET VALUE; AND

23 (C) THE OWNER FAILS TO REMEDY THE PROBLEM WITHIN A REASONABLE TIME
24 AFTER RECEIVING NOTICE OF VIOLATION BY THE APPROPRIATE GOVERNING BODY
25 REQUIRING THE OWNER TO:

26 (I) REHABILITATE THE BUILDING TO CONFORM TO MINIMUM CODE HABITABILITY
27 REQUIREMENTS; OR

28 (II) DEMOLISH THE BUILDING FOR HEALTH AND SAFETY REASONS.

29 (2) ANY ABANDONED PROPERTY AS DEFINED IN SUBDIVISION (L) OF SECTION
30 ONE HUNDRED THREE OF THIS CHAPTER.

31 (3) PROPERTY THAT IS ENVIRONMENTALLY CONTAMINATED AND THAT REQUIRES
32 REMEDIATION FOR CURRENT OR FUTURE USE UNDER STATE OR FEDERAL LAW, IF THE
33 OWNER FAILS TO REMEDY THE PROBLEM WITHIN SIX MONTHS OF RECEIVING NOTICE
34 OF VIOLATION FROM THE APPROPRIATE GOVERNING BODY.

35 (4) A PREMISES WHICH, BECAUSE OF PHYSICAL CONDITION OR USE, IS
36 REGARDED AS A PUBLIC NUISANCE AT COMMON LAW OR HAS BEEN DECLARED A
37 PUBLIC NUISANCE UNDER A STATUTE OR AN APPLICABLE MUNICIPAL CODE, AND THE
38 OWNER FAILS TO ABATE THE NUISANCE WITHIN SIX MONTHS OF RECEIVING NOTICE
39 OF VIOLATION FROM THE APPROPRIATE GOVERNING BODY.

40 (5) ANY WELL, SHAFT, BASEMENT, EXCAVATION, OR UNSAFE FENCE OR STRUC-
41 TURE THAT, BECAUSE OF PHYSICAL CONDITION, USE OR OCCUPANCY, IS DEEMED AN
42 ATTRACTIVE NUISANCE TO CHILDREN, AND THE OWNER FAILS TO ABATE THE
43 NUISANCE WITHIN SIX MONTHS AFTER RECEIVING NOTICE OF VIOLATION FROM THE
44 APPROPRIATE GOVERNING BODY.

45 (6) VACANT PROPERTY THAT HAS BECOME OVERGROWN WITH WEEDS, IS A PLACE
46 FOR THE ACCUMULATION OF TRASH AND DEBRIS, OR A HAVEN FOR VERMIN, IF THE
47 OWNER FAILS TO REMEDY THE PROBLEM WITHIN SIX MONTHS AFTER RECEIVING
48 NOTICE OF VIOLATION BY THE APPROPRIATE GOVERNING BODY REQUIRING THE
49 OWNER TO REHABILITATE THE PROPERTY TO CONFORM WITH MINIMUM CODE REQUIRE-
50 MENTS.

51 (7) DEFECTIVE OR UNUSUAL CONDITIONS OF TITLE THAT MAKE THE FREE TRANS-
52 FER OR ALIENATION OF THE PROPERTY IMPOSSIBLE.

53 (8) OCCUPIED OR UNOCCUPIED PROPERTY THAT HAS TAX DELINQUENCIES EXCEED-
54 ING THE VALUE OF THE PROPERTY.

55 (9) PROPERTY THAT IS USED FOR PERVASIVE AND PERSISTENT CRIMINAL ACTIV-
56 ITY. FOR PURPOSES OF THIS SECTION, SUCH ACTIVITY SHALL BE DEFINED AS TWO

1 OR MORE CONVICTIONS OF ANY PERSON OR PERSONS HAD, WITHIN A PERIOD OF ONE
2 YEAR, FOR ANY OF THE FOLLOWING PENAL LAW OFFENSES ARISING OUT OF CONDUCT
3 ENGAGED IN AT THE PROPERTY:

4 (A) SALE OF A CONTROLLED SUBSTANCE DESCRIBED IN SECTIONS 220.31,
5 220.34, 220.39, 220.41, OR 220.43 OF THE PENAL LAW; OR

6 (B) OFFENSES RELATED TO THE CRIME OF PROSTITUTION AS DESCRIBED IN
7 ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW; OR

8 (C) OFFENSES RELATED TO THE CRIME OF GAMBLING AS DESCRIBED IN ARTICLE
9 TWO HUNDRED TWENTY-FIVE OF THE PENAL LAW; OR

10 (D) ENTERPRISE CORRUPTION AS DEFINED IN ARTICLE FOUR HUNDRED SIXTY OF
11 THE PENAL LAW.

