STATE OF NEW YORK

2637

2019-2020 Regular Sessions

IN SENATE

January 28, 2019

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

AN ACT to amend the not-for-profit corporation law and the general municipal law, in relation to reforming local development corporations and industrial development agencies

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

Section 1. Subparagraphs 2 and 3 of paragraph (d) of section 1411 of the not-for-profit corporation law are amended and a new subparagraph 2-a is added to read as follows:

(2) Notwithstanding the provisions of any general, special, or local law, charter, or ordinance to the contrary, such sale or lease [~~may~~] **shall** be made [~~without~~] **with an** appraisal, public notice, (except as provided in subparagraph (4) **of this paragraph**) [~~or~~] **and subject to** public bidding for such price or rental [~~and upon such terms as may be agreed upon between the county, city, town or village and said local development corporation; provided, however, that in~~]**. In** case of a lease, the term may not exceed ninety-nine years; and provided, further, that, in cities having a population of one million or more, no such sale or lease shall be made without the approval of a majority of the members of the [~~borough improvement board of the borough~~] **community board or boards for the community district or districts** in which such real property is located **and the respective borough board, if such real property is located in two or more community districts**.

(2-a) (I) The corporation shall prepare or cause to be prepared, by contract or otherwise, an economic impact statement on any action that it proposes or approves which may have a significant effect on the affected local economy and local community. The corporation shall use all practicable means to realize the policies and goals set forth in this section, and shall act and choose alternatives which, consistent

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

LBD06613-01-9

with social, economic, environmental, labor, and other essential considerations, to the maximum extent practicable, minimize or avoid adverse economic effects, including effects revealed in the economic impact statement process. Such a statement shall include a detailed statement setting forth the following:

(A) a description of the proposed action and its economic and social setting;

(B) the economic and social impact of the proposed action, including short-term and long-term effects, especially to the affected community;

(C) any adverse economic effects which cannot be avoided should the proposal be implemented;

(D) alternatives to the proposed action;

(E) any irreversible and irretrievable commitments and social resources which would be involved in the proposed action, should it be implemented;

(F) mitigation measures proposed to minimize the economic, social, or other essential impacts; and

(G) the growth-inducing aspects of the proposed action, where applicable and significant. Such a statement shall also include copies or a summary of the substantive comments received by the corporation pursuant to clause (IV) of this subparagraph and the corporation's response to such comments. The purpose of an economic impact statement is to provide detailed information about the effect which a proposed action is likely to have on the economy, employment conditions, and social characteristics of a community, to list ways in which any adverse effects of such an action might be minimized, and to suggest alternatives to such an action so as to form the basis for a decision as to whether or not to undertake or approve such action. Such statement shall be clearly written in a concise manner capable of being read and understood by the public, shall deal with the specific, significant economic impacts which can be reasonably anticipated, and shall not contain more detail than is appropriate, considering the nature and magnitude of the proposed action and the significance of its potential impacts.

(II) The corporation may require an applicant to submit an economic report to assist the corporation in carrying out its responsibilities, including the initial determination and, (where the applicant does not prepare the economic impact statement), the preparation of an economic impact statement under this subparagraph. The corporation may request such other information from an applicant as it deems necessary for the review of economic and social impacts. Notwithstanding any use of outside resources or work, corporations shall make their own independent judgment of the scope, contents, and adequacy of an economic impact statement.

(III) (A) As early as possible in the formulation of a proposal for an action, the corporation shall make an initial determination as to whether or not an economic impact statement need be prepared for the action. With respect to actions involving the issuance to an applicant of a permit or other entitlement, the corporation shall notify the applicant in writing of its initial determination, specifying therein the basis for such determination. Notice of the initial determination, along with appropriate supporting findings on corporation actions, shall be kept on file in the main office of the corporation for public inspection. If the corporation determines that such statement is required, the corporation or the applicant, at the applicant's option, shall prepare or cause to be prepared a draft economic impact statement. If the applicant does not exercise the option to prepare such statement, the corporation shall

prepare it, cause it to be prepared, or terminate its review of the proposed action. Such statement shall describe the proposed action and reasonable alternatives to the action, and briefly discuss, on the basis of information then available, the remaining items required to be submitted by clause (I) of this subparagraph. The purpose of a draft economic statement is to relate economic and social considerations to the inception of the planning process, to inform the public and other public agencies as early as possible about proposed actions that may significantly affect the quality of the economic and social conditions, and to solicit comments which will assist the corporation in the decision making process in determining the economic and social consequences of the proposed action. The draft statement shall resemble in form and content the economic impact statement to be prepared after comments have been received and considered pursuant to clause (I) of this subparagraph; provided, however, that the length and detail of the draft economic statement will necessarily reflect the preliminary nature of the proposal and the early stage at which it is prepared;

(B) The draft statement shall be filed with the appropriate governing body of each municipality or political subdivision thereof for whose benefit such corporation is established.

