STATE OF NEW YORK

S. 3712 A. 5505

2019-2020 Regular Sessions

SENATE - ASSEMBLY

February 13, 2019

IN SENATE -- Introduced by Sens. LAVALLE, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments

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:

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

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

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

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

a. That transfer of development rights, and the sending and receiving districts, shall be established in accordance with a well-considered plan within the meaning of subdivision twenty-five of section twenty of this article. The sending district from which transfer of development rights may be authorized shall consist of natural, scenic, recreational, agricultural or open land or sites of special historical, cultural, aesthetic or economic values sought to be protected **or lands at risk from sea level rise, storm surge or flooding**. Every receiving district, to which transfer of development rights may be authorized, shall have been found by the legislative body of the city, after evaluating the effects of potential increased development which is possible under the transfer of development rights provisions, to contain adequate resources, environmental quality and public facilities including adequate transportation, water supply, waste disposal and fire protection, and that there will be no significant environmentally damaging consequences and such increased development is compatible with the development otherwise permitted by the city and by the federal, state, and county agencies having jurisdiction to approve permissible development within the district. A generic environmental impact statement pursuant to the provisions of article eight of the environmental conservation law shall be prepared by the city for the receiving district before any such district, or any sending district, is designated, and such statement shall be amended from time to time by the city if there are material changes in circumstances. Where a transfer of development rights affects districts in two or more school, special assessment or tax districts, it may not unreasonably transfer the tax burden between the taxpayers of such districts. The receiving and sending districts need not be coterminous with zoning districts.

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

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

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

a. That transfer of development rights, and the sending and receiving districts, shall be established in accordance with a comprehensive plan within the meaning of section two hundred sixty-three of this article. The sending district from which transfer of development rights may be authorized shall consist of natural, scenic, recreational, agricultural, forest, or open land or sites of special historical, cultural, aesthetic

or economic values sought to be protected **or lands at risk from sea level rise, storm surge or flooding**. Every receiving district to which transfer of development rights may be authorized, shall have been found by the town board, after evaluating the effects of potential increased development which is possible under the transfer of development rights provisions, to contain adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection, and that there will be no significant environmentally damaging consequences and such increased development is compatible with the development otherwise permitted by the town and by the federal, state, and county agencies having jurisdiction to approve permissible development within the district. A generic environmental impact statement pursuant to the provisions of article eight of the environmental conservation law shall be prepared by the town board for the receiving district before any such district, or any sending district, is designated, and such statement shall be amended from time to time by the town board if there are material changes in circumstances. Where a transfer of development rights affects districts in two or more school, special assessment or tax districts, it may not unreasonably transfer the tax burden between the taxpayers of such districts. The receiving and sending districts need not be coterminous with zoning districts.

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

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

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

a. That the transfer of development rights, and the sending and receiving districts, shall be established in accordance with a comprehensive master plan within the meaning of section 7-722 of this article. The sending district from which transfer of development rights may be authorized shall consist of natural, scenic, recreational, agricultural or open land or sites of special historical, cultural, aesthetic or economic values sought to be protected **or lands at risk from sea level rise, storm surge or flooding**. Every receiving district, to which transfer of development rights may be authorized shall have been found by the board of trustees, after evaluating the effects of potential increased development which is possible under the transfer of development rights provisions to contain adequate resources, environmental quality and public facilities, including adequate transportation, water supply,

waste disposal and fire protection, and that there will be no significant environmentally damaging consequences and such increased development is compatible with the development otherwise permitted by the village and by the federal, state, and county agencies having jurisdiction to approve permissible development within the district. A generic environmental impact statement pursuant to the provisions of article eight of the environmental conservation law shall be prepared by the village for the receiving district before any such district, or any sending district, is designated, and such statement shall be amended from time to time by the village, if there are material changes in circumstances. Where a transfer of development rights affects districts in two or more school, special assessment or tax districts, it may not unreasonably transfer the tax burden between the taxpayers of such districts. The receiving and sending districts need not be coterminous with zoning districts.

§ 7. This act shall take effect immediately.