12 (10) PROPERTY THAT DOES NOT OTHERWISE MEET ANY OF THE CONDITIONS LIST-
13 ED IN THIS SECTION MAY NOT BE DECLARED BLIGHTED.

14 (B) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION,
15 THE FOLLOWING EXCEPTIONS SHALL APPLY:

16 (1) PROPERTY SHALL IN NO CASE BE DECLARED BLIGHTED IF IT MEETS ONE OR
17 MORE OF THE FOLLOWING CRITERIA:

18 (A) VACANT AND UNIMPROVED PROPERTY LOCATED IN ANY RURAL OR SUBURBAN
19 AREA WHICH IS NOT SERVED BY EXISTING UTILITIES.

20 (B) PROPERTY WHICH SATISFIES THE DEFINITION OF "FARM WOODLAND", "LAND
21 USED IN AGRICULTURAL PRODUCTION", "UNIQUE AND IRREPLACEABLE AGRICULTURAL
22 LAND", OR "VIALE AGRICULTURAL LAND", AS THOSE TERMS ARE DEFINED IN
23 SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW.

24 (2) FOR PURPOSES OF THIS SECTION, IF A DEVELOPER OR CONDEMNOR INVOLVED
25 IN A REDEVELOPMENT PROJECT HAS CAUSED OR BROUGHT ABOUT BY ACTION OR
26 INACTION OR MAINTAINED FOR MORE THAN SEVEN YEARS A CONDITION LISTED IN
27 SUBDIVISION (A) OF THIS SECTION WITHIN THE PROPOSED PROJECT AREA, THAT
28 CONDITION MAY NOT BE USED IN THE DETERMINATION OF BLIGHT.

29 (3) FOR PURPOSES OF THIS SECTION, IF PROPERTY LOCATED IN AN URBANIZED
30 AREA GENERALLY SERVED BY MUNICIPAL INFRASTRUCTURE AND UTILITIES MEETS
31 ONE OR MORE OF THE CONDITIONS LISTED IN SUBDIVISION (A) OF THIS SECTION
32 DUE TO FAILURE ON THE PART OF THE APPROPRIATE GOVERNING BODY TO PROVIDE
33 NECESSARY UTILITY SERVICES AND/OR INFRASTRUCTURE, THAT CONDITION MAY NOT
34 BE USED IN THE DETERMINATION OF BLIGHT.

35 (C) MULTIPLE PROPERTIES AND PROJECT AREAS MAY BE DECLARED BLIGHTED IF
36 THEY MEET ANY OF THE FOLLOWING CONDITIONS:

37 (1) FOR PURPOSES OF ACQUIRING MULTIPLE UNITS OF PROPERTY BY EMINENT
38 DOMAIN, AN AREA MAY BE DECLARED GENERALLY BLIGHTED ONLY IF:

39 (A) THE AREA IS LOCATED IN AN URBAN OR SUBURBAN AREA GENERALLY SERVED
40 BY EXISTING UTILITIES AND INFRASTRUCTURE; AND

41 (B) SEVENTY-FIVE PERCENT OF THE INDIVIDUAL PARCELS IN THE AREA ARE
42 DECLARED BLIGHTED UNDER SUBDIVISION (A) OF THIS SECTION.

43 (2) A CONDEMNOR MAY USE EMINENT DOMAIN TO ACQUIRE ANY UNIT OF PROPERTY
44 WITHIN A BLIGHTED PROJECT AREA.

45 (3) PROPERTIES OWNED BY A DEVELOPER OR CONDEMNOR INVOLVED IN A REDE-
46 VELOPMENT PROJECT MAY BE INCLUDED IN ANY BLIGHTED PROJECT AREA DETERMI-
47 NATION.

48 (4) FOR PURPOSES OF THIS SECTION, A BUILDING CONTAINING MULTIPLE UNITS
49 SHALL BE TREATED AS A SINGLE PROPERTY.