(IV) (A) After the filing of a draft economic impact statement, the corporation shall determine whether or not to conduct a public hearing on the economic impact of the proposed action. Such public hearing shall be held in a city, town or village where the project is proposed to be located or, in cities having a population of one million or more, in the community district or districts in which such project is proposed to be located or in the respective borough, if such project is proposed to be located in two or more community districts. The corporation must give at least thirty days' published notice of such public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of each affected tax jurisdiction within which the project is proposed to be located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator, or manager of the project, generally describe the financial assistance contemplated by the corporation with respect to the project, and provide an opportunity for the public to review the project application, which shall include an analysis of the costs and benefits of the proposed project. The notice of hearing must be published in the state register and the website of the corporation.

(B) If the corporation determines to hold such a hearing, it shall commence the hearing within sixty days of the filing and, unless the proposed action is withdrawn from consideration, shall prepare the economic impact statement within forty-five days after the close of the hearing, except as otherwise provided. The need for such a hearing shall be determined in accordance with procedures adopted by the corporation. If no hearing is held, the corporation shall prepare and make available the economic impact statement within sixty days after the filing of the draft, except as otherwise provided.

(C) Notwithstanding the specified time periods established by this subparagraph, a corporation shall vary the times so established in this clause for preparation, review, and public hearings to coordinate the economic and social review process with other procedures relating to review and approval or disapproval of an action. An application or authorization for an action upon which a draft economic impact statement is determined to be required shall not be complete until such draft

statement has been filed and accepted by the corporation as satisfactory with respect to scope, content, and adequacy for purposes of this subparagraph. Commencing upon such acceptance, the economic impact statement process shall run concurrently with other procedures relating to the review and approval of the action, so long as reasonable time is provided for preparation, review, and public hearings with respect to the draft economic impact statement.

(V) To the extent possible, the economic impact statement prepared pursuant to clause (I) of this subparagraph, together with the comments of public agencies and members of the public, shall be filed with the governing body of each municipality or political subdivision thereof for whose benefit such corporation is established and made available to the public prior to acting on the proposal which is the subject of the economic impact statement.

(VI) A corporation may charge a fee to an applicant to recover the costs incurred in preparing or causing to be prepared or reviewing a draft economic impact statement or an economic impact statement on the action which the applicant requests from the corporation; provided, however, that an applicant may not be charged a separate fee for both the preparation and review of such statements. The technical services of the corporation may be made available on a fee basis reflecting the costs thereof to a requesting applicant, which fee or fees may appropriately be charged by the corporation to the applicant under rules and regulations, which the corporation shall issue for such purpose.

(VII) When a corporation decides to carry out or approve an action which has been the subject of an economic impact statement, it shall make an explicit finding that the requirements of this subparagraph have been met and that, consistent with social, economic, and other essential consideration, to the maximum extent practicable, adverse economic, social, and community effects revealed in the economic impact statement process will be minimized or avoided.

(3) Before any sale or lease to a local development corporation incorporated or reincorporated under this article shall be authorized, a public hearing shall be held by the local legislative body, or [~~by the board of estimate~~], in cities having a population of one million or more, by the community board or boards or the respective borough board, as the case may be, to consider the proposed sale or lease only after the completion of the economic impact statement required by subparagraph two-a of this paragraph. A public hearing may only be convened if two-thirds of the board members are present. If not, such public hearing shall not be convened and shall be rescheduled, subject to the same quorum requirements.

§ 2. Paragraph (i) of section 1411 of the not-for-profit corporation law is relettered paragraph (j) and a new paragraph (i) is added to read as follows:

(i) Municipal input.

