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

10459

I N A S S E M B L Y

May 27, 2016

Introduced by M. of A. WOZNIAK -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the arts and cultural affairs law, in relation to establishing a trust for cultural resources for the town of Cheektowaga and the city of Buffalo

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

Section 1. The arts and cultural affairs law is amended by adding a new article 22-A to read as follows:

ARTICLE 22-A

TRUST FOR CULTURAL RESOURCES OF THE TOWN OF CHEEKTOWAGA

SECTION 22.20. SPECIAL DEFINITIONS.
22.21. LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSES.
22.22. CREATION AND ADMINISTRATION OF THE TRUST.
22.23. SPECIAL POWERS OF THE TRUST RELATING TO ASSISTING PARTICIPATING CULTURAL INSTITUTIONS.
22.24. SPECIAL PROVISIONS RELATING TO THE FINANCING AND DEVELOPMENT OF FACILITIES IN THE TOWN OF CHEEKTOWAGA.

S 22.20. SPECIAL DEFINITIONS. AS USED OR REFERRED TO IN THIS ARTICLE, ALL TERMS SHALL HAVE THE MEANINGS SET FORTH IN SECTION 20.03 OF THIS CHAPTER, EXCEPT THAT THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "TOWN" SHALL MEAN THE TOWN OF CHEEKTOWAGA.

2. "MAYOR" SHALL MEAN THE MAYOR OF THE TOWN.

3. "PARTICIPATING CULTURAL INSTITUTION" SHALL MEAN ANY PERSON FORMED OTHER THAN FOR PROFIT WHICH OPERATES OR MAKES AVAILABLE A CULTURAL FACILITY IN THE CITY, INCLUDING BUT NOT LIMITED TO MUSEUMS, PERFORMING ARTS CENTERS, PUBLIC TELEVISION AND RADIO STATIONS, THEATERS, AUDITORIUMS, LIBRARIES, EXHIBITION, PERFORMANCE AND REHEARSAL SPACE, GALLERIES, ARTISTS' AND DANCERS' STUDIOS, RECORDING STUDIOS, AND RECREATIONAL, EDUCATIONAL, OFFICE, LIVING, PARKING, RESTAURANT, RETAIL OR STORAGE SPACE RELATED TO ANY OF THE FOREGOING. THE DECISION OF THE TRUST IN DETERMINING THAT A PERSON IS A PARTICIPATING CULTURAL INSTITUTION SHALL BE FINAL AND CONCLUSIVE. THE ANNUAL AVERAGE ADMISSIONS OF EACH PERSON

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

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WHICH WOULD ITSELF QUALIFY AS A PARTICIPATING CULTURAL INSTITUTION AND WHICH LEASES OR LICENSES SPACE IN A PERFORMING ARTS CENTER FROM ANOTHER PARTICIPATING CULTURAL INSTITUTION (THE "LESSOR") SHALL BE ATTRIBUTED TO THE LESSOR FOR PURPOSES OF THIS ARTICLE AND ARTICLE TWENTY OF THIS CHAPTER.

4. "TRUST FOR CULTURAL RESOURCES" OR "TRUST" SHALL MEAN THE TRUST FOR CULTURAL RESOURCES OF THE TOWN OF CHEEKTOWAGA CREATED BY THIS ARTICLE.

5. "CULTURAL DISTRICT" SHALL MEAN A GEOGRAPHIC AREA OF A CITY, TOWN OR VILLAGE WITH A CONCENTRATION OF CULTURAL INSTITUTIONS WITHIN ITS BORDERS.

S 22.21. LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSES. 1. THE LEGISLATURE HEREBY FINDS, DETERMINES AND DECLARES:

(A) THAT CERTAIN MAJOR CULTURAL INSTITUTIONS LOCATED IN THE TOWN ARE INVALUABLE CULTURAL, EDUCATIONAL AND RECREATIONAL RESOURCES OF THE STATE AND THE CONTINUED OPERATION OF SUCH INSTITUTIONS IN THE TOWN IS FOR THE BENEFIT OF THE PEOPLE OF THE STATE AND THE TOWN;

(B) THAT BY REASON OF THE SEVERE ECONOMIC AND FISCAL PROBLEMS FACING BOTH THE STATE AND TOWN, NEITHER THE STATE NOR THE TOWN IS ABLE TO ADEQUATELY SUPPORT THE CULTURAL INSTITUTIONS OF THE TOWN IN THEIR EFFORTS BOTH TO PROVIDE CULTURAL, RECREATIONAL AND EDUCATIONAL OPPORTUNITIES TO THE PEOPLE OF THE STATE AND TO IMPROVE THE VIABILITY AND GROWTH OF CULTURAL ORGANIZATIONS IN THE TOWN; AND

(C) THAT IT IS IN THE INTEREST OF THE PEOPLE OF THE STATE AND FOR THEIR BENEFIT AND WELFARE TO ENCOURAGE THE CREATIVE AND INNOVATIVE USE OF PUBLIC AND PRIVATE RESOURCES IN ORDER TO PRESERVE AND PROTECT THE CULTURAL RESOURCES OF THE TOWN AND OTHERWISE TO EFFECTUATE THE PURPOSES OF THIS ARTICLE AND ARTICLE TWENTY OF THIS CHAPTER BY THE CREATION OF THE TRUST FOR CULTURAL RESOURCES OF THE TOWN OF CHEEKTOWAGA.

2. THE LEGISLATURE HEREBY FURTHER FINDS, DETERMINES AND DECLARES THAT THE CREATION OF THE TRUST FOR CULTURAL RESOURCES OF THE TOWN OF CHEEKTOWAGA AND THE DELEGATION TO THE TRUST OF PART OF THE SOVEREIGN POWER OF THE STATE ARE IN ALL RESPECTS FOR THE BENEFIT OF THE PEOPLE OF THE STATE AND CONSTITUTE A GOVERNMENTAL, STATE, MUNICIPAL AND PUBLIC PURPOSE; AND THAT THE EXERCISE BY THE TRUST OF THE FUNCTIONS AND POWERS GRANTED TO IT UNDER THIS ARTICLE CONSTITUTES THE PERFORMANCE OF AN ESSENTIAL PUBLIC AND GOVERNMENTAL FUNCTION.

