

3871

2015-2016 Regular Sessions

I N   S E N A T E

February 20, 2015

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Introduced by Sen. PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the New York state urban development corporation act, in relation to consultation with affected parties on certain projects

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

1     Section 1. Section 16 of section 1 of chapter 174 of the laws of 1968  
2     constituting the New York state urban development corporation act,  
3     subdivisions 2 and 3 as amended by chapter 732 of the laws of 1990 and  
4     subdivision 5 as amended and subdivision 6 as added by chapter 847 of  
5     the laws of 1971, is amended to read as follows:  
6     S 16. Cooperation with municipalities. (1) In effectuating the  
7     purposes of this act, the corporation and community advisory committees  
8     created pursuant to section four of this act shall work [closely,  
9     consult and cooperate] DIRECTLY with local elected officials [and],  
10    community leaders AND SPECIFICALLY AFFECTED PARTIES at the earliest  
11    practicable time, INCLUDING BEFORE PROJECTS ARE PROPOSED, DURING THEIR  
12    DEVELOPMENT AND WHEN THEY ARE PRESENTED TO THE GENERAL PUBLIC. WHENEVER  
13    A PROJECT IS PROPOSED, AND AT EACH SUBSEQUENT STAGE OF SUCH PROPOSED  
14    PROJECT, INCLUDING, WITHOUT LIMITATION: BOARD MEETINGS, BOARD APPROVALS,  
15    PUBLIC MEETINGS AND PUBLIC HEARINGS THE CORPORATION AND COMMUNITY ADVI-  
16    SORY COMMITTEES SHALL ENGAGE IN DIRECT AND PROACTIVE CONSULTATION WITH  
17    ALL AFFECTED PARTIES, INCLUDING "SPECIFICALLY AFFECTED PARTIES" AS  
18    DEFINED BELOW. FOR PURPOSES OF THIS ACT, THE TERM "SPECIFICALLY AFFECTED  
19    PARTIES" SHALL HAVE THE FOLLOWING MEANING: (A) CURRENT TENANTS OR OCCU-  
20    PANTS OF THE PROPOSED PROJECT SITE IN QUESTION, (B) ALL ELECTED OFFI-  
21    CIALS THAT GEOGRAPHICALLY REPRESENT THE PROPOSED PROJECT SITE IN QUES-  
22    TION, (C) ALL LOCAL GOVERNMENT SUBSIDIARIES CHARGED WITH LAND USE/ZONING  
23    REVIEW DUTIES WITHIN THE PROPOSED PROJECT SITE IN QUESTION, (D) THE  
24    COMMUNITY, MINIMALLY OPERATIONALIZED AS RESIDENTS WHO LIVE WITHIN A FIVE