(1) Board members or employees of a local development corporation must not be or have, within the past five years, been: (A) an employee or an owner of a firm that is a paid advisor or consultant of the local development corporation, including a present or former independent auditor of the local development corporation; (B) employed by a significant supplier of the local development corporation; (C) employed by and had a five percent or greater ownership interest in a supplier where sales to the local development corporation represent more than one percent of the sales of the supplier or more than one percent of the purchases of the local development corporation; (D) a "political party chairman" as such

term is defined in paragraph (k) of subdivision one of section seventy-three of the public officers law; or (E) a lobbyist registered under a state or local law covering any jurisdiction served in whole or in part by the local development corporation. In addition, at least one-third of all members shall be representative of local government, organized labor, or the engineering, business, or environmental communities.

(2) The local development corporation shall file an annual report with the attorney general noting the local development corporation's financial activity during each year, including, but not limited to, the amount and the reason for the amount and kinds of financial incentives provided to any entity and any other data that the attorney general may require. The report shall be submitted before February first of each year. Each report shall be made available to the public in an easily accessible format, including but not limited to an electronic version via the world wide web.

(3) Any lease, sale, or other revenues collected by the corporation shall be paid to the local governing body in which real property or other source of revenue is located, and proportionally divided if located in more than one municipality.

(4) The governing body of each municipality for whose benefit a corporation is established shall have the authority to approve or disapprove any agency use of eminent domain, disposition of corporate property, issuance of bonds, entrance into agreements requiring payments, or entering into agreements for payments in lieu of taxes. Each such governing body shall approve or disapprove any of the above corporate decisions by majority vote. Where applicable in the enactment of local laws, the chief executive officer shall approve or disapprove such governing body's decision, subject to any applicable right to override. Boards shall not violate any local zoning laws, ordinances, or regulations or local development plans. Where applicable, the provisions of this subparagraph shall apply to more than one local governing body and the New York job development authority.

§ 3. Subdivision 2 of section 856 of the general municipal law, as amended by chapter 356 of the laws of 1993, is amended to read as follows:

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an agency shall consist of not less than three nor more than seven members who shall be appointed by the chief executive officer, with the advice and consent of the local governing body, of each municipality and who shall serve at the pleasure of the appointing authority. [~~Such members may include representatives of local government, school boards, organized labor and business.~~] At least one-third of all members shall be representative of local government, organized labor, or the engineering, business, or environmental communities. A member shall continue to hold office until his or her successor is appointed and has qualified. The governing body of each municipality shall designate the first [~~chairman~~] chairperson and file with the secretary of state a certificate of appointment or reappointment of any member. Such members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. Members must not be or have, within the past five years, been:

(a) an employee or an owner of a firm that is a paid advisor or consultant of the agency, including a present or former independent auditor of the agency;

(b) employed by a significant supplier of the agency;

(c) employed by and had a five percent or greater ownership interest in a supplier where sales to the agency represent more than one percent of the sales of the supplier or more than one percent of the purchases of the agency;

(d) a "political party chairman" as such term is defined in paragraph (k) of subdivision one of section seventy-three of the public officers law; or

(e) a lobbyist registered under a state or local law covering any jurisdiction served in whole or in part by the agency.

§ 4. Subdivision 15 of section 858 of the general municipal law, as added by chapter 356 of the laws of 1993, is amended to read as follows:

(15) To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project. A copy of any such agreement shall be delivered to each affected tax jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes made by an agency shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the agency's activities render a project non-taxable by affected tax jurisdictions. Standard tax exemption policies established in law or by agencies shall be sent annually to chief executives and all members of governing boards of all affected tax jurisdictions. Any changes to the standard tax exemption policies shall also be sent to chief executives and all members of governing boards of affected tax jurisdictions. Standard tax exemption policies shall also be made available to the public and posted on the agency's website. Every agency shall be required to maintain, and make available to all local elected officials and the public, a current schedule of all PILOT payments due each year and the amount of each payment allocable to each affected tax jurisdiction on whose behalf the PILOT is being collected. All agencies shall maintain, and make readily available to all local elected officials and the public, current schedules of project owners who are in arrears in the making of required PILOT payments, the amounts involved, and the time periods involved. Every agency must ensure that all PILOT payments are promptly received and fully transmitted to the treasuries of the affected tax jurisdictions on whose behalf those PILOT payments were collected;

§ 5. The general municipal law is amended by adding a new section 858-c to read as follows:

§ 858-c. Municipal input. 1. The governing body of each municipality for whose benefit an agency is established shall have the authority to approve or disapprove any agency use of eminent domain, disposition of agency property, issuance of bonds, entrance into agreements requiring payments, or entering into agreements for payments in lieu of taxes. Each such governing body shall approve or disapprove any of the above

agency decisions by majority vote. Where applicable in the enactment of local laws, the chief executive officer shall approve or disapprove such governing body's decision, subject to any applicable right to override.

