

STATE OF NEW YORK

9352

IN SENATE

May 19, 2022

Introduced by Sens. LANZA, SAVINO -- 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 requiring notice to adjacent landowners where certain development is proposed in wetlands in a city with a population of one million or more

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

1 Section 1. Section 25-0402 of the environmental conservation law, as
2 added by chapter 790 of the laws of 1973, subdivision 2 as added by
3 chapter 233 of the laws of 1979, is amended to read as follows:

4 § 25-0402. Application for permits.

5 1. Any person proposing to conduct or cause to be conducted an activ-
6 ity regulated under this ~~[aet]~~ article upon any inventoried tidal
7 wetland shall file an application for a permit with the commissioner, in
8 such form and containing such information as the commissioner may
9 prescribe. The applicant shall have the burden of demonstrating that the
10 proposed activity will be in complete accord with the policy and
11 provisions of this ~~[aet]~~ article. Such application shall include a
12 detailed description of the proposed work and a map showing the area of
13 tidal wetland directly affected, with the location of the proposed work
14 thereon, together with the names of the owners of record of adjacent
15 lands and the known claimants of water rights in or adjacent to the
16 tidal wetlands of whom the applicant has notice. The commissioner shall
17 cause a copy of such application to be mailed to the chief administra-
18 tive officer in the municipality where the proposed work or any part of
19 it is located. Upon receipt of such application by a city with a popu-
20 lation of one million or more, such city shall cause a notice of such
21 application to be mailed to owners of record of land which is located
22 within one thousand feet of the proposed activity.

23 2. No sooner than thirty days and not later than sixty days after the
24 receipt of an application by a city with a population of one million or
25 more, and after notice of application has been published by the appli-

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

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1 cant in two newspapers having a general circulation in the area, the
2 commissioner shall hold a public hearing on such application at a suit-
3 able location in such city where the affected wetland is situated unless
4 no notice of objection has been filed or unless the commissioner finds
5 the activity to be of such a minor nature as not to affect or endanger
6 the balance of systems within the wetlands, in which case the commis-
7 sioner may, in the exercise of discretion, dispense with such hearing.
8 Where the commissioner finds that a hearing is not necessary, a decision
9 setting forth reasons therefor shall be prepared, shall be a matter of
10 public record and shall be mailed to the city and the owners of record
11 of property located within one thousand feet of the wetlands where the
12 proposed work or any part of it is located and to all persons who filed
13 a statement following the publication of such notice of application. All
14 owners of record of land which is located within one thousand feet of
15 the proposed activity and the local governments where the proposed
16 activity is located shall be notified by certified mail of the hearing
17 not less than twenty-one days prior to the date set for such hearing.
18 The applicant shall cause notice of such hearing to be published in two
19 newspapers having a general circulation in the area where the affected
20 wetlands are located at least twenty-one days prior to the hearing. All
21 applications and maps and documents relating thereto shall be open for
22 public inspection at the office of the clerk of the county in which the
23 wetland is situated. At such hearing any person or persons filing a
24 request for a hearing or a timely notice of appearance may appear and be
25 heard.

26 3. The rules and regulations adopted by the department to implement
27 this article and the provisions of article 70 of this chapter and rules
28 and regulations adopted thereunder shall govern permit applications,
29 renewals, modifications, suspensions and revocations under this article,
30 provided however, that after the department has given notice to an
31 applicant that an application is complete, or the application is deemed
32 complete, the applicant shall cause a notice of completion of the appli-
33 cation to be published in a newspaper of general circulation in the
34 affected area as provided in rules and regulations of the department.

35 § 2. Subdivisions 1, 2 and 3 of section 24-0703 of the environmental
36 conservation law, subdivisions 1 and 2 as amended and subdivision 3 as
37 added by chapter 233 of the laws of 1979, are amended to read as
38 follows:

39 1. Any person proposing to conduct or cause to be conducted a regu-
40 lated activity upon any freshwater wetland shall file an application for
41 a permit with the clerk of the local government having jurisdiction or
42 the department, as the case may be. Review of the application shall be
43 made by the local government or the commissioner, as the case may be, in
44 accordance with applicable law and such rules hereunder as may be
45 adopted by the commissioner. Such application shall include a detailed
46 description of the proposed activity and a map showing the area of
47 freshwater wetland directly affected, with the location of the proposed
48 activity thereon. The clerk or commissioner shall cause notice of such
49 application to be mailed to all local governments where the proposed
50 activity or any part of it is located. Upon receipt of such application
51 by a city with a population of one million or more, such city shall
52 cause a notice of such application to be mailed to owners of record of
53 land which is located within one thousand feet of the proposed activity.

54 2. No sooner than thirty days and not later than sixty days after the
55 receipt by a local government of an application, and after notice of
56 application has been published by the applicant in two newspapers having

1 a general circulation in the area, the local government or the commis-
2 sioner shall hold a public hearing on such application at a suitable
3 location in the local government where the affected wetland is situated
4 unless no notice of objection has been filed or unless the [~~local~~
5 ~~government finds the~~] activity has been found to be of such a minor
6 nature as not to affect or endanger the balance of systems within the
7 wetlands, in which case the local government or the commissioner may, in
8 the exercise of discretion, dispense with such hearing. Where the local
9 government or the commissioner finds that a hearing is not necessary, a
10 decision setting forth reasons therefor shall be prepared, shall be a
11 matter of public record and shall be mailed to all local governments,
12 and in a city with a population of one million or more to owners of
13 record of property located within one thousand feet of the wetlands,
14 where the proposed work or any part of it is located and to all persons
15 who filed a statement with the local government or the commissioner,
16 following the publication of such notice of application. All owners of
17 record of the adjacent land, and, in a city with a population of one
18 million or more all owners of record of property which is located within
19 one thousand feet of the proposed activity, and the local governments
20 where the proposed activity is located shall be notified by certified
21 mail of the hearing not less than [~~fifteen~~] twenty-one days prior to the
22 date set for such hearing. The local government or the commissioner
23 shall cause notice of such hearing to be published in two newspapers
24 having a general circulation in the area where the affected freshwater
25 wetlands are located. All applications and maps and documents relating
26 thereto shall be open for public inspection at the office of the clerk
27 of the local government, or in a city with a population of one million
28 or more, in the office of the clerk of the county in which the wetland
29 is situated. At such hearing any person or persons filing a request for
30 a hearing or a timely notice of appearance may appear and be heard.

31 3. In addition to the provisions of article 70 of this chapter and
32 rules and regulations adopted thereunder, the rules and regulations
33 adopted by the department pursuant to this article to implement its
34 processing of permit applications, renewals, modifications, suspensions
35 and revocations shall govern permit administration by the department
36 under this article, provided however, that after the department has
37 given notice to an applicant that an application is complete, or the
38 application is deemed complete, the applicant shall cause a notice of
39 completion of the application to be published in a newspaper of general
40 circulation in the affected area as provided in rules and regulations of
41 the department.

42 § 3. This act shall take effect immediately.