

# STATE OF NEW YORK

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S. 3712

A. 5505

2019-2020 Regular Sessions

## SENATE - ASSEMBLY

February 13, 2019

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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:

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:

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

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

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

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

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

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

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

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

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

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

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

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

1 waste disposal and fire protection, and that there will be no signif-  
2 ican environmental damaging consequences and such increased develop-  
3 ment is compatible with the development otherwise permitted by the  
4 village and by the federal, state, and county agencies having jurisdic-  
5 tion to approve permissible development within the district. A generic  
6 environmental impact statement pursuant to the provisions of article  
7 eight of the environmental conservation law shall be prepared by the  
8 village for the receiving district before any such district, or any  
9 sending district, is designated, and such statement shall be amended  
10 from time to time by the village, if there are material changes in  
11 circumstances. Where a transfer of development rights affects districts  
12 in two or more school, special assessment or tax districts, it may not  
13 unreasonably transfer the tax burden between the taxpayers of such  
14 districts. The receiving and sending districts need not be coterminous  
15 with zoning districts.

16 § 7. This act shall take effect immediately.