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

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1 MILE RADIUS OF THE PROPOSED PROJECT SITE IN QUESTION AND (E) COMMUNITY  
2 BASED ORGANIZATIONS WHO ARE PRINCIPALLY BASED IN THE CATCHMENT AREA THAT  
3 IS CONCURRENT WITH THE PROPOSED PROJECT SITE IN QUESTION. THE TERM  
4 "DIRECT AND PROACTIVE CONSULTATION" SHALL MEAN THE FOLLOWING: THE CORPO-  
5 RATION AND COMMUNITY ADVISORY COMMITTEES SHALL REACH OUT TO ALL SPECIF-  
6 ICALLY AFFECTED PARTIES WHEN THE PROJECT IS BEING CONTEMPLATED, DEVEL-  
7 OPED AND PROPOSED AND AT EACH SUBSEQUENT STAGE OF SUCH PROPOSED PROJECT  
8 VIA: FIRST CLASS MAIL, E-MAIL AND PHONE, WHERE PRACTICABLE; FURTHER, AT  
9 EACH STAGE OF THE PROPOSED PROJECT IN QUESTION IN PERSON COMMUNITY PLAN-  
10 NING MEETINGS MUST BE HELD WITH ALL CURRENT TENANTS OF THE SITE IN QUES-  
11 TION, ELECTED OFFICIALS AND LOCAL GOVERNMENT SUBSIDIARIES CHARGED WITH  
12 LAND USE/ZONING REVIEW DUTIES. SUCH COMMUNITY PLANNING MEETINGS, AT A  
13 MINIMUM, MUST PROVIDE EACH PARTY WITH AN OPPORTUNITY TO PROPOSE AFFIRMA-  
14 TIVE, MODIFIED OR ENTIRELY DIFFERENT PLANS THAN THOSE CURRENTLY UNDER  
15 CONSIDERATION. IN ADDITION, COMPLEMENTARY CONSULTATION STEPS MUST ALSO  
16 BE TAKEN TO REACH THE GENERAL PUBLIC, WHICH SHALL INCLUDE, WITHOUT LIMI-  
17 TATION: DISTRIBUTING FLYERS THAT DESCRIBE THE PROPOSED PROJECT IN THE  
18 AFFECTED AREA, ERECTING LARGE SIGNAGE CONTAINING PROJECT DETAILS AT THE  
19 PROPOSED PROJECT SITE IN QUESTION, ATTENDING AND SPEAKING AT COMMUNITY  
20 MEETINGS WHERE APPROPRIATE AND TAKING OUT FULL PAGE ADVERTISEMENTS IN NO  
21 LESS THAN TWO LOCAL PAPERS THAT ARE LIKELY TO REACH THE AFFECTED  
22 PARTIES. The corporation shall give primary consideration to local  
23 needs and desires and shall foster local initiative and participation in  
24 connection with the planning and development of its projects AT ALL  
25 STAGES. Wherever possible, activities of the corporation shall be coor-  
26 dinated with local urban renewal and other community projects, and the  
27 corporation shall assist localities in carrying out such projects.  
28 Consideration shall also be given to local and regional goals and poli-  
29 cies as expressed in urban renewal, community renewal and local compre-  
30 hensive land use plans and regional plans.

31 (2) Except with respect to a project consisting in whole or in part of  
32 real property acquired by the corporation pursuant to section fourteen  
33 of this act, before commencing the acquisition, construction, recon-  
34 struction, rehabilitation, alteration or improvement of any project: (a)  
35 upon adoption of the general project plan, the corporation shall file a  
36 copy of such plan, including the findings required pursuant to section  
37 ten of this act, in its corporate offices and in the office of the clerk  
38 of any municipality in which the project is to be located, AS WELL AS  
39 WITH ALL "SPECIFICALLY AFFECTED PARTIES" AS DEFINED ABOVE. Upon  
40 request, any other person shall be furnished with a digest of such plan;  
41 (b) pursuant to authorization from the chief executive officer of the  
42 corporation, which authorization may be given prior to the adoption of  
43 such plan by the corporation, the corporation shall: (i) publish in [one  
44 newspaper] TWO NEWSPAPERS of general circulation within the municipi-  
45 pality, (ii) provide to the chief executive officer of the municipality  
46 within which the project is located, and (iii) in any city having a  
47 population of one million or more, [provide to] ENGAGE IN DIRECT AND  
48 PROACTIVE CONSULTATION, AS DEFINED ABOVE, WITH ALL SPECIFICALLY AFFECTED  
49 PARTIES, INCLUDING any community board in which the project will be  
50 located, INCLUDING BY PROVIDING a notice that such plan will be filed  
51 upon its adoption by the corporation and that digests thereof will be  
52 available, which notice shall also state that a public hearing will be  
53 held to consider the plan at a specified time and place on a date not  
54 less than [ten] SEVENTY days after such publication; THE SEVENTY DAY  
55 PERIOD WILL COMMENCE WHEN THE COMMUNITY BOARDS, AFFECTED TENANTS AND  
56 ELECTED OFFICIALS ALL CONFIRM WITH THE CORPORATION THAT THEY HAVE