S 22.22. CREATION AND ADMINISTRATION OF THE TRUST. 1. THERE IS HEREBY CREATED THE TRUST FOR CULTURAL RESOURCES OF THE TOWN OF CHEEKTOWAGA WHICH SHALL HAVE ALL THE POWERS, RIGHTS, PRIVILEGES AND EXEMPTIONS OF A TRUST FOR CULTURAL RESOURCES DESCRIBED IN ARTICLE TWENTY OF THIS CHAPTER AND THIS ARTICLE.

2. THE BOARD OF TRUSTEES OF THE TRUST SHALL CONSIST OF FIVE TRUSTEES, ALL OF WHOM SHALL BE APPOINTED BY THE MAYOR WITH THE APPROVAL OF THE TOWN COUNCIL AFTER CONSULTATION WITH PERSONS DESIGNATED BY PARTICIPATING CULTURAL INSTITUTIONS. THE MAYOR, AFTER CONSULTATION WITH SUCH PERSONS, SHALL APPOINT A TRUSTEE AS CHAIRPERSON OF THE BOARD OF TRUSTEES. THE CHAIRPERSON SHALL PRESIDE OVER ALL MEETINGS OF THE BOARD OF TRUSTEES, AND AFTER CONSULTATION WITH THE MAYOR, THE CHAIRPERSON SHALL APPOINT A TRUSTEE AS PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE TRUST. THE CHAIRPERSON AND THE PRESIDENT AND CHIEF EXECUTIVE OFFICER SHALL HAVE SUCH POWERS AND DUTIES AS ARE SET FORTH IN THE BY-LAWS OF THE TRUST. TRUSTEES SHALL BE APPOINTED FOR A TERM OF SIX YEARS FROM THE EFFECTIVE DATES OF THEIR APPOINTMENTS; PROVIDED, HOWEVER, THAT THE TERM OF OFFICE OF TWO TRUSTEES FIRST APPOINTED, OTHER THAN THE CHAIRPERSON AND THE PRESIDENT, SHALL BE FIVE YEARS , AND THE TERM OF OFFICE OF ONE TRUSTEE FIRST APPOINTED, OTHER THAN THE CHAIRPERSON AND THE PRESIDENT, SHALL BE

FOUR YEARS. ALL TRUSTEES SHALL CONTINUE TO HOLD OFFICE UNTIL THEIR SUCCESSORS HAVE BEEN APPOINTED. IF AT ANY TIME THERE IS A VACANCY IN THE MEMBERSHIP OF THE BOARD OF TRUSTEES, BY REASON OF DEATH, RESIGNATION, DISQUALIFICATION OR OTHERWISE, SUCH VACANCY SHALL BE FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT. THE MAYOR MAY REMOVE ANY TRUSTEE FROM OFFICE FOR CAUSE.

S 22.23. SPECIAL POWERS OF THE TRUST RELATING TO ASSISTING PARTICIPATING CULTURAL INSTITUTIONS. IN ADDITION TO SUCH POWERS AS ARE CONFERRED ELSEWHERE IN ARTICLE TWENTY OF THIS CHAPTER AND THIS ARTICLE, THE TRUST SHALL HAVE THE FOLLOWING POWERS WHICH MAY BE EXERCISED, AT THE DISCRETION OF THE BOARD OF TRUSTEES, SOLELY AND EXCLUSIVELY IN FURTHERANCE OF ITS CORPORATE PURPOSES WITH OR WITHOUT PUBLIC AUCTION OR BIDDING:

1. TO UNDERTAKE SURVEYS OF THE PRESENT AND ANTICIPATED NEEDS OF NOT-FOR-PROFIT CULTURAL ORGANIZATIONS IN THE TOWN, INCLUDING WITHOUT LIMITATION THE NEED FOR DEVELOPMENT OF THE FACILITIES OF SUCH ORGANIZATIONS, IN ORDER TO DETERMINE WHETHER OR NOT THE TRUST MAY EFFECTIVELY EXERCISE ITS POWERS AND FULFILL ITS PURPOSES IN COOPERATION WITH ANY SUCH ORGANIZATIONS;

2. TO DEVELOP FACILITIES FOR NOT-FOR-PROFIT CULTURAL ORGANIZATIONS OR CAUSE SUCH FACILITIES TO BE DEVELOPED, IN ACCORDANCE WITH THIS ARTICLE AND ARTICLE TWENTY OF THIS CHAPTER, TO ACQUIRE IN CONNECTION THEREWITH REAL PROPERTY OF A NOT-FOR-PROFIT CULTURAL ORGANIZATION, SUBJECT TO THE RETENTION OR CREATION BY SUCH ORGANIZATION OF ANY FUTURE OR REMAINDER INTERESTS IN SUCH PROPERTY, ALL OF WHICH SHALL BE VALID NOTWITHSTANDING ANY RULE AGAINST PERPETUITIES, AND IN CONNECTION THEREWITH, TO INSTALL OR CAUSE TO BE INSTALLED WATER, FUEL, GAS, ELECTRICAL, TELEPHONE, HEATING, AIR-CONDITIONING AND OTHER UTILITY SERVICES, INCLUDING APPROPRIATE CONNECTIONS;