50 (D) THE FOLLOWING FINDINGS SHALL BE REQUIRED BEFORE A PROPERTY OR
51 PROJECT AREA MAY BE DECLARED BLIGHTED:

52 (1) TO DECLARE ANY SINGLE PROPERTY BLIGHTED, THE CONDEMNOR MUST MAKE
53 WRITTEN FINDINGS IDENTIFYING THE SPECIFIC CONDITIONS WHICH RENDER THE
54 PROPERTY BLIGHTED UNDER SUBDIVISION (A) OF THIS SECTION.

55 (2) TO DECLARE MULTIPLE PROPERTIES OR PROJECT AREAS BLIGHTED, THE
56 CONDEMNOR MUST MAKE WRITTEN FINDINGS DEMONSTRATING THAT THE REQUIREMENTS

1 OF SUBDIVISION (C) OF THIS SECTION HAVE BEEN MET. TO DEMONSTRATE THAT
2 SEVENTY-FIVE PERCENT OF THE PARCELS IN THE AREA ARE INDIVIDUALLY BLIGHT-
3 ED, EACH BLIGHTED PARCEL MUST BE IDENTIFIED AND THE SPECIFIC CONDITIONS
4 RENDERING IT BLIGHTED UNDER SUBDIVISION (A) OF THIS SECTION MUST BE
5 IDENTIFIED.

6 (E) ANY DECLARATION MADE PURSUANT TO SUBDIVISION (D) OF THIS SECTION
7 SHALL BE VALID FOR A PERIOD OF TEN YEARS.

8 S 5. Section 2 of section 1 of chapter 174 of the laws of 1968,
9 constituting the New York state urban development corporation act, the
10 ninth undesignated paragraph as added by chapter 280 of the laws of 1984
11 and the tenth undesignated paragraph as amended by chapter 747 of the
12 laws of 2005, is amended to read as follows:

13 S 2. Statement of legislative findings and purposes. It is hereby
14 found and declared that there exists in [urban] SOME areas of this state
15 a condition of substantial and persistent unemployment and underemploy-
16 ment which causes hardship to many individuals and families, wastes
17 vital human resources, increases the public assistance burdens of the
18 state and municipalities, impairs the security of family life, contrib-
19 utes to the growth of crime and delinquency, prevents many of our youth
20 from finishing their educations, impedes the economic and physical
21 development of municipalities and adversely affects the welfare and
22 prosperity of all the people of the state. [Many existing industrial,
23 manufacturing and commercial facilities in such urban areas are obsolete
24 and inefficient, dilapidated, and without adequate mass transportation
25 facilities and public services. Many of such facilities are underuti-
26 lized or in the process of being vacated, creating additional unemploy-
27 ment. Technological advances and the provision of modern, efficient
28 facilities in other states will speed the obsolescence and abandonment
29 of existing facilities causing serious injury to the economy of the
30 state. Many existing and planned industrial, manufacturing and commer-
31 cial facilities are, moreover, far from or not easily accessible to the
32 places of residence of substantial numbers of unemployed persons. As a
33 result, problems of chronic unemployment are not being alleviated but
34 are aggravated. New industrial, manufacturing and commercial facilities
35 are required to attract and house new industries and thereby to reduce
36 the hazards of unemployment. The unaided efforts of private enterprise
37 have not met and cannot meet the needs of providing such facilities due
38 to problems encountered in assembling suitable building sites]

39 IT IS FURTHER FOUND AND DECLARED THAT THE UNAIDED EFFORTS OF PRIVATE
40 INDUSTRIAL, MANUFACTURING AND COMMERCIAL BUSINESSES ARE NEGATIVELY
41 AFFECTED BY AGING AND INEFFICIENT FACILITIES, DIFFICULTIES IN FINDING
42 SUITABLE BUILDING SITES FOR NEW FACILITIES, lack of adequate public
43 services, the unavailability of private capital for development [in such
44 urban areas], and the inability of private enterprise alone to plan[,]
45 AND finance DEVELOPMENT and TO coordinate [industrial and commercial
46 development] SUCH DEVELOPMENT with [residential developments for persons
47 and families of low income and with] AFFORDABLE HOUSING DEVELOPMENT,
48 COMMUNITY DEVELOPMENT PROGRAMS, public services and mass transportation
49 facilities.