2. Agency boards shall not violate any local zoning laws, ordinances, or regulations or local development plans.

§ 6. Paragraphs (a) and (b) of subdivision 1 of section 859 of the general municipal law, paragraph (a) as added by chapter 692 of the laws of 1989 and paragraph (b) as amended by chapter 357 of the laws of 1993, are amended to read as follows:

(a) Each agency shall maintain books and records in such form as may be prescribed by the state comptroller. **The comptroller shall prescribe rules on standardizing the calculation of tax benefits.**

(b) Within ninety days following the close of its fiscal year, each agency or authority shall prepare a financial statement for that fiscal year in such form as may be prescribed by the state comptroller. Such statement shall be audited within such ninety day period by an independent certified public accountant in accordance with government accounting standards established by the United States general accounting office. The audited financial statement shall include supplemental schedules listing all straight-lease transactions and bonds and notes issued, outstanding or retired during the applicable accounting period whether or not such bonds, notes or transactions are considered obligations of the agency**, and information on PILOTs**. For each issue of bonds or notes such schedules shall provide the name of each project financed with proceeds of each issue, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, **the address of each project,** the estimated amount of tax exemptions authorized for each project, the purpose for which each bond or note was issued, date of issue, interest rate at issuance and if variable the range of interest rates applicable, maturity date, federal tax status of each issue, and an estimate of the number of jobs created and retained by each project. For each straight-lease transaction, such schedules shall provide the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project.

§ 7. Section 859-a of the general municipal law, as added by chapter 356 of the laws of 1993, and subdivisions 4, 5 and 6 as added by chapter 563 of the laws of 2015, is amended to read as follows:

§ 859-a. Additional prerequisites to the provisions of financial assistance**, economic impact statements and public hearings**. Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the agency must comply with the following prerequisites:

1. The agency must adopt a resolution describing the project and the financial assistance that the agency is contemplating with respect to such project. **Agencies must maintain a list of all pending projects about which they have been contacted, and make such lists available for public inspection, including but not limited to publishing the lists on the agency's website. If any person requests more information about a particular project, the agency shall provide such information as expeditiously as possible.** Such assistance shall be consistent with the uniform tax exemption policy adopted by the agency pursuant to subdivi-

sion four of section eight hundred seventy-four of this [~~chapter~~] title, unless the agency has followed the procedures for deviation from such policy specified in paragraph (b) of such subdivision. Such assistance shall also be consistent with environmental protection, such as open space protection, that will promote new development patterns in order to take advantage of resources and opportunities, such as existing public sewer and water infrastructure, without compromising the needs of future generations; and labor protection, including all federal, state, and local labor laws, rules, or regulations. The agency shall not grant or appropriate assistance to any entity that has committed violations of any federal, state, or local laws.

2. The agency shall prepare (where the applicant does not prepare the economic impact statement), or cause to be prepared by contract or otherwise, an economic impact statement on any action that it proposes or approves which may have a significant effect on the affected local economy and local community. The agency shall use all practicable means to realize the policies and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic, and other essential considerations, to the maximum extent practicable, minimize or avoid adverse economic effects, including effects revealed in the economic impact statement process. Such a statement shall include a detailed statement setting forth the following:

(a) a description of the proposed action and its economic and social setting;

(b) the economic and social impact of the proposed action, including short-term and long-term effects, especially to the affected community;

(c) any adverse economic effects which cannot be avoided should the proposal be implemented;

(d) alternatives to the proposed action;

(e) any irreversible and irretrievable commitments and social resources which would be involved in the proposed action, should it be implemented;

(f) mitigation measures proposed to minimize the economic, social or other essential impacts; and

(g) the growth-inducing aspects of the proposed action, where applicable and significant.

Such a statement shall also include copies or a summary of the substantive comments received by the agency pursuant to subdivision six of this section, and the agency response to such comments. The purpose of an economic impact statement is to provide detailed information about the effect which a proposed action is likely to have on the economy, employment conditions, and social characteristics of a community, to list ways in which any adverse effects of such an action might be minimized, and to suggest alternatives to such an action so as to form the basis for a decision as to whether or not to undertake or approve such action. Such statement shall be clearly written in a concise manner capable of being read and understood by the public, shall deal with the specific significant economic impacts which can be reasonably anticipated, and shall not contain more detail than is appropriate, considering the nature and magnitude of the proposed action and the significance of its potential impacts.