3. TO MAINTAIN, REPAIR, KEEP UP, MANAGE AND OPERATE ITS REAL PROPERTY AND ANY FACILITY FOR A NOT-FOR-PROFIT CULTURAL ORGANIZATION OR PART THEREOF DEVELOPED BY OR PURSUANT TO AN AGREEMENT WITH IT, BY MEANS WHICH MAY INCLUDE THE ENFORCEMENT OF ITS RULES AND REGULATIONS IN THE MANNER DESCRIBED IN PARAGRAPH (D) OF SECTION TWO HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION LAW WITH THE SAME EFFECT AS THOUGH SUCH PARAGRAPH APPLIED TO THE TRUST AND TO SUCH PROPERTY AND FACILITY;

4. TO OFFER TO CONVEY AND TO CONVEY ALL OR ANY PART OF THE NON-INSTITUTIONAL PORTION OF A FACILITY OR ANY INTEREST THEREIN, AND TO TAKE ANY AND ALL ACTIONS DEEMED NECESSARY OR APPROPRIATE BY THE TRUST TO ADVERTISE, PROMOTE, ENCOURAGE, AND EFFECT SUCH CONVEYANCES, ALL FUTURE OR REMAINDER INTERESTS CREATED OR RETAINED BY THE TRUST IN CONNECTION THEREWITH WHICH SHALL BE VALID NOTWITHSTANDING ANY RULE AGAINST PERPETUITIES;

5. TO CONVEY WITH OR WITHOUT CONSIDERATION, TO A NOT-FOR-PROFIT CULTURAL ORGANIZATION THE INSTITUTIONAL PORTION OF A FACILITY DEVELOPED IN COOPERATION WITH SUCH ORGANIZATION AND ANY REAL PROPERTY HELD BY THE TRUST IN CONNECTION WITH SUCH DEVELOPMENT;

6. TO ENTER INTO A PARTNERSHIP, JOINT VENTURE OR OTHER ENTERPRISE IN ANY CAPACITY DEEMED BY IT TO BE APPROPRIATE, FOR THE PURPOSE OF DEVELOPING AND OPERATING A FACILITY FOR A NOT-FOR-PROFIT CULTURAL ORGANIZATION OR ANY PART THEREOF;

7. TO CONVEY, WITHOUT PUBLIC AUCTION OR BIDDING, ANY REAL PROPERTY TO A DEVELOPER FOR THE PURPOSE OF DEVELOPING THEREIN OR THEREON A FACILITY, OR A PART OR PORTION THEREOF, SUBJECT TO THE CREATION OR RETENTION BY THE TRUST OF SUCH FUTURE OR REMAINDER INTERESTS IN SUCH PROPERTY AS IT

DEEMS APPROPRIATE, ALL OF WHICH SHALL BE VALID NOTWITHSTANDING ANY RULE AGAINST PERPETUITIES;

8. TO PURCHASE OR LEASE THE INSTITUTIONAL PORTION OF A FACILITY FROM THE DEVELOPER THEREOF FOR USE AND OCCUPANCY BY A NOT-FOR-PROFIT CULTURAL ORGANIZATION;

9. TO FURNISH NOT-FOR-PROFIT CULTURAL ORGANIZATIONS WITH ADVICE AND WITH TECHNICAL AND OTHER ASSISTANCE; TO ACT AS LIAISON WITH FEDERAL, STATE AND MUNICIPAL AND OTHER LOCAL AUTHORITIES AND WITH USERS AND OCCUPANTS OF FACILITIES WITH RESPECT TO THE CULTURAL, RECREATIONAL AND EDUCATIONAL ACTIVITIES PROVIDED BY NOT-FOR-PROFIT CULTURAL ORGANIZATIONS; AND OTHERWISE TO FOSTER AND ENCOURAGE GREATER PUBLIC KNOWLEDGE OF, AND PARTICIPATION IN, THE CULTURAL, RECREATIONAL AND EDUCATIONAL ACTIVITIES OF SUCH ORGANIZATIONS;

10. TO ORGANIZE ONE OR MORE WHOLLY-OWNED SUBSIDIARY CORPORATIONS UNDER ANY APPLICABLE PROVISION OF LAW AND TO PERFORM THROUGH SUCH SUBSIDIARIES OR CAUSE SUCH SUBSIDIARIES TO PERFORM ALL OR ANY PART OF ITS POWERS AND FUNCTIONS;

11. TO ESTABLISH AND PROMULGATE SUCH RULES AND REGULATIONS AS THE TRUST MAY DEEM NECESSARY, CONVENIENT OR DESIRABLE FOR THE USE AND OPERATION OF ANY FACILITY, OR PART THEREOF, AND FOR THE USE OF ANY REAL PROPERTY DEVELOPED OR TO BE DEVELOPED BY OR PURSUANT TO AN AGREEMENT WITH IT, INCLUDING BUT NOT LIMITED TO RULES AND REGULATIONS GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC ON SUCH PREMISES;

12. TO MAKE AND EXECUTE SUCH AGREEMENTS, INCLUDING WITHOUT LIMITATION, INSTRUMENTS OF CONVEYANCE AND AGREEMENTS WITH NOT-FOR-PROFIT CULTURAL ORGANIZATIONS WITH RESPECT TO THE ARCHITECTURAL AND DESIGN CHARACTERISTICS OF ANY FACILITY, AS ARE NECESSARY OR CONVENIENT FOR THE EXERCISE OF ITS CORPORATE POWERS AND FULFILLMENT OF ITS PURPOSES;