50 It is further found and declared that there exist in many munici-
51 palities within this state [residential, nonresidential, commercial,
52 industrial or vacant areas, and combinations thereof, which are slum or
53 blighted, or which are becoming slum or blighted areas because of
54 substandard, insanitary, deteriorated or deteriorating conditions,
55 including obsolete and dilapidated buildings and structures, defective
56 construction, outmoded design, lack of proper sanitary facilities or

1 adequate fire or safety protection, excessive land coverage, insuffi-
2 cient light and ventilation, excessive population density, illegal uses
3 and conversions, inadequate maintenance, buildings abandoned or not
4 utilized in whole or substantial part, obsolete systems of utilities,
5 poorly or improperly designed street patterns and intersections, inade-
6 quate access to areas, traffic congestion hazardous to the public safe-
7 ty, lack of suitable off-street parking, inadequate loading and unload-
8 ing facilities, impractical street widths, sizes and shapes, blocks and
9 lots of irregular form, shape or insufficient size, width or depth,
10 unsuitable topography, subsoil or other physical conditions, all of]
11 BLIGHTED PROPERTIES AND BLIGHTED AREAS, WHICH ARE CHARACTERIZED BY PREM-
12 ISES UNFIT FOR HUMAN HABITATION AND DANGEROUS TO LIFE AND PROPERTY, AND
13 which hamper or impede proper and economic development of such areas and
14 which impair or arrest the sound growth of the area, community or muni-
15 cipality, and the state as a whole.

16 It is further found and declared that there is a serious need through-
17 out the state for adequate educational, recreational, cultural and other
18 community facilities, the lack of which threatens and adversely affects
19 the health, safety[, morals] and welfare of the people of the state.

20 It is further found and declared that there continues to exist
21 throughout the state a seriously inadequate supply of [safe and sani-
22 tary] DECENT dwelling accommodations for persons and families of low
23 income. This condition is contrary to the public interest and threatens
24 the health, safety, welfare, comfort and security of the people of the
25 state. The ordinary operations of private enterprise cannot provide an
26 adequate supply of safe and sanitary dwelling accommodations [at
27 rentals] which persons and families of low income can afford.

28 IT IS FURTHER FOUND AND DECLARED THAT THERE IS AN URGENT NEED TO
29 PROTECT AND ENHANCE THE QUALITY OF THE NATURAL ENVIRONMENT, TO ENCOURAGE
30 THE DEVELOPMENT AND EXPANSION OF EXISTING AND ALTERNATIVE SOURCES OF
31 ENERGY AND THE CONSERVATION OF ENERGY, AND TO ABATE AND PREVENT THE
32 GENERATION OF HAZARDOUS WASTE, TOXIC BY-PRODUCTS, AND OTHER TYPES OF
33 ENVIRONMENTAL POLLUTION.

34 It is hereby declared to be the policy of the state to promote a
35 vigorous and growing economy, to prevent economic stagnation and to
36 encourage the creation of new job opportunities in order to protect
37 against the hazards of unemployment, reduce the level of public assist-
38 ance to now indigent individuals and families, increase revenues to the
39 state and to its municipalities and to achieve stable and diversified
40 local economies. In furtherance of these goals, it is the policy of the
41 state to retain existing industries and to attract new industries
42 through the acquisition, construction, FINANCING, reconstruction and
43 rehabilitation of industrial and manufacturing plants and commercial
44 facilities, and to develop sites for new industrial and commercial
45 building. It is further declared to be the policy of the state to
46 promote the development of such plants and facilities, reasonably acces-
47 sible to residential facilities, in those areas where substantial unem-
48 ployment or underemployment exists, to the end that the industrial and
49 commercial development [of our urban areas] will proceed in sound fash-
50 ion and in coordination with development of housing, mass transportation
51 and public services, and that job opportunities will be available in
52 those areas where people lack jobs.

53 It is further declared to be the policy of the state to promote the
54 safety, health[, morals] and welfare of the people of the state and to
55 promote the sound growth and development of our municipalities through
56 the [correction of such substandard, insanitary, blighted, deteriorated