1 RECEIVED NOTICE; (c) the corporation shall conduct a public hearing  
2 pursuant to such notice, AND SHALL ENGAGE IN DIRECT AND PROACTIVE  
3 CONSULTATION WITH "SPECIFICALLY AFFECTED PARTIES" FOR THE FULL SEVENTY  
4 DAY PERIOD TO ENSURE MAXIMUM PARTICIPATION AT SUCH HEARING; provided  
5 that such public hearing shall not take place before the adoption or the  
6 filing of such plan by the corporation; (d) [upon] ALL TESTIMONY  
7 RECEIVED AT THE HEARING, WHETHER WRITTEN OR DELIVERED ORALLY AND INCLUD-  
8 ING WRITTEN TESTIMONY SUBMITTED FOR A PERIOD OF THIRTY DAYS AFTER SUCH  
9 HEARING SHALL BE REVIEWED AND ACTED ON BY THE CORPORATION. THE CORPO-  
10 RATION SHALL RESPOND TO EACH SUBSTANTIVE COMMENT IN WRITING, INCLUDING  
11 ALL SUBSTANTIVE NEGATIVE COMMENTS AND SHALL SHARE SUCH RESPONSE DOCUMENT  
12 WITH ALL "SPECIFICALLY AFFECTED PARTIES". IF A SIGNIFICANT AMOUNT OF  
13 SUBSTANTIVE NEGATIVE COMMENTS ARE RECEIVED, THE CORPORATION WILL, AFTER  
14 DUE CONSIDERATION OF SUCH TESTIMONY AND COMMENT, AFFIRM, MODIFY OR WITH-  
15 DRAW THE PLAN IN THE MANNER PROVIDED FOR THE INITIAL FILING OF SUCH PLAN  
16 IN PARAGRAPH (A) OF THIS SUBDIVISION. HOWEVER, BEFORE THE CORPORATION  
17 AFFIRMS THE PLAN IT MUST HOLD A PUBLIC MEETING WITH THIRTY DAYS NOTICE  
18 AND DIRECT AND PROACTIVE CONSULTATION WITH "SPECIFICALLY AFFECTED  
19 PARTIES". AT SUCH MEETING, THE CORPORATION MUST EXPLAIN WHY THEY HAVE  
20 NOT MODIFIED OR WITHDRAWN THE PLAN IN RESPONSE TO SUBSTANTIVE NEGATIVE  
21 COMMENTS. UPON a written finding of the chief executive officer of the  
22 corporation that no substantive negative testimony or comment has been  
23 received at such public hearing, NOR IN THE THIRTY DAY WRITTEN COMMENT  
24 PERIOD THEREAFTER, such plan shall be effective at the conclusion of  
25 such [hearing; provided, however, that if any substantive negative  
26 testimony or comment is received at such public hearing, the corporation  
27 may, after due consideration of such testimony and comment, affirm,  
28 modify or withdraw the plan in the manner provided for the initial  
29 filing of such plan in paragraph (a) of this subdivision] TIMEFRAME.

30 (3) After DIRECT AND PROACTIVE consultation with local officials, as  
31 provided in subdivision one of this section, the corporation and any  
32 subsidiary thereof shall, in constructing, reconstructing, rehabilitat-  
33 ing, altering or improving any project, comply with the requirements of  
34 local laws, ordinances, codes, charters or regulations applicable to  
35 such construction, reconstruction, rehabilitation, alteration or  
36 improvement, provided however, that when, in the discretion of the  
37 corporation, such compliance is not feasible or practicable, the corpo-  
38 ration and any subsidiary thereof shall comply with the requirements of  
39 the state building construction code, formulated by the state building  
40 code council pursuant to article eighteen of the executive law, applica-  
41 ble to such construction, reconstruction, rehabilitation, alteration or  
42 improvement. In those circumstances where, in the discretion of the  
43 corporation, such compliance with local laws, ordinances, codes, char-  
44 ters or regulations is not feasible or practicable, and in the case of  
45 any project where the corporation intends to acquire real property  
46 pursuant to section thirteen of this act, the requirements of subdivi-  
47 sion two of this section shall be complied with; provided, however, that  
48 (a) the corporation shall provide a copy of the plan to the chief execu-  
49 tive officer of any municipality within which the project is to be  
50 located, the chairman of the planning board or commission of any such  
51 municipality, or if there is no planning board or commission, to the  
52 presiding officer of the local governing body and in any city having a  
53 population of one million or more, to any community board in which the  
54 project is located, and the public hearing to consider the plan required  
55 pursuant thereto shall be held on thirty days notice following adoption  
56 of the plan by the corporation; SUCH PUBLIC HEARING SHALL CONFORM TO ALL