13. TO MAKE LOANS IN ACCORDANCE WITH ARTICLE TWENTY OF THIS CHAPTER; AND

14. TO DESIGNATE, AS A CULTURAL DISTRICT, AS DEFINED IN SUBDIVISION FIVE OF SECTION 22.20 OF THIS ARTICLE, ANY REAL PROPERTY IN THE TOWN OF CHEEKTOWAGA BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF WALDEN AVENUE AND ST. MARY'S ROAD, HEADING NORTHERLY ON ST. MARY'S ROAD UNTIL INTERSECTING WITH DOAT STREET, TURNING EASTERLY ONTO DOAT STREET UNTIL PERPENDICULAR WITH THE SOUTHEAST CORNER OF SCHILLER PARK, TURNING NORTHERLY AND RUNNING PARALLEL TO SCHILLER PARK UNTIL INTERSECTING WITH PENNOCK PLACE, CONTINUING EASTERLY ON PENNOCK PLACE UNTIL INTERSECTING WITH PINE RIDGE ROAD, TURNING SOUTHERLY ON PINE RIDGE ROAD AND THEN TURNING EASTERLY AT THE INTERSECTION OF PINE RIDGE ROAD AND WILDY AVENUE, CONTINUING EASTERLY UNTIL THE INTERSECTION OF WILDY AVENUE AND HOERNER AVENUE, TURNING SOUTHERLY ONTO HOERNER AVENUE AND CONTINUING SOUTHERLY UNTIL IT INTERSECTS WITH DOAT STREET, TURNING EASTERLY AT THE INTERSECTION OF HOERNER AVENUE AND DOAT STREET AND CONTINUING EASTERLY UNTIL INTERSECTING WITH ALEXANDER AVENUE, TURNING SOUTHERLY ON ALEXANDER AVENUE AND CONTINUING SOUTHERLY UNTIL INTERSECTING WITH WALDEN AVENUE, TURNING WESTERLY AND CONTINUING WESTERLY ON WALDEN AVENUE TO THE POINT OR PLACE OF BEGINNING.

S 22.24. SPECIAL PROVISIONS RELATING TO THE FINANCING AND DEVELOPMENT OF FACILITIES IN THE TOWN OF CHEEKTOWAGA. 1. NO INDIVIDUAL WHO SERVES ON THE BOARD OF TRUSTEES, OR EQUIVALENT BODY, OF A NOT-FOR-PROFIT CULTURAL ORGANIZATION SHALL BE A DEVELOPER OF, OR SHARE IN ANY PROFITS ARISING FROM THE DEVELOPMENT OF, THE NON-INSTITUTIONAL PORTION OF A FACILITY DEVELOPED OR DESIGNED TO BE DEVELOPED FOR USE OR OCCUPANCY BY SUCH ORGANIZATION; PROVIDED THAT: (A) A PERSON IN WHICH SUCH INDIVIDUAL HAS A FINANCIAL INTEREST NOT EXCEEDING FIVE PER CENTUM OF THE EQUITY OF SUCH

PERSON MAY BE A DEVELOPER OF, AND MAY SHARE IN ANY PROFITS ARISING FROM THE DEVELOPMENT OF, SUCH NON-INSTITUTIONAL PORTION, IF SUCH INDIVIDUAL REFRAINS FROM VOTING AT ANY MEETING OF THE BOARD O TRUSTEES, OR EQUIVALENT BODY, OF SUCH INSTITUTION ON ANY MATTER RELATING TO THE APPROVAL BY THE TRUST OF SUCH PERSON AS A DEVELOPER OF SUCH PORTION AND THE TERMS AND CONDITIONS OF ANY AGREEMENT RELATING THERETO; (B) A PERSON IN WHICH SUCH INDIVIDUAL HAS A FINANCIAL INTEREST MAY MAKE A LOAN TO THE TRUST, TO A DEVELOPER OR TO ANY OTHER PERSON IN THE ORDINARY COURSE OF BUSINESS IN CONNECTION WITH SUCH DEVELOPMENT; AND (C) ANY SUCH INDIVIDUAL MAY PURCHASE OR RENT AN APARTMENT, OR ANY INTEREST THEREIN, IN SUCH PORTION, FOR FAIR MARKET VALUE.

2. NO TRUSTEE OF THE TRUST AND NO PERSON IN WHICH SUCH TRUSTEE HAS A FINANCIAL INTEREST SHALL BE A DEVELOPER OF THE NON-INSTITUTIONAL PORTION OF ANY FACILITY.

3. IN ANY CASE IN WHICH REAL PROPERTY, CONSISTING OF ALL OR ANY PART OF THE NON-INSTITUTIONAL PORTION OF A COMBINED-USE FACILITY OR IN OR ON WHICH ALL OR ANY PART OF SUCH PORTION PRIOR TO COMPLETION IS DESIGNED TO BE AND UPON COMPLETION IS DEVELOPED, IS EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO SECTION 20.33 OF THIS TITLE, AND SUBJECT TO ANY AGREEMENTS WITH THE HOLDERS OF ITS BONDS OR NOTES, THE TRUST SHALL PAY OR CAUSE TO BE PAID BY MEANS WHICH MAY INCLUDE AN AGREEMENT WITH A PARTICIPATING NOT-FOR-PROFIT CULTURAL ORGANIZATION, A DEVELOPER OR AN OWNER, ANNUAL SUMS IN LIEU OF TAXES TO ANY MUNICIPALITY OR POLITICAL SUBDIVISION OF THE STATE TO WHICH SUCH TAXES WOULD OTHERWISE BE OWED, PROVIDED THAT SUCH PAYMENTS IN LIEU OF TAXES SHALL BE FOR THE FULL AMOUNT OF ANY SUCH TAX PAYMENTS DUE AND OWING, UNLESS SUCH MUNICIPALITY OR OTHER POLITICAL SUBDIVISION SHALL AGREE TO A LESSER PAYMENT FOR A LENGTH OF TIME TO BE SPECIFIED IN AN AGREEMENT BETWEEN THE TRUST AND SUCH MUNICIPALITY OR POLITICAL SUBDIVISION; AND PROVIDED FURTHER THAT THE TRUST SHALL NOT BE EMPOWERED TO RECEIVE TAX EQUIVALENCY PAYMENTS; AND FURTHER PROVIDED, THAT THE NON-INSTITUTIONAL PORTION SHALL NOT BE EXEMPT FROM REAL PROPERTY TAXATION FROM AND AFTER THE DATE A TRUST CONVEYS SUCH NON-INSTITUTIONAL PORTION TO ANY NON-EXEMPT THIRD PARTY.