1 or deteriorating conditions, factors and characteristics by the clear-
2 ance, replanning, reconstruction, redevelopment, rehabilitation, resto-
3 ration or conservation of such areas,] REDEVELOPMENT OF BLIGHTED AREAS
4 and [of areas reasonably accessible thereto] the undertaking of public
5 and private improvement programs [related thereto], including the
6 provision of educational, recreational and cultural facilities, and the
7 encouragement of participation in these programs by private enterprise.
8 IN FURTHERANCE OF THESE GOALS, IT IS THE POLICY OF THE STATE TO ENGAGE
9 AND EMPOWER THE PUBLIC THROUGH EDUCATIONAL PROGRAMS, COMMUNITY OUTREACH,
10 AND AN OPEN AND INCLUSIVE REDEVELOPMENT PLANNING PROCESS; TO COORDINATE
11 REDEVELOPMENT PROJECTS AND IMPROVEMENT PROGRAMS WITH LOCAL GOVERNMENT
12 PLANNING GOALS; TO RESPECT COMMUNITIES' EXISTING SOCIAL AND CULTURAL
13 FABRIC AND TO LIMIT RESIDENTIAL AND BUSINESS DISPLACEMENT TO MAXIMUM
14 EXTENT POSSIBLE; TO REUSE EXISTING RESOURCES AND INFRASTRUCTURE AND
15 RECYCLE MATERIALS AND STRUCTURES; TO ENCOURAGE ENERGY EFFICIENCY AND
16 SUSTAINABLE BUILDING; TO CONSERVE UNDEVELOPED LAND AND ENCOURAGE INFILL
17 AND BROWNFIELD DEVELOPMENT; TO IMPROVE OR RESTORE NATURAL SYSTEMS SUCH
18 AS STREAMBEDS, DRAINAGE COURSES, WETLANDS, RIVERS, AND OTHER ECOLOGICAL
19 FEATURES, AND TO ENCOURAGE THE CREATION OF PUBLICLY AVAILABLE OPEN SPAC-
20 ES; TO ENSURE THAT ENVIRONMENTAL POLLUTION DOES NOT DISPARATELY AFFECT
21 AREAS WITH A SUBSTANTIAL NUMBER OF MINORITY OR LOW INCOME HOUSEHOLDS; TO
22 INCORPORATE CULTURAL RESOURCES AND LANDSCAPES INTO PROJECT DESIGNS BY
23 PRESERVING AND REHABILITATING BUILDINGS WITH CULTURAL, HISTORICAL OR
24 ARCHITECTURAL SIGNIFICANCE, ENCOURAGING ADAPTIVE REUSE AS AN ALTERNATIVE
25 TO DEMOLITION AND NEW CONSTRUCTION, AND ENCOURAGING COMPATIBLE DESIGN OF
26 NEW CONSTRUCTION; TO ENCOURAGE THE RETENTION AND CONSTRUCTION OF AFFORD-
27 ABLE HOUSING THROUGH INCENTIVES, LOANS, AND OTHER PROGRAMS; TO ENCOURAGE
28 DEVELOPMENT THAT IS ACCESSIBLE AND INVITING TO PEDESTRIANS, BICYCLISTS
29 AND TRANSIT USERS, AND TO DISCOURAGE DEVELOPMENT THAT IS RELIANT ON
30 PERSONAL AUTOMOBILE TRANSPORTATION; TO INCREASE OPPORTUNITIES FOR
31 PRIVATE ENTERPRISE, ESPECIALLY FOR SMALL BUSINESSES, LOCAL BUSINESSES,
32 AND BUSINESSES OWNED BY MINORITIES AND WOMEN, THROUGH PROCEDURES THAT
33 ARE FAIR, OPEN, EQUITABLE, TRANSPARENT, AND DEMONSTRATED TO BE THE BEST
34 CHOICE FOR THE PUBLIC INTEREST; TO PROVIDE SUFFICIENT GUARANTEES AND
35 PROTECTIONS IN THE EVENT THAT PRIVATE DEVELOPERS WITHDRAW FROM PARTIC-
36 IPATION IN A REDEVELOPMENT PROJECT OR IMPROVEMENT PROGRAM; TO INCREASE
37 EMPLOYMENT OPPORTUNITIES FOR LOCAL RESIDENTS, ESPECIALLY LOW INCOME
38 RESIDENTS, HOMELESS PERSONS, SINGLE PARENTS, FORMERLY INCARCERATED
39 PERSONS, AND PERSONS WITH OTHER BARRIERS TO EMPLOYMENT, THROUGH JOB
40 TRAINING, LOCAL HIRING AND OTHER ASSISTANCE PROGRAMS; AND TO ENCOURAGE
41 THE CREATION OF QUALITY JOBS THAT PROVIDE A LIVING WAGE, ADEQUATE HEALTH
42 BENEFITS, AND OPPORTUNITIES FOR ADVANCEMENT.