3. The agency may require an applicant to submit an economic report to assist the agency in carrying out its responsibilities, including the initial determination and, (where the applicant does not prepare the economic impact statement), the preparation of an economic impact statement under this article. The agency may request such other information

from an applicant necessary for the review of economic and social impacts. Notwithstanding any use of outside resources or work, agencies shall make their own independent judgment of the scope, contents, and adequacy of an economic impact statement.

4. (a) As early as possible in the formulation of a proposal for an action, the agency shall make an initial determination as to whether or not an economic impact statement need be prepared for the action. With respect to actions involving the issuance to an applicant of a permit or other entitlement, the agency shall notify the applicant in writing of its initial determination, specifying therein the basis for such determination. Notice of the initial determination, along with appropriate supporting findings on agency actions, shall be kept on file in the main office of the agency for public inspection. If the agency determines that such statement is required, the agency or the applicant, at the applicant's option, shall prepare or cause to be prepared a draft economic impact statement. If the applicant does not exercise the option to prepare such statement, the agency shall prepare it, cause it to be prepared, or terminate its review of the proposed action. Such statement shall describe the proposed action and reasonable alternatives to the action, and briefly discuss, on the basis of information then available, the remaining items required to be submitted by subdivision two of this section. The purpose of a draft economic statement is to relate economic and social considerations to the inception of the planning process, to inform the public and other public agencies as early as possible about proposed actions that may significantly affect the quality of the economic and social conditions, and to solicit comments which will assist the agency in the decision making process in determining the economic and social consequences of the proposed action. The draft statement shall resemble in form and content the economic impact statement to be prepared after comments have been received and considered pursuant to subdivision two of this section; however, that the length and detail of the draft economic statement will necessarily reflect the preliminary nature of the proposal and the early stage at which it is prepared;

(b) The draft statement shall be filed with the appropriate governing body of each municipality for whose benefit such agency is established.

5. (a) After the filing of a draft economic impact statement, the agency shall determine whether or not to conduct a public hearing on the economic impact of the proposed action. Such public hearing shall be held in a city, town, or village where the project is proposed to be located. The agency must give at least thirty days' published notice of such public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of each affected tax jurisdiction within which the project is proposed to be located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator, or manager of the project, generally describe the financial assistance contemplated by the agency with respect to the project, and provide an opportunity for the public to review the project application, which shall include an analysis of the costs and benefits of the proposed project. The notice of hearing must be published in the state register and the website of the agency.

(b) If the agency determines to hold such a hearing, it shall commence the hearing within sixty days of the filing and, unless the proposed action is withdrawn from consideration, shall prepare the economic

impact statement within forty-five days after the close of the hearing, except as otherwise provided. The need for such a hearing shall be determined in accordance with procedures adopted by the agency pursuant to section eight hundred fifty-eight of this title. If no hearing is held, the agency shall prepare and make available the economic impact statement within sixty days after the filing of the draft, except as otherwise provided.

(c) Notwithstanding the specified time periods established by this article, an agency shall vary the times so established herein for preparation, review and public hearings to coordinate the economic and social review process with other procedures relating to review and approval of an action. An application or authorization for an action upon which a draft economic impact statement is determined to be required shall not be complete until such draft statement has been filed and accepted by the agency as satisfactory with respect to scope, content, and adequacy for purposes of subdivision four of this section. Commencing upon such acceptance, the economic impact statement process shall run concurrently with other procedures relating to the review and approval of the action, so long as reasonable time is provided for preparation, review, and public hearings with respect to the draft economic impact statement.

6. To the extent possible, the economic impact statement prepared pursuant to subdivision two of this section, together with the comments of public agencies and members of the public, shall be filed with the governing body of each municipality for whose benefit such agency is established and made available to the public prior to acting on the proposal which is the subject of the economic impact statement.

7. An agency may charge a fee to an applicant to recover the costs incurred in preparing or causing to be prepared or reviewing a draft economic impact statement or an economic impact statement on the action which the applicant requests from the agency; provided, however, that an applicant may not be charged a separate fee for both the preparation and review of such statements. The technical services of the agency may be made available on a fee basis reflecting the costs thereof to a requesting agency, which fee or fees may appropriately be charged by the agency to the applicant under rules and regulations to be issued by the agency for such purpose under section eight hundred fifty-eight of this title.