S 2. The arts and cultural affairs law is amended by adding a new article 22-B to read as follows:

ARTICLE 22-B

TRUST FOR CULTURAL RESOURCES OF THE CITY OF BUFFALO

SECTION 22.50. SPECIAL DEFINITIONS.
22.51. LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSES.
22.52. CREATION AND ADMINISTRATION OF THE TRUST.
22.53. SPECIAL POWERS OF THE TRUST RELATING TO ASSISTING PARTICIPATING CULTURAL INSTITUTIONS.
22.54. SPECIAL PROVISIONS RELATING TO THE FINANCING AND DEVELOPMENT OF FACILITIES IN THE CITY OF BUFFALO.

S 22.50. SPECIAL DEFINITIONS. AS USED OR REFERRED TO IN THIS ARTICLE, ALL TERMS SHALL HAVE THE MEANINGS SET FORTH IN SECTION 20.03 OF THIS CHAPTER, EXCEPT THAT THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "CITY" SHALL MEAN THE CITY OF BUFFALO.

2. "MAYOR" SHALL MEAN THE MAYOR OF THE CITY.

3. "PARTICIPATING CULTURAL INSTITUTION" SHALL MEAN ANY PERSON FORMED OTHER THAN FOR PROFIT WHICH OPERATES OR MAKES AVAILABLE A CULTURAL FACILITY IN THE CITY, INCLUDING BUT NOT LIMITED TO MUSEUMS, PERFORMING ARTS CENTERS, PUBLIC TELEVISION AND RADIO STATIONS, THEATERS, AUDITORIUMS, LIBRARIES, EXHIBITION, PERFORMANCE AND REHEARSAL SPACE, GALLERIES, ARTISTS' AND DANCERS' STUDIOS, RECORDING STUDIOS, AND RECREATIONAL,

EDUCATIONAL, OFFICE, LIVING, PARKING, RESTAURANT, RETAIL OR STORAGE SPACE RELATED TO ANY OF THE FOREGOING. THE DECISION OF THE TRUST IN DETERMINING THAT A PERSON IS A PARTICIPATING CULTURAL INSTITUTION SHALL BE FINAL AND CONCLUSIVE. THE ANNUAL AVERAGE ADMISSIONS OF EACH PERSON WHICH WOULD ITSELF QUALIFY AS A PARTICIPATING CULTURAL INSTITUTION AND WHICH LEASES OR LICENSES SPACE IN A PERFORMING ARTS CENTER FROM ANOTHER PARTICIPATING CULTURAL INSTITUTION (THE "LESSOR") SHALL BE ATTRIBUTED TO THE LESSOR FOR PURPOSES OF THIS ARTICLE AND ARTICLE TWENTY OF THIS CHAPTER.

4. "TRUST FOR CULTURAL RESOURCES" OR "TRUST" SHALL MEAN THE TRUST FOR CULTURAL RESOURCES OF THE CITY OF BUFFALO CREATED BY THIS ARTICLE.

5. "CULTURAL DISTRICT" SHALL HAVE THE SAME MEANING AS DEFINED IN SUBDIVISION FIVE OF SECTION 22.20 OF THIS ACT.

S 22.51. LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSES. 1. THE LEGISLATURE HEREBY FINDS, DETERMINES AND DECLARES:

(A) THAT CERTAIN MAJOR CULTURAL INSTITUTIONS LOCATED IN THE CITY ARE INVALUABLE CULTURAL, EDUCATIONAL AND RECREATIONAL RESOURCES OF THE STATE AND THE CONTINUED OPERATION OF SUCH INSTITUTIONS IN THE CITY IS FOR THE BENEFIT OF THE PEOPLE OF THE STATE AND THE CITY;

(B) THAT BY REASON OF THE SEVERE ECONOMIC AND FISCAL PROBLEMS FACING BOTH THE STATE AND CITY, NEITHER THE STATE NOR THE CITY IS ABLE TO ADEQUATELY SUPPORT THE CULTURAL INSTITUTIONS OF THE CITY IN THEIR EFFORTS BOTH TO PROVIDE CULTURAL, RECREATIONAL AND EDUCATIONAL OPPORTUNITIES TO THE PEOPLE OF THE STATE AND TO IMPROVE THE VIABILITY AND GROWTH OF CULTURAL ORGANIZATIONS IN THE CITY; AND

(C) THAT IT IS IN THE INTEREST OF THE PEOPLE OF THE STATE AND FOR THEIR BENEFIT AND WELFARE TO ENCOURAGE THE CREATIVE AND INNOVATIVE USE OF PUBLIC AND PRIVATE RESOURCES IN ORDER TO PRESERVE AND PROTECT THE CULTURAL RESOURCES OF THE CITY AND OTHERWISE TO EFFECTUATE THE PURPOSES OF THIS ARTICLE AND ARTICLE TWENTY OF THIS CHAPTER BY THE CREATION OF THE TRUST FOR CULTURAL RESOURCES OF THE CITY OF BUFFALO.

2. THE LEGISLATURE HEREBY FURTHER FINDS, DETERMINES AND DECLARES THAT THE CREATION OF THE TRUST FOR CULTURAL RESOURCES OF THE CITY OF BUFFALO AND THE DELEGATION TO THE TRUST OF PART OF THE SOVEREIGN POWER OF THE STATE ARE IN ALL RESPECTS FOR THE BENEFIT OF THE PEOPLE OF THE STATE AND CONSTITUTE A GOVERNMENTAL, STATE, MUNICIPAL AND PUBLIC PURPOSE; AND THAT THE EXERCISE BY THE TRUST OF THE FUNCTIONS AND POWERS GRANTED TO IT UNDER THIS ARTICLE CONSTITUTES THE PERFORMANCE OF AN ESSENTIAL PUBLIC AND GOVERNMENTAL FUNCTION.

