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I N   S E N A T E

March 8, 2016

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Introduced by Sen. AMEDORE -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to determinations upon the need for an environmental impact statement, and completion of draft environmental impact statements and environmental impact statements

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

1     Section 1. Subdivision 3 of section 8-0109 of the environmental  
2     conservation law, as amended by chapter 252 of the laws of 1977, is  
3     amended to read as follows:

4     3. (A) An agency may require an applicant to submit an environmental  
5     report to assist the agency in carrying out its responsibilities,  
6     including the initial determination and, (where the applicant does not  
7     prepare the environmental impact statement), the preparation of an envi-  
8     ronmental impact statement under this article. The agency may request  
9     such other information from an applicant necessary for the review of  
10    environmental impacts. Notwithstanding any use of outside resources or  
11    work, agencies shall make their own independent judgment of the scope,  
12    contents and adequacy of an environmental impact statement.

13    (B) IN THE EVENT AN AGENCY REQUIRES AN APPLICANT TO SUBMIT AN ENVIRON-  
14    MENTAL REPORT, SUCH AGENCY SHALL PROVIDE NOTICE THEREOF TO THE APPLI-  
15    CANT.

16    (I) UPON NOTICE OF THE REQUIREMENT TO SUBMIT AN ENVIRONMENTAL REPORT,  
17    AN APPLICANT SHALL SUBMIT SUCH REPORT TO THE AGENCY WITHIN SIXTY DAYS;  
18    AND

19    (II) UPON RECEIPT OF AN ENVIRONMENTAL REPORT FROM AN APPLICANT, THE  
20    AGENCY SHALL, WITHIN FORTY DAYS, REVIEW AND MAKE A DETERMINATION OF THE  
21    NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT AND THE SUBMISSION OF A DRAFT  
22    ENVIRONMENTAL IMPACT STATEMENT, AND ANY CONDITIONS RELATING TO THE SCOPE  
23    OF THE PROPOSED PROJECT OR ACTION.

24    THE TIME PERIODS ESTABLISHED IN THIS PARAGRAPH MAY ONLY BE WAIVED BY  
25    MUTUAL CONSENT OF THE AGENCY AND THE APPLICANT.

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

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1 S 2. Section 8-0109 of the environmental conservation law is amended  
2 by adding a new subdivision 4-a to read as follows:

3 4-A. UPON THE FILING OF A DRAFT ENVIRONMENTAL IMPACT STATEMENT PURSU-  
4 ANT TO SUBDIVISION FOUR OF THIS SECTION, THE FINAL COMPLETION AND ISSU-  
5 ANCE OF AN ENVIRONMENTAL IMPACT STATEMENT SHALL BE COMPLETED WITHIN ONE  
6 HUNDRED EIGHTY DAYS SUBJECT TO THE FOLLOWING PROVISIONS:

7 (A) IF THE LEAD AGENCY FAILS TO REACH A SIGNIFICANCE OF ACTION DETER-  
8 MINATION WITHIN TWENTY DAYS OF RECEIPT OF A DRAFT ENVIRONMENTAL IMPACT  
9 STATEMENT, THERE SHALL BE DEEMED TO HAVE BEEN ISSUED A DETERMINATION  
10 THAT NO SIGNIFICANCE EXISTS FROM THE PROPOSED ACTION;

11 (B) IF THE LEAD AGENCY FAILS TO APPROVE THE SCOPE OF THE PROPOSED  
12 ACTION WITHIN SIXTY DAYS OF THE SUBMISSION OF A DRAFT ENVIRONMENTAL  
13 IMPACT STATEMENT, THE SCOPE OF THE PROPOSED ACTION CONTAINED IN SUCH  
14 DRAFT STATEMENT SHALL BE DEEMED TO BE THE SCOPE OF THE ACTION TO BE  
15 INCLUDED IN THE FINAL ENVIRONMENTAL IMPACT STATEMENT; AND

16 (C) IN THE EVENT A LEAD AGENCY FAILS TO APPROVE A FINAL ENVIRONMENTAL  
17 IMPACT STATEMENT WITHIN ONE HUNDRED EIGHTY DAYS OF RECEIPT OF THE  
18 RELATED DRAFT ENVIRONMENTAL IMPACT STATEMENT, SUCH DRAFT STATEMENT SHALL  
19 BE DEEMED TO BE THE ENVIRONMENTAL IMPACT STATEMENT.

20 THE TIME PERIODS ESTABLISHED IN THIS SUBDIVISION MAY ONLY BE WAIVED BY  
21 MUTUAL CONSENT OF THE LEAD AGENCY AND THE APPLICANT.

22 S 3. Subdivision 8 of section 8-0109 of the environmental conservation  
23 law, as amended by chapter 252 of the laws of 1977, is amended to read  
24 as follows:

25 8. When an agency decides to carry out or approve an action which has  
26 been the subject of an environmental impact statement, it shall make an  
27 explicit finding that the requirements of this section have been met and  
28 that consistent with social, economic and other essential consider-  
29 ations, to the maximum extent practicable, adverse environmental effects  
30 revealed in the environmental impact statement process will be minimized  
31 or avoided. PROVIDED, FURTHER, THAT AFTER AN ENVIRONMENTAL IMPACT STATE-  
32 MENT HAS BEEN APPROVED FOR AN ACTION, NO FURTHER ENVIRONMENTAL IMPACT  
33 ISSUES SHALL BE CONSIDERED, UNLESS SUCH ISSUE HAD BEEN CONSIDERED DURING  
34 THE DETERMINATION OF APPROVING SUCH STATEMENT AND SUCH ISSUE WAS SIGNIF-  
35 ICANT ENOUGH TO HAVE PREVENTED THE CONTINUED PROCEEDING OF THE ACTION.  
36 FOR THE PURPOSES OF THIS ARTICLE, THE IMPAIRMENT OF THE EXISTING COMMU-  
37 NITY OR NEIGHBORHOOD CHARACTER SHALL NOT BE A RELEVANT CONSIDERATION FOR  
38 ANY PURPOSE.

39 S 4. This act shall take effect on the first of January next succeed-  
40 ing the date on which it shall have become a law.