

# STATE OF NEW YORK

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8493--A

## IN SENATE

May 9, 2018

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Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general city law, the town law and the village law, in relation to identifying lands at risk from sea level rise or flooding as eligible sending districts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of subdivision 2 of section 20-f of  
2 the general city law, as added by chapter 40 of the laws of 1989, is  
3 amended to read as follows:

4 In addition to existing powers and authorities to regulate by planning  
5 or zoning including authorization to provide for transfer of development  
6 rights pursuant to other enabling law, the legislative body of any city  
7 is hereby empowered to provide for transfer of development rights  
8 subject to the conditions hereinafter set forth and such other condi-  
9 tions as the city legislative body deems necessary and appropriate that  
10 are consistent with the purposes of this section, except that in cities  
11 of over one million any transfer of development rights shall be provided  
12 in the zoning ordinance after adoption by the city planning commission  
13 and board of estimate. The purpose of providing for transfer of develop-  
14 ment rights shall be to protect the natural, scenic or agricultural  
15 qualities of open lands, to enhance sites and areas of special character  
16 or special historical, cultural, aesthetic or economic interest or  
17 value, to protect lands at risk from sea level rise, storm surge or  
18 flooding, and to enable and encourage flexibility of design and careful  
19 management of land in recognition of land as a basic and valuable  
20 natural resource. The conditions hereinabove referred to are as follows:

21 § 2. Paragraph a of subdivision 2 of section 20-f of the general city  
22 law, as added by chapter 40 of the laws of 1989, is amended to read as  
23 follows:

24 a. That transfer of development rights, and the sending and receiving  
25 districts, shall be established in accordance with a well-considered

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

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1 plan within the meaning of subdivision twenty-five of section twenty of  
2 this article. The sending district from which transfer of development  
3 rights may be authorized shall consist of natural, scenic, recreational,  
4 agricultural or open land or sites of special historical, cultural,  
5 aesthetic or economic values sought to be protected or lands at risk  
6 from sea level rise, storm surge or flooding. Every receiving district,  
7 to which transfer of development rights may be authorized, shall have  
8 been found by the legislative body of the city, after evaluating the  
9 effects of potential increased development which is possible under the  
10 transfer of development rights provisions, to contain adequate  
11 resources, environmental quality and public facilities including  
12 adequate transportation, water supply, waste disposal and fire  
13 protection, and that there will be no significant environmentally damag-  
14 ing consequences and such increased development is compatible with the  
15 development otherwise permitted by the city and by the federal, state,  
16 and county agencies having jurisdiction to approve permissible develop-  
17 ment within the district. A generic environmental impact statement  
18 pursuant to the provisions of article eight of the environmental conser-  
19 vation law shall be prepared by the city for the receiving district  
20 before any such district, or any sending district, is designated, and  
21 such statement shall be amended from time to time by the city if there  
22 are material changes in circumstances. Where a transfer of development  
23 rights affects districts in two or more school, special assessment or  
24 tax districts, it may not unreasonably transfer the tax burden between  
25 the taxpayers of such districts. The receiving and sending districts  
26 need not be coterminous with zoning districts.

27 § 3. The opening paragraph of subdivision 2 of section 261-a of the  
28 town law, as added by chapter 40 of the laws of 1989, is amended to read  
29 as follows:

30 In addition to existing powers and authorities to regulate by planning  
31 or zoning, including authorization to provide for transfer of develop-  
32 ment rights pursuant to other enabling law, a town board is hereby  
33 empowered to provide for transfer of development rights subject to the  
34 conditions hereinafter set forth and such other conditions as the town  
35 board deems necessary and appropriate that are consistent with the  
36 purposes of this section. The purpose of providing for transfer of  
37 development rights shall be to protect the natural, scenic or agricul-  
38 tural qualities of open lands, to enhance sites and areas of special  
39 character or special historical, cultural, aesthetic or economic inter-  
40 est or value, to protect lands at risk from sea level rise, storm surge  
41 or flooding and to enable and encourage flexibility of design and care-  
42 ful management of land in recognition of land as a basic and valuable  
43 natural resource. The conditions hereinabove referred to are as follows:

44 § 4. Paragraph a of subdivision 2 of section 261-a of the town law, as  
45 added by chapter 40 of the laws of 1989, is amended to read as follows:

46 a. That transfer of development rights, and the sending and receiving  
47 districts, shall be established in accordance with a comprehensive plan  
48 within the meaning of section two hundred sixty-three of this article.  
49 The sending district from which transfer of development rights may be  
50 authorized shall consist of natural, scenic, recreational, agricultural,  
51 forest, or open land or sites of special historical, cultural, aesthetic  
52 or economic values sought to be protected or lands at risk from sea  
53 level rise, storm surge or flooding. Every receiving district to which  
54 transfer of development rights may be authorized, shall have been found  
55 by the town board, after evaluating the effects of potential increased  
56 development which is possible under the transfer of development rights

1 provisions, to contain adequate resources, environmental quality and  
2 public facilities, including adequate transportation, water supply,  
3 waste disposal and fire protection, and that there will be no signif-  
4 icant environmentally damaging consequences and such increased develop-  
5 ment is compatible with the development otherwise permitted by the town  
6 and by the federal, state, and county agencies having jurisdiction to  
7 approve permissible development within the district. A generic environ-  
8 mental impact statement pursuant to the provisions of article eight of  
9 the environmental conservation law shall be prepared by the town board  
10 for the receiving district before any such district, or any sending  
11 district, is designated, and such statement shall be amended from time  
12 to time by the town board if there are material changes in circum-  
13 stances. Where a transfer of development rights affects districts in two  
14 or more school, special assessment or tax districts, it may not unrea-  
15 sonably transfer the tax burden between the taxpayers of such districts.  
16 The receiving and sending districts need not be coterminous with zoning  
17 districts.

18 § 5. The opening paragraph of subdivision 2 of section 7-701 of the  
19 village law, as added by chapter 40 of the laws of 1989, is amended to  
20 read as follows:

21 In addition to existing powers and authorities to regulate by planning  
22 or zoning, including authorization to provide for transfer of develop-  
23 ment rights pursuant to other enabling law, a board of trustees is here-  
24 by empowered to provide for transfer of development rights subject to  
25 the conditions hereinafter set forth and such other conditions as a  
26 village board of trustees deems necessary and appropriate that are  
27 consistent with the purposes of this section. The purpose of providing  
28 for transfer of development rights shall be to protect the natural,  
29 scenic or agricultural qualities of open lands, to enhance sites and  
30 areas of special character or special historical, cultural, aesthetic or  
31 economic interest or value, to protect lands at risk from sea level  
32 rise, storm surge or flooding, and to enable and encourage flexibility  
33 of design and careful management of land in recognition of land as a  
34 basic and valuable natural resource. The conditions hereinabove referred  
35 to are as follows:

36 § 6. Paragraph a of subdivision 2 of section 7-701 of the village law,  
37 as added by chapter 40 of the laws of 1989, is amended to read as  
38 follows:

39 a. That the transfer of development rights, and the sending and  
40 receiving districts, shall be established in accordance with a compre-  
41 hensive master plan within the meaning of section 7-722 of this article.  
42 The sending district from which transfer of development rights may be  
43 authorized shall consist of natural, scenic, recreational, agricultural  
44 or open land or sites of special historical, cultural, aesthetic or  
45 economic values sought to be protected or lands at risk from sea level  
46 rise, storm surge or flooding. Every receiving district, to which trans-  
47 fer of development rights may be authorized shall have been found by the  
48 board of trustees, after evaluating the effects of potential increased  
49 development which is possible under the transfer of development rights  
50 provisions to contain adequate resources, environmental quality and  
51 public facilities, including adequate transportation, water supply,  
52 waste disposal and fire protection, and that there will be no signif-  
53 icant environmentally damaging consequences and such increased develop-  
54 ment is compatible with the development otherwise permitted by the  
55 village and by the federal, state, and county agencies having jurisdic-  
56 tion to approve permissible development within the district. A generic

1 environmental impact statement pursuant to the provisions of article  
2 eight of the environmental conservation law shall be prepared by the  
3 village for the receiving district before any such district, or any  
4 sending district, is designated, and such statement shall be amended  
5 from time to time by the village, if there are material changes in  
6 circumstances. Where a transfer of development rights affects districts  
7 in two or more school, special assessment or tax districts, it may not  
8 unreasonably transfer the tax burden between the taxpayers of such  
9 districts. The receiving and sending districts need not be coterminous  
10 with zoning districts.  
11 § 7. This act shall take effect immediately.