43 It is further declared to be the policy of the state to promote the
44 safety, health[, morals] and welfare of the people of the state through
45 the provision of adequate, safe and sanitary dwelling accommodations and
46 facilities incidental or appurtenant thereto for persons and families of
47 low income.

48 For these purposes, there should be created a corporate governmental
49 agency to be known as the "New York state urban development corporation"
50 which, through issuance of bonds and notes to the private, investing
51 public, by encouraging maximum participation by the private sector of
52 the economy, including the sale or lease of the corporation's interest
53 in projects at the earliest time deemed feasible, and through partic-
54 ipation in programs undertaken by the state, its agencies and subdivi-
55 sions, and by municipalities and the federal government, may provide or
56 obtain the capital resources necessary to acquire, construct, recon-

1 struct, rehabilitate or improve such industrial, manufacturing, commer-
2 cial, educational, recreational and cultural facilities, and housing
3 accommodations for persons and families of low income, and facilities
4 incidental or appurtenant thereto, and to carry out the [clearance,
5 replanning, reconstruction and rehabilitation of such substandard and
6 insanitary] REDEVELOPMENT OF BLIGHTED areas.

7 It is further declared to be the policy of New York state to encourage
8 the development of research and development facilities and high technol-
9 ogy industrial incubator space at institutions of higher education
10 located in this state and authorized to confer degrees by law or by the
11 board of regents, or on lands in reasonable proximity to such insti-
12 tutions provided that (i) in the case of research and development facil-
13 ities such facilities are for the cooperative use of one or more such
14 institutions and one or more business corporations, research consortia
15 or other industrial organizations involved in research, development,
16 demonstration, or other technologically oriented industrial activities;
17 and (ii) in the case of high technology industrial incubator space, such
18 space shall be for rental to business concerns which are in their form-
19 ative stages and which are involved in high technology activities,
20 including but not limited to business concerns initiated by students,
21 employees of such institution, including faculty members and other
22 persons or firms academically associated with such institution.

23 It is hereby declared that the acquisition, construction, FINANCING,
24 reconstruction, rehabilitation or improvement of such industrial, manu-
25 facturing and commercial facilities, and of such cultural, educational
26 and recreational facilities including but not limited to facilities
27 identified as projects and called for to implement a state designated
28 heritage area management plan as provided in title G of the parks,
29 recreation and historic preservation law; the [clearance, replanning,
30 reconstruction and rehabilitation of such substandard and insanitary]
31 REDEVELOPMENT OF BLIGHTED areas; and the provision of adequate, safe and
32 sanitary housing accommodations for persons and families of low income
33 and such facilities as may be incidental or appurtenant thereto are
34 public uses and public purposes for which public money may be loaned and
35 private property may be acquired and tax exemption granted, and that the
36 powers and duties of the New York state urban development corporation as
37 hereinafter prescribed are necessary and proper for the purpose of
38 achieving the ends here recited.

39 S 6. Section 3 of section 1 of chapter 174 of the laws of 1968,
40 constituting the New York state urban development corporation act, is
41 amended by adding two new subdivisions 31 and 32 to read as follows:

42 (31) "BLIGHTED PROPERTY" AND "BLIGHTED AREA". PROPERTY THAT IS
43 DECLARED BLIGHTED UNDER SECTION 204-A OF THE EMINENT DOMAIN PROCEDURE
44 LAW.

45 (32) "SLUM". PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION 204-A OF
46 THE EMINENT DOMAIN PROCEDURE LAW.

47 S 7. Subdivision 12 of section 3 of section 1 of chapter 174 of the
48 laws of 1968, constituting the New York state urban development corpo-
49 ration act, is REPEALED and a new subdivision 12 is added to read as
50 follows:

51 (12) "SUBSTANDARD AND INSANITARY PROPERTY". PROPERTY THAT IS DECLARED
52 BLIGHTED UNDER SECTION 204-A OF THE EMINENT DOMAIN PROCEDURE LAW.

