

705--A

Cal. No. 230

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

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 -- recommitted to the Committee on Cultural Affairs, Tourism, Parks and Recreation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

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.

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

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

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

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

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

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

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

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

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

45 S 3. This act shall take effect January 1, 2018.