8. When an agency decides to carry out or approve an action which has been the subject of an economic impact statement, it shall make an explicit finding that the requirements of this section have been met and that, consistent with social, economic, and other essential considerations, to the maximum extent practicable, adverse economic, social, and community effects revealed in the economic impact statement process will be minimized or avoided.

9. The agency [~~must~~] shall hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the agency after the completion of the final economic impact statement. [~~Said~~] Such public hearing shall be held in a city, town, or village where the project [~~proposes~~] is proposed to [~~locate~~] be located. At [~~said~~] such public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project and the final economic impact statement. A public hearing may only be convened if two-thirds of the board members are present. If not, such public hearing shall not be convened and shall be rescheduled, subject to the same quorum requirements.

[~~3.~~] 10. The agency must give at least ten days published notice of [~~said~~] such public hearing and shall, at the same time, provide notice

of such hearing to the chief executive officer of each affected tax jurisdiction within which the project is located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator, or manager of the project, and generally describe the financial assistance contemplated by the agency with respect to the project. **The notice of hearing must be published in the state register and the website of the agency. Such assistance shall also be consistent with environmental protection, such as open space protection, that will promote new development patterns in order to take advantage of resources and opportunities, such as existing public sewer and water infrastructure, without compromising the needs of future generations; and labor protection, including all federal, state, and local labor laws, rules or regulations. The agency shall not grant or appropriate assistance to any entity that has committed violations of any federal, state, or local laws.**

[~~4.~~] **11.** Each agency shall develop a standard application form, which shall be used by the agency to accept requests for financial assistance from all individuals, firms, companies, developers or other entities or organizations. The standard application form shall be submitted by or on behalf of the applicant, and subscribed and affirmed under the penalties of perjury by the applicant, or on behalf of the applicant by the chief executive officer or such other individual that is duly authorized to bind the applicant, as true, accurate and complete to the best of his or her knowledge. The standard application form shall include the following, and may include such other supplemental information as determined to be necessary and appropriate by the agency, including supporting documents and information provided by or on behalf of the applicant:

(a) the name and address of the project applicant;

(b) a description of the proposed project for which financial assistance is requested, including the type of project, proposed location and purpose of the project;

(c) the amount and type of financial assistance being requested, including the estimated value of each type of tax exemption sought to be claimed by reason of agency involvement in the project;

(d) a statement that there is a likelihood that the project would not be undertaken but for the financial assistance provided by the agency or, if the project could be undertaken without financial assistance provided by the agency, a statement indicating why the project should be undertaken by the agency;

(e) an estimate of capital costs of the project, including all costs of real property and equipment acquisition and building construction or reconstruction, financed from private sector sources, an estimate of the percentage of project costs financed from public sector sources, and an estimate of both the amount to be invested by the applicant and the amount to be borrowed to finance the project.

(f) the projected number of full time equivalent jobs that would be retained and that would be created if the request for financial assistance is granted, the projected timeframe for the creation of new jobs, the estimated salary and fringe benefit averages or ranges for categories of the jobs that would be retained or created if the request for financial assistance is granted, and an estimate of the number of residents of the economic development region as established pursuant to section two hundred thirty of the economic development law or the labor market area as defined by the agency, in which the project is located that would fill such jobs. The labor market area defined by the agency

for this purpose may include no more than six contiguous counties in the state, including the county in which the project is to be located;

(g) a statement to the effect that the provisions of subdivision one of section eight hundred sixty-two of this [~~chapter~~] **title** will not be violated if financial assistance is provided for the proposed project;

(h) a statement that the owner, occupant or operator receiving financial assistance is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations; and

(i) a statement acknowledging that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of agency involvement in the project.

[~~5.~~] **12.** Each agency shall develop, and adopt by resolution, uniform criteria for the evaluation and selection for each category of projects for which financial assistance will be provided. At a minimum, the criteria shall require that, for each project, the following must occur prior to the approval of the provision of financial assistance:

(a) an assessment by the agency of all material information included in connection with the application for financial assistance, as necessary to afford a reasonable basis for the decision by the agency to provide financial assistance for the project;

(b) a written cost-benefit analysis by the agency that identifies the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; the amount of private sector investment generated or likely to be generated by the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts; and any other public benefits that might occur as a result of the project;

(c) a statement by the applicant that the project, as of the date of the application, is in substantial compliance with all provisions of this article including, but not limited to, the provisions of this section and subdivision one of section eight hundred sixty-two of this [~~chapter~~] **title**; and

(d) if the project involves the removal or abandonment of a facility or plant within the state, notification by the agency to the chief executive officer or officers of the municipality or municipalities in which the facility or plant was located.