S 22.52. CREATION AND ADMINISTRATION OF THE TRUST. 1. THERE IS HEREBY CREATED THE TRUST FOR CULTURAL RESOURCES OF THE CITY OF BUFFALO WHICH SHALL HAVE ALL THE POWERS, RIGHTS, PRIVILEGES AND EXEMPTIONS OF A TRUST FOR CULTURAL RESOURCES DESCRIBED IN ARTICLE TWENTY OF THIS CHAPTER AND THIS ARTICLE.

2. THE BOARD OF TRUSTEES OF THE TRUST SHALL CONSIST OF FIVE TRUSTEES, ALL OF WHOM SHALL BE APPOINTED BY THE MAYOR WITH THE APPROVAL OF THE CITY COUNCIL AFTER CONSULTATION WITH PERSONS DESIGNATED BY PARTICIPATING CULTURAL INSTITUTIONS. THE MAYOR, AFTER CONSULTATION WITH SUCH PERSONS, SHALL APPOINT A TRUSTEE AS CHAIRPERSON OF THE BOARD OF TRUSTEES. THE CHAIRPERSON SHALL PRESIDE OVER ALL MEETINGS OF THE BOARD OF TRUSTEES, AND AFTER CONSULTATION WITH THE MAYOR, THE CHAIRPERSON SHALL APPOINT A TRUSTEE AS PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE TRUST. THE CHAIRPERSON AND THE PRESIDENT AND CHIEF EXECUTIVE OFFICER SHALL HAVE SUCH POWERS AND DUTIES AS ARE SET FORTH IN THE BY-LAWS OF THE TRUST. TRUSTEES SHALL BE APPOINTED FOR A TERM OF SIX YEARS FROM THE EFFECTIVE DATES OF THEIR APPOINTMENTS; PROVIDED, HOWEVER, THAT THE TERM OF OFFICE

OF TWO TRUSTEES FIRST APPOINTED, OTHER THAN THE CHAIRPERSON AND THE PRESIDENT, SHALL BE FIVE YEARS, AND THE TERM OF OFFICE OF ONE TRUSTEE FIRST APPOINTED, OTHER THAN THE CHAIRPERSON AND THE PRESIDENT, SHALL BE FOUR YEARS. ALL TRUSTEES SHALL CONTINUE TO HOLD OFFICE UNTIL THEIR SUCCESSORS HAVE BEEN APPOINTED. IF AT ANY TIME THERE IS A VACANCY IN THE MEMBERSHIP OF THE BOARD OF TRUSTEES, BY REASON OF DEATH, RESIGNATION, DISQUALIFICATION OR OTHERWISE, SUCH VACANCY SHALL BE FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT. THE MAYOR MAY REMOVE ANY TRUSTEE FROM OFFICE FOR CAUSE.

S 22.53. SPECIAL POWERS OF THE TRUST RELATING TO ASSISTING PARTICIPATING CULTURAL INSTITUTIONS. IN ADDITION TO SUCH POWERS AS ARE CONFERRED ELSEWHERE IN ARTICLE TWENTY OF THIS CHAPTER AND THIS ARTICLE, THE TRUST SHALL HAVE THE FOLLOWING POWERS WHICH MAY BE EXERCISED, AT THE DISCRETION OF THE BOARD OF TRUSTEES, SOLELY AND EXCLUSIVELY IN FURTHERANCE OF ITS CORPORATE PURPOSES WITH OR WITHOUT PUBLIC AUCTION OR BIDDING:

1. TO UNDERTAKE SURVEYS OF THE PRESENT AND ANTICIPATED NEEDS OF NOT-FOR-PROFIT CULTURAL ORGANIZATIONS IN THE CITY, INCLUDING WITHOUT LIMITATION THE NEED FOR DEVELOPMENT OF THE FACILITIES OF SUCH ORGANIZATION, IN ORDER TO DETERMINE WHETHER OR NOT THE TRUST MAY EFFECTIVELY EXERCISE ITS POWERS AND FULFILL ITS PURPOSES IN COOPERATION WITH ANY SUCH ORGANIZATIONS;

2. TO DEVELOP FACILITIES FOR NOT-FOR-PROFIT CULTURAL ORGANIZATIONS OR CAUSE SUCH FACILITIES TO BE DEVELOPED, IN ACCORDANCE WITH THIS ARTICLE AND ARTICLE TWENTY OF THIS CHAPTER, TO ACQUIRE IN CONNECTION THEREWITH REAL PROPERTY OF A NOT-FOR-PROFIT CULTURAL ORGANIZATION, SUBJECT TO THE RETENTION OR CREATION BY SUCH ORGANIZATION OF ANY FUTURE OR REMAINDER INTERESTS IN SUCH PROPERTY, ALL OF WHICH SHALL BE VALID NOTWITHSTANDING ANY RULE AGAINST PERPETUITIES, AND IN CONNECTION THEREWITH, TO INSTALL OR CAUSE TO BE INSTALLED WATER, FUEL, GAS, ELECTRICAL, TELEPHONE, HEATING, AIR-CONDITION AND OTHER UTILITY SERVICES, INCLUDING APPROPRIATE CONNECTIONS;

3. TO MAINTAIN, REPAIR, KEEP UP, MANAGE AND OPERATE ITS REAL PROPERTY AND ANY FACILITY FOR A NOT-FOR-PROFIT CULTURAL ORGANIZATION OR PART THEREOF DEVELOPED BY OR PURSUANT TO AN AGREEMENT WITH IT, BY MEANS WHICH MAY INCLUDE THE ENFORCEMENT OF ITS RULES AND REGULATIONS IN THE MANNER DESCRIBED IN PARAGRAPH (D) OF SECTION TWO HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION LAW WITH THE SAME EFFECT AS THOUGH SUCH PARAGRAPH APPLIED TO THE TRUST AND TO SUCH PROPERTY AND FACILITY;