53 S 8. Subdivision 7 of section 5 of section 1 of chapter 174 of the
54 laws of 1968, constituting the New York state urban development corpo-
55 ration act, is amended to read as follows:

(7) To acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase, condemnation or otherwise, leaseholds, real, personal or mixed property or any interest therein, SUBJECT TO THE LIMITATIONS IN SECTION 204-A OF THE EMINENT DOMAIN PROCEDURE LAW; to own, hold, clear, improve and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same;

S 9. Section 10 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, subdivision (d) as amended by chapter 847 of the laws of 1971, subdivisions (e) and (f) as added and subdivisions (g) and (h) as relettered by chapter 839 of the laws of 1987, is amended to read as follows:

S 10. Findings of the corporation. Notwithstanding any other provision of this act, the corporation shall not be empowered to undertake the acquisition, construction, reconstruction, rehabilitation or improvement of a project unless the corporation finds:

(a) in the case of a residential project:

(1) That there exists, in the area in which the project is to be located, or in an area reasonably accessible to such area, a need for [safe and sanitary] DECENT housing accommodations for persons or families of low income, which the operations of private enterprise cannot provide;

(2) That the project has been approved as a project of a housing company pursuant to the provisions of the private housing finance law.

(b) in the case of an industrial project:

(1) That the area in which the project is to be located is a [substandard or insanitary area, or is in danger of becoming a substandard or insanitary area] BLIGHTED AREA, AS THAT TERM IS DEFINED IN SUBDIVISION (H) OF SECTION 103 OF THE EMINENT DOMAIN PROCEDURE LAW, wherein there exists a condition of substantial and persistent unemployment or underemployment;

(2) That the acquisition or construction and operation of such project will prevent, eliminate or reduce unemployment or underemployment in such area;

(3) That such project shall consist of a building or buildings which are suitable for manufacturing, warehousing or research or other industrial, business or commercial purposes[.];

(4) That adequate provision has been, or will be made for the payment of the cost of the acquisition, construction, operation, maintenance and upkeep of such project[.];

(5) That the acquisition and construction, proposed leasing, operation and use of such project will aid in the development, growth and prosperity of the state and the area in which such project is located;

(6) That the plans and specifications assure adequate light, air, sanitation and fire protection.

(c) in the case of a land use improvement project:

(1) That the area in which the project is to be located is a [substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest the sound growth and development of the municipality] BLIGHTED AREA, AS THAT TERM IS DEFINED IN SUBDIVISION (H) OF SECTION 103 OF THE EMINENT DOMAIN PROCEDURE LAW;

(2) That the project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto;

1 (3) That the plan or undertaking affords maximum opportunity for
2 participation by private enterprise, consistent with the sound needs of
3 the municipality as a whole.

4 (d) in the case of a civic project:

5 (1) That THE AREA IN WHICH THE PROJECT IS TO BE LOCATED IS A BLIGHTED
6 AREA, AS THAT TERM IS DEFINED IN SUBDIVISION (H) OF SECTION 103 OF THE
7 EMINENT DOMAIN PROCEDURE LAW, WHEREIN there exists [in the area in which
8 the project is to be located,] a need for the educational, cultural,
9 recreational, community, municipal, public service or other civic facil-
10 ity to be included in the project;

11 (2) That the project shall consist of a building or buildings or other
12 facilities which are suitable for educational, cultural, recreational,
13 community, municipal, public service or other civic purposes;

14 (3) That such project will be leased to or owned by the state or an
15 agency or instrumentality thereof, a municipality or an agency or
16 instrumentality thereof, a public corporation, or any other entity which
17 is carrying out a community, municipal, public service or other civic
18 purpose, and that adequate provision has been, or will be, made for the
19 payment of the cost of acquisition, construction, operation, maintenance
20 and upkeep of the project;

21 (4) That the plans and specifications assure or will assure adequate
22 light, air, sanitation and fire protection.

23 (e) in the case of an industrial effectiveness project:

24 (1) That a feasibility study or productivity assessment exists demon-
25 strating the potential for future profitability of the firm requesting
26 financial assistance and such study or assessment has been reviewed and
27 approved by the commissioner of economic development;

28 (2) That for loans to implement a corporate restructuring or turn-
29 around plan, the management of the industrial firm requesting assistance
30 is capable and the firm has a sound business development plan that
31 includes measures to ensure labor and management cooperation and to
32 effect changes required to continue as a successful business;

33 (3) That the requested financial assistance is not available from
34 other public or private financing sources; and

35 (4) That the area in which the project is to be located is a
36 [substandard or insanitary area, or is in danger of becoming a substand-
37 ard or insanitary area] BLIGHTED AREA, AS THAT TERM IS DEFINED IN SUBDI-
38 VISION (H) OF SECTION 103 OF THE EMINENT DOMAIN PROCEDURE LAW, wherein
39 there exists a condition of substantial and persistent unemployment or
40 underemployment.