1 OF THE DIRECT AND PROACTIVE CONSULTATION REQUIREMENTS AND THE PUBLIC  
2 HEARING REQUIREMENTS AS DEFINED IN SUBDIVISIONS ONE AND TWO OF THIS  
3 SECTION; (b) any person shall have the opportunity to present written  
4 comments on the plan within thirty days after the public hearing; (c)  
5 any municipality within which the project is to be located, by majority  
6 vote of its planning board or commission, or in the event there is no  
7 planning board or commission, by majority vote of its local governing  
8 body, may recommend approval, disapproval or modification of the plan,  
9 which recommendation shall be submitted in writing to the corporation  
10 within thirty days after such hearing; and (d) after due consideration  
11 of such testimony and comments and municipal recommendations, if any,  
12 the corporation may affirm, modify or withdraw the plan in the manner  
13 provided for the initial filing of such plan in paragraph (a) of subdi-  
14 vision two of this section, provided, however that in the event any such  
15 municipality has recommended disapproval or modification of the plan, as  
16 provided herein, the corporation may affirm the plan only by a vote of  
17 two-thirds of the directors thereof then in office. No municipality  
18 shall have power to modify or change the drawings, plans or specifica-  
19 tions for the construction, reconstruction, rehabilitation, alteration  
20 or improvement of any project of the corporation or of any subsidiary  
21 thereof, or the construction, plumbing, heating, lighting or other  
22 mechanical branch of work necessary to complete the work in question,  
23 nor to require that any person, firm or corporation employed on any such  
24 work shall perform any such work in any other or different manner than  
25 that provided by such plans and specifications, nor to require that any  
26 such person, firm or corporation obtain any other or additional authori-  
27 ty, approval, permit or certificate from such municipality in relation  
28 to the work being done, and the doing of any such work by any person,  
29 firm or corporation in accordance with the terms of such drawings,  
30 plans, specifications or contracts shall not subject said person, firm  
31 or corporation to any liability or penalty, civil or criminal, other  
32 than as may be stated in such contracts or incidental to the proper  
33 enforcement thereof; nor shall any municipality have power to require  
34 the corporation or any subsidiary thereof, or lessee therefrom or  
35 successor in interest thereto, to obtain any other or additional author-  
36 ity, approval, permit, certificate or certificate of occupancy from such  
37 municipality as a condition of owning, using, maintaining, operating or  
38 occupying any project acquired, constructed, reconstructed, rehabili-  
39 tated, altered or improved by the corporation or by any subsidiary ther-  
40 eof. The foregoing provisions shall not preclude any municipality from  
41 exercising the right of inspection for the purpose of requiring compli-  
42 ance by any such project with local requirements for operation and main-  
43 tenance, affecting the health, safety and welfare of the occupants ther-  
44 eof, provided, however, that such compliance does not require changes,  
45 modifications or additions to the original construction of such project.

46 (4) Each municipality or political subdivision, including but not  
47 limited to a county, city, town, village or district, in which any  
48 project of the corporation or of any subsidiary thereof is located,  
49 shall provide for such project, whether then owned by the corporation,  
50 any subsidiary thereof or any successor in interest thereto, police,  
51 fire, sanitation, health protection and other municipal services of the  
52 same character and to the same extent as those provided for other resi-  
53 dents of such municipality or political subdivision.

54 (5) Notwithstanding the provisions of any general, special or local  
55 law or charter, any municipality or any public corporation is hereby  
56 empowered to purchase or lease for a term not exceeding ninety-nine

1 years a civic project, upon such terms and conditions as may be agreed  
2 upon by such municipality or such public corporation and the corpo-  
3 ration. No agreement for such purchase or lease shall be deemed to be a  
4 contract for public work or purchase within the meaning of the general  
5 municipal law. Nothing contained in this subdivision shall be deemed to  
6 amend or supersede any other provision of law requiring a vote of the  
7 qualified voters of any school district upon a proposed expenditure of  
8 funds or incurring of indebtedness by such school district.

9 (6) In carrying out any project, the corporation and its subsidiaries  
10 shall be empowered to enter into contractual agreements with munici-  
11 palities and public corporations with respect to the furnishing of any  
12 community, municipal or public facilities or services necessary or  
13 desirable for such project, and any municipality or public corporation  
14 is hereby authorized and empowered, notwithstanding any other law, to  
15 enter into such contractual agreements with the corporation and its  
16 subsidiaries and to do all things necessary to carry out its obligations  
17 under the same.

18 S 2. This act shall take effect immediately.