4. TO OFFER TO CONVEY AND TO CONVEY ALL OR ANY PART OF THE NON-INSTITUTIONAL PORTION OF A FACILITY OR ANY INTEREST THEREIN, AND TO TAKE ANY AND ALL ACTIONS DEEMED NECESSARY OR APPROPRIATE BY THE TRUST TO ADVERTISE, PROMOTE, ENCOURAGE, AND EFFECT SUCH CONVEYANCES, ALL FUTURE OR REMAINDER INTERESTS CREATED OR RETAINED BY THE TRUST IN CONNECTION THEREWITH WHICH SHALL BE VALID NOTWITHSTANDING ANY RULE AGAINST PERPETUITIES;

5. TO CONVEY WITH OR WITHOUT CONSIDERATION, TO A NOT-FOR-PROFIT CULTURAL ORGANIZATION THE INSTITUTIONAL PORTION OF A FACILITY DEVELOPED IN COOPERATION WITH SUCH ORGANIZATION AND ANY REAL PROPERTY HELD BY THE TRUST IN CONNECTION WITH SUCH DEVELOPMENT;

6. TO ENTER INTO A PARTNERSHIP, JOINT VENTURE OR OTHER ENTERPRISE IN ANY CAPACITY DEEMED BY IT TO BE APPROPRIATE, FOR THE PURPOSE OF DEVELOPING AND OPERATING A FACILITY FOR A NOT-FOR-PROFIT CULTURAL ORGANIZATION OR ANY PART THEREOF;

7. TO CONVEY, WITHOUT PUBLIC AUCTION OR BIDDING, ANY REAL PROPERTY TO A DEVELOPER FOR THE PURPOSE OF DEVELOPING THEREIN OR THEREON A FACILITY,

OR A PART OR PORTION THEREOF, SUBJECT TO THE CREATION OR RETENTION BY THE TRUST OF SUCH FUTURE OR REMAINDER INTERESTS IN SUCH PROPERTY AS IT DEEMS APPROPRIATE, ALL OF WHICH SHALL BE VALID NOTWITHSTANDING ANY RULE AGAINST PERPETUITIES;

8. TO PURCHASE OR LEASE THE INSTITUTIONAL PORTION OF A FACILITY FROM THE DEVELOPER THEREOF FOR USE AND OCCUPANCY BY A NOT-FOR-PROFIT CULTURAL ORGANIZATION;

9. TO FURNISH NOT-FOR-PROFIT CULTURAL ORGANIZATIONS WITH ADVICE AND WITH TECHNICAL AND OTHER ASSISTANCE; TO ACT AS LIAISON WITH FEDERAL, STATE AND MUNICIPAL AND OTHER LOCAL AUTHORITIES AND WITH USERS AND OCCUPANTS OF FACILITIES WITH RESPECT TO THE CULTURAL, RECREATIONAL AND EDUCATIONAL ACTIVITIES PROVIDED BY NOT-FOR-PROFIT CULTURAL ORGANIZATIONS; AND OTHERWISE TO FOSTER AND ENCOURAGE GREATER PUBLIC KNOWLEDGE OF, AND PARTICIPATION IN, THE CULTURAL, RECREATIONAL AND EDUCATIONAL ACTIVITIES OF SUCH ORGANIZATIONS;

10. TO ORGANIZE ONE OR MORE WHOLLY-OWNED SUBSIDIARY CORPORATIONS UNDER ANY APPLICABLE PROVISION OF LAW AND TO PERFORM THROUGH SUCH SUBSIDIARIES OR CAUSE SUCH SUBSIDIARIES TO PERFORM ALL OR ANY PART OF ITS POWERS AND FUNCTIONS;

11. TO ESTABLISH AND PROMULGATE SUCH RULES AND REGULATIONS AS THE TRUST MAY DEEM NECESSARY, CONVENIENT OR DESIRABLE FOR THE USE AND OPERATION OF ANY FACILITY, OR PART THEREOF, AND FOR THE USE OF ANY REAL PROPERTY DEVELOPED OR TO BE DEVELOPED BY OR PURSUANT TO AN AGREEMENT WITH IT, INCLUDING BUT NOT LIMITED TO RULES AND REGULATIONS GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC ON SUCH PREMISES;

12. TO MAKE AND EXECUTE SUCH AGREEMENTS, INCLUDING WITHOUT LIMITATION, INSTRUMENTS OF CONVEYANCE AND AGREEMENTS WITH NOT-FOR-PROFIT CULTURAL ORGANIZATIONS WITH RESPECT TO THE ARCHITECTURAL AND DESIGN CHARACTERISTICS OF ANY FACILITY, AS ARE NECESSARY OR CONVENIENT FOR THE EXERCISE OF ITS CORPORATE POWERS AND THE FULFILLMENT OF ITS PURPOSES;