[~~6.~~] **13.** Each agency shall develop a uniform agency project agreement that sets forth terms and conditions under which financial assistance shall be provided. The uniform agency project agreement shall be used by the agency and no financial assistance shall be provided in the absence of the execution of such an agreement. The uniform agency project agreement shall, at a minimum:

(a) describe the project and the financial assistance, including the amount and type, to be provided, and the agency purpose to be achieved;

(b) require each project owner, occupant or operator receiving financial benefits to provide annually a certified statement and documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the financial assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the project location, and (ii) indicating that the salary and fringe benefit aver-

ages or ranges for categories of jobs retained and jobs created that was provided in the application is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created.

(c) indicate the dates when PILOT payments are to be made and provide an estimate of the amounts for each affected tax jurisdiction of any payments in lieu of taxes that are included as part of the transaction, or formula or formulas by which those amounts may be calculated. In lieu of providing such information, a copy of an executed payment in lieu of tax agreement that contains the same information may be attached to the uniform agency project agreement;

[~~(e)~~] **(d)** provide for the suspension or discontinuance of financial assistance, or for the modification of any payment in lieu of tax agreement to require increased payments, in accordance with policies developed by the agency pursuant to section eight hundred seventy-four of this title;

[~~(f)~~] **(e)** provide for the return of all or a part of the financial assistance provided for the project, including all or part of the amount of any tax exemptions, which shall be redistributed to the appropriate affected tax jurisdiction, as provided for in policies developed by the agency pursuant to section eight hundred seventy-four of this title, unless agreed to otherwise by any local taxing jurisdiction or jurisdictions; and

[~~(g)~~] **(f)** provide that the owner, occupant or operator receiving financial assistance shall certify, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

§ 8. Section 860 of the general municipal law, as added by chapter 1030 of the laws of 1969, is amended to read as follows:

§ 860. Moneys of the agency. The agency shall have power to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits. **Any lease payments, revenues, or other earnings of the agency shall be paid to the local governing body of the municipality for whose benefit such agency is established.**

§ 9. Section 882 of the general municipal law, as amended by chapter 373 of the laws of 2012, is amended and a new section 882-a is added to read as follows:

§ 882. Termination of the agency. Whenever all of the bonds or notes issued by the agency shall have been redeemed or cancelled, and all straight-lease transactions have been terminated, the agency shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the agency shall thereupon vest in and be possessed by the municipality. **After October first, two thousand twenty-one, non-county industrial development agencies created under title two of this article shall not be able to issue any further bonds or notes.**

§ 882-a. Prohibition of local industrial development agencies. No further industrial development agencies may be created unless they are a county-wide industrial development agency.

§ 10. The general municipal law is amended by adding two new sections 885 and 885-a to read as follows:

§ 885. Prevailing wage. Whenever a recipient of industrial development agency funds, financial assistance, or other benefit enters into any contract, subcontract, lease, grant, bond, covenant or other agreement for or in connection with any construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement project, such project shall be deemed to be a public works project for the purposes of article eight of the labor law, and all of the provisions of article eight of the labor law shall be applicable to all the work involved in the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement of such project. Funds, financial assistance, or any other benefits provided pursuant to this article shall not be utilized for or in connection with the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement of any project to which the provisions of article eight of the labor law are not applicable.

§ 885-a. Recapture. If a recipient entity of agency assistance does not abide by any provision of this article or requirement made applicable pursuant to the authority of this article, it shall pay back to the agency that fraction of developmental assistance that accrued to its benefit for the calendar year in which the benefit occurred, plus interest at a rate determined by the granting agency. For one-time forms of assistance such as grants or land price discounts, a defaulting entity shall pay back to the granting agency one-fifth of the value of assistance. Remittance of the payback by a recipient entity to a granting agency shall take place within sixty calendar days of the delivery of the default notice to the recipient entity.

§ 11. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the provisions of section seven of this act shall take effect immediately.