41 (f) in the case of a small and medium-sized business assistance
42 project:

43 (1) That the area in which the project will be located is a [substand-
44 ard or insanitary area, or is in danger of becoming a substandard or
45 insanitary area] BLIGHTED AREA, AS THAT TERM IS DEFINED IN SUBDIVISION
46 (H) OF SECTION 103 OF THE EMINENT DOMAIN PROCEDURE LAW, wherein there
47 exists a condition of substantial and persistent unemployment or under-
48 employment;

49 (2) That the project demonstrates market, management and financial
50 feasibility and has a clear likelihood of success;

51 (3) That the [industrial] firm provides at least a ten percent equity
52 contribution and such contribution is not derived from other govern-
53 mental sources;

54 (4) That the requested financial assistance is not available from
55 other public or private financing sources on terms compatible with the
56 successful completion of the project;

1 (5) That the project will not result in the relocation of any [indus-
2 trial] firm from one municipality within the state to another munici-
3 pality, OR IN THE ABANDONMENT OF ONE OR MORE OF THE FIRMS' PLANTS OR
4 FACILITIES LOCATED WITHIN THE STATE, except under one of the following
5 conditions: (i) when [an industrial] A firm is relocating within a muni-
6 cipality with a population of at least one million where the governing
7 body of such municipality approves such relocation; [or] (ii) the corpo-
8 ration notifies each municipality from which such [industrial] firm will
9 be relocated and each municipality agrees to such relocation; OR (III)
10 THE CORPORATION SHALL DETERMINE ON THE BASIS OF THE APPLICATION BEFORE
11 IT THAT THE PROJECT IS REASONABLY NECESSARY TO DISCOURAGE THE FIRM FROM
12 RELOCATING TO A LOCATION OUTSIDE THE STATE AND TO PRESERVE THE COMPET-
13 ITIVE POSITION OF THE FIRM WITHIN ITS RESPECTIVE INDUSTRY; and

14 (6) That the project is not for the purpose of refinancing any portion
15 of the total project cost or other existing loans or debts of the
16 project sponsor or owner.

17 (g) in the case of all projects, that [there is a feasible method for
18 the relocation of families and individuals displaced from the project
19 area into decent, safe and sanitary dwellings] THE DISPLACEMENT OF RESI-
20 DENTS AND BUSINESSES IS LIMITED TO THE MAXIMUM EXTENT POSSIBLE, AND THAT
21 ALL DISPLACED RESIDENTS AND BUSINESSES WILL BE AFFORDED ADEQUATE COMPEN-
22 SATION AND/OR ASSISTANCE TO BE RELOCATED TO SUBSTANTIALLY COMPARABLE
23 PROPERTIES, which are or will be [provided] LOCATED in the project area
24 or in [other areas] AN AREA REASONABLY PROXIMATE TO THE PROJECT AREA AND
25 not generally less desirable in regard to public utilities and public
26 and commercial facilities, at SUBSTANTIALLY COMPARABLE rents or prices
27 [within the financial means of such families or individuals], and
28 reasonably accessible to their places of DWELLING AND/OR employment.
29 [Insofar as is feasible, the] THE corporation shall offer SUBSTANTIALLY
30 COMPARABLE housing accommodations to [such families and individuals]
31 DISPLACED RESIDENTS in [residential] projects [of the corporation] THAT
32 INCLUDE A RESIDENTIAL COMPONENT, AND INsofar AS IS FEASIBLE, THE CORPO-
33 RATION SHALL OFFER SUBSTANTIALLY COMPARABLE INDUSTRIAL OR COMMERCIAL
34 ACCOMMODATIONS TO DISPLACED BUSINESSES IN PROJECTS THAT INCLUDE AN
35 INDUSTRIAL OR COMMERCIAL COMPONENT. The corporation may render to busi-
36 ness and commercial tenants and [to families or other persons] displaced
37 [from the project area,] RESIDENTS ANY OTHER such assistance as it may
38 deem [necessary to enable them to relocate] APPROPRIATE.

39 (h) in the case of all projects, the corporation shall state the basis
40 for its findings.

41 S 10. This act shall take effect immediately.