13. TO MAKE LOANS IN ACCORDANCE WITH ARTICLE TWENTY OF THIS CHAPTER; AND

14. TO DESIGNATE, AS A CULTURAL DISTRICT, AS DEFINED IN SUBDIVISION FIVE OF SECTION 22.20 OF THIS ARTICLE, ANY REAL PROPERTY IN THE CITY OF BUFFALO BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF WALDEN AVENUE AND ST. MARY'S ROAD, HEADING NORTHERLY ON ST. MARY'S ROAD UNTIL INTERSECTING WITH DOAT STREET, TURNING EASTERLY ONTO DOAT STREET UNTIL PERPENDICULAR WITH THE SOUTHEAST CORNER OF SCHILLER PARK, TURNING NORTHERLY AND RUNNING PARALLEL TO SCHILLER PARK UNTIL INTERSECTING WITH PENNOCK PLACE, CONTINUING EASTERLY ON PENNOCK PLACE UNTIL INTERSECTING WITH PINE RIDGE ROAD, TURNING SOUTHERLY ON PINE RIDGE ROAD AND THEN TURNING EASTERLY AT THE INTERSECTION OF PINE RIDGE ROAD AND WILDY AVENUE, CONTINUING EASTERLY UNTIL THE INTERSECTION OF WILDY AVENUE AND HOERNER AVENUE, TURNING SOUTHERLY ONTO HOERNER AVENUE AND CONTINUING SOUTHERLY UNTIL IT INTERSECTS WITH DOAT STREET, TURNING EASTERLY AT THE INTERSECTION OF HOERNER AVENUE AND DOAT STREET AND CONTINUING EASTERLY UNTIL INTERSECTING WITH ALEXANDER AVENUE, TURNING SOUTHERLY ON ALEXANDER AVENUE AND CONTINUING SOUTHERLY UNTIL INTERSECTING WITH WALDEN AVENUE, TURNING WESTERLY AND CONTINUING WESTERLY ON WALDEN AVENUE TO THE POINT OR PLACE OF BEGINNING.

S 22.54. SPECIAL PROVISIONS RELATING TO THE FINANCING AND DEVELOPMENT OF FACILITIES IN THE CITY OF BUFFALO. 1. NO INDIVIDUAL WHO SERVES ON THE BOARD OF TRUSTEES, OR EQUIVALENT BODY, OF A NOT-FOR-PROFIT CULTURAL ORGANIZATION SHALL BE A DEVELOPER OF, OR SHARE IN ANY PROFITS ARISING FROM THE DEVELOPMENT OF, THE NON-INSTITUTIONAL PORTION OF A FACILITY DEVELOPED OR DESIGNED TO BE DEVELOPED FOR USE OR OCCUPANCY BY SUCH

ORGANIZATION; PROVIDED THAT: (A) A PERSON IN WHICH SUCH INDIVIDUAL HAS A FINANCIAL INTEREST NOT EXCEEDING FIVE PER CENTUM OF THE EQUITY OF SUCH PERSON MAY BE A DEVELOPER OF, AND MAY SHARE IN ANY PROFITS ARISING FROM THE DEVELOPMENT OF, SUCH NON-INSTITUTIONAL PORTION, IF SUCH INDIVIDUAL REFRAINS FROM VOTING AT ANY MEETING OF THE BOARD OF TRUSTEES, OR EQUIVALENT BODY, OF SUCH INSTITUTION ON ANY MATTER RELATING TO THE APPROVAL BY THE TRUST OF SUCH PERSON AS A DEVELOPER OF SUCH PORTION AND THE TERMS AND CONDITIONS OF ANY AGREEMENT RELATING THERETO; (B) A PERSON IN WHICH SUCH INDIVIDUAL HAS A FINANCIAL INTEREST MAY MAKE A LOAN TO THE TRUST, TO A DEVELOPER OR TO ANY OTHER PERSON IN THE ORDINARY COURSE OF BUSINESS IN CONNECTION WITH SUCH DEVELOPMENT; AND (C) ANY SUCH INDIVIDUAL MAY PURCHASE OR RENT AN APARTMENT, OR ANY INTEREST THEREIN, IN SUCH PORTION, FOR FAIR MARKET VALUE.

2. NO TRUSTEE OF THE TRUST AND NO PERSON IN WHICH SUCH TRUSTEE HAS A FINANCIAL INTEREST SHALL BE A DEVELOPER OF THE NON-INSTITUTIONAL PORTION OF ANY FACILITY.

3. IN ANY CASE IN WHICH REAL PROPERTY, CONSISTING OF ALL OR ANY PART OF THE NON-INSTITUTIONAL PORTION OF A COMBINED-USE FACILITY OR IN OR ON WHICH ALL OR ANY PART OF SUCH PORTION PRIOR TO COMPLETION IS DESIGNED TO BE AND UPON COMPLETION IS DEVELOPED, IS EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO SECTION 20.33 OF THIS TITLE, AND SUBJECT TO ANY AGREEMENTS WITH THE HOLDERS OF ITS BONDS OR NOTES, THE TRUST SHALL PAY OR CAUSE TO BE PAID BY MEANS WHICH MAY INCLUDE AN AGREEMENT WITH A PARTICIPATING NOT-FOR-PROFIT CULTURAL ORGANIZATION, A DEVELOPER OR AN OWNER, ANNUAL SUMS IN LIEU OF TAXES TO ANY MUNICIPALITY OR POLITICAL SUBDIVISION OF THE STATE TO WHICH SUCH TAXES WOULD OTHERWISE BE OWED, PROVIDED THAT SUCH PAYMENTS IN LIEU OF TAXES SHALL BE FOR THE FULL AMOUNT OF ANY SUCH TAX PAYMENTS DUE AND OWING, UNLESS SUCH MUNICIPALITY OR OTHER POLITICAL SUBDIVISION SHALL AGREE TO A LESSER PAYMENT FOR A LENGTH OF TIME TO BE SPECIFIED IN AN AGREEMENT BETWEEN THE TRUST AND SUCH MUNICIPALITY OR POLITICAL SUBDIVISION; AND PROVIDED FURTHER THAT THE TRUST SHALL NOT BE EMPOWERED TO RECEIVE TAX EQUIVALENCY PAYMENTS; AND FURTHER PROVIDED, THAT THE NON-INSTITUTIONAL PORTION SHALL NOT BE EXEMPT FROM REAL PROPERTY TAXATION FROM AND AFTER THE DATE A TRUST CONVEYS SUCH NON-INSTITUTIONAL PORTION TO ANY NON-EXEMPT THIRD PARTY.

S 3. This act shall take effect immediately.