

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:

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

3 ARTICLE 16

4 MUNICIPAL PARKLAND ALIENATION

5 SECTION 16.01 DEFINITIONS.

6 16.03 PARKLAND ALIENATION REPORTING.

7 16.05 PARKLAND ALIENATION ENFORCEMENT.

8 S 16.01 DEFINITIONS. WHEN USED IN THIS ARTICLE:

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

16 2. "MUNICIPAL PARKLAND ALIENATION" SHALL MEAN ANY ACTION BY A MUNICI-  
17 PALITY TO SELL, LEASE, DISCONTINUE, OR CHANGE THE USE OF MUNICIPAL PARK-  
18 LAND.

19 3. "MUNICIPALITY" SHALL MEAN A COUNTY, TOWN, CITY, OR VILLAGE. IT  
20 SHALL ALSO MEAN A SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION IN  
21 INSTANCES WHERE SUCH ENTITY HAS OBTAINED STATE OR FEDERAL GRANT FUNDING  
22 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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1 4. "PARKLAND ALIENATION LEGISLATION" SHALL MEAN LEGISLATION INTRODUCED  
2 IN THE STATE LEGISLATURE AUTHORIZING A MUNICIPALITY TO ALIENATE PARKLAND  
3 UNDER ITS JURISDICTION.

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

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

12 2. AN ATTESTATION THAT THE MUNICIPALITY HAS COMPLIED WITH ALL CONDI-  
13 TIONS OF THE PARKLAND ALIENATION LEGISLATION, INCLUDING THE DEDICATION  
14 OF ANY REQUIRED REPLACEMENT PARKLAND OR, IN THE CASE OF UTILITY EASE-  
15 MENTS, THE DEDICATION OF FUNDING FOR THE ACQUISITION OF ADDITIONAL PARK-  
16 LAND OR CAPITAL IMPROVEMENTS TO EXISTING PARKLAND FACILITIES; OR

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

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

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

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