STATE OF NEW YORK

8059--A

IN SENATE

January 21, 2022

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

AN ACT to amend the agriculture and markets law, in relation to establishing the office of urban agriculture

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

Section 1. The article heading of article 2-C of the agriculture and markets law, as added by chapter 862 of the laws of 1986, is amended to read as follows:

[~~COMMUNITY GARDENS~~] **OFFICE OF URBAN AGRICULTURE**

§ 2. Section 31-f of the agriculture and markets law, as amended by chapter 272 of the laws of 2019, is amended to read as follows:

§ 31-f. Legislative findings. The legislature hereby finds and declares that [~~community gardens~~] **urban agriculture** provide significant health, educational**, economic,** and social benefits to the general public, especially for those who reside in urban and suburban areas of this state. Furthermore, it is the articulated public policy of this state to promote and foster growth in [~~the number of community gardens~~] **urban agriculture, including but not limited to, urban farms, community gardens, farmers markets, and community supported agriculture** and the acreage of [~~such gardens~~] **urban agriculture throughout the state**. The [~~community garden~~] **urban agriculture** movement continues to provide low cost food that is fresh and nutritious for those who may be unable to readily afford or have easy access to fresh fruits and vegetables for themselves or their families, **allows communities to grow food that is culturally relevant and significant,** promotes public health and healthier individual lifestyles by encouraging better eating habits and increased physical activity by growing their own food, **encourages ownership in agricultural enterprises for socially disadvantaged farmers who have historically been excluded from the industry,** fosters the retention and expansion of open spaces,[~~, particularly in urban environments,~~] enhances urban and suburban environmental quality and community beauti-

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

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fication, provides inexpensive community building activities, recreation and physical exercise for all age groups, establishes a safe place for community involvement and helps to reduce the incidence of crime, engenders a closer relationship between urban residents, nature and their local environment, and fosters green job training and ecological education at all levels. It is therefore the intent of the legislature and the purpose of this article to foster growth in the number, size and scope of [~~community gardens~~] **urban agriculture structures** in this state by encouraging state agencies, municipalities and private parties in their efforts to promote [~~community gardens~~] **urban farms, community gardens, farmers markets, community supported agriculture, and any other agricultural structures in urban areas**.

§ 3. Section 31-g of the agriculture and markets law, as added by chapter 862 of the laws of 1986 and subdivisions 2 and 3 as amended and subdivision 4-a as added by chapter 528 of the laws of 2013, is amended to read as follows:

§ 31-g. Definitions. As used in this article, unless another meaning is clearly indicated:

1. "Community garden" shall mean public or private lands upon which citizens of the state have the opportunity to garden on lands which they do not individually own.

2. "Community supported agriculture partnerships" or "CSA" shall mean a system that connects farmers and consumers by allowing the consumer to invest in farmers by subscribing to a harvest of a certain farm or group of farms, usually done by crop season but may be year round.

3. "Community owned grocery store" shall mean local stock corporations, owned by residents who buy shares in the business.

4. "Garden" shall mean a piece or parcel of land appropriate for the cultivation of herbs, fruits, flowers, nuts, honey, poultry for egg production, maple syrup, ornamental or vegetable plants, nursery products, or vegetables.

[~~3.~~] **5.** "Municipality" shall mean any county, town, village, city, school district, board of cooperative educational services, other special district, or any office or agency thereof.

[~~4.~~] **6.** "Office" shall mean the office of [~~community gardens~~] **urban agriculture**.

[~~4-a.~~] **7.** "State agency" shall mean any department, bureau, commission, board, public authority or other agency of the state, including any public benefit corporation of which any member of whose board is appointed by the governor.

[~~5.~~] **8. "Urban agriculture" shall mean food systems where food is produced within an urban area and marketed to consumers within that area. Urban agricultural structures may include urban farms, community supported agriculture, community gardens, and other agricultural structures in urban areas.**

9. "Urban farming" shall mean the production of agricultural products such as produce and animal products, this may include growing crops, animal husbandry, beekeeping, aquaculture or aquaponics, vertical farming, and non-food products such as producing seeds, cultivating seedlings, and growing flowers.

10. "Use" shall mean to avail oneself of or to employ without conveyance of title gardens on vacant public lands by any individual or organization.

[~~6.~~] **11.** "Vacant public land" shall mean any land owned by the state or a public corporation including a municipality that is not in use for a public purpose, is otherwise unoccupied, idle or not being actively

utilized for a period of at least six months and is suitable for garden use.

§ 4. Section 31-h of the agriculture and markets law, as added by chapter 862 of the laws of 1986, subdivision 2 as amended by chapter 528 of the laws of 2013, paragraph e of subdivision 2 as amended by chapter 525 of the laws of 2014, and paragraph f of subdivision 2 as amended by chapter 272 of the laws of 2019, is amended to read as follows:

§ 31-h. Office of [~~community gardens~~] **urban agriculture**; powers; duties. 1. The commissioner shall establish within the department an office of [~~community gardens~~] **urban agriculture** which shall have the authority and responsibility for carrying out the provisions of this article in cooperation with the state department of environmental conservation, the state education department, the department of state, cooperative extensions and other state agencies and municipalities.

2. The duties of the office shall include:

a. [~~Upon request, the office shall assist in the identification of vacant public land within a given geographical location~~] **In cooperation with municipalities and land banks, identify, maintain, and update a comprehensive list of vacant public land in urban and suburban areas across the state** and provide information regarding agency jurisdiction and the relative suitability of such lands for [~~community gardening~~] **urban agriculture** purposes;

b. Serve as a coordinator on behalf of interested community groups and the appropriate state or local agencies to facilitate the use of vacant public lands for [~~community garden~~] **urban agriculture. If coordinating for use as a community garden for a nominal or no cost to the community,** use for not less than one growing season by receiving and forwarding with recommendation completed applications to the appropriate state or municipal agency. **If leasing for a reasonable price for an urban farm or other entrepreneurial agriculture endeavor, lease for not less than five years or five growing seasons, whichever is longer and relevant to the farm.** Provided, further, that the office [~~may~~] **shall** develop a single [~~recommended~~] application form to be used by [~~community groups~~] **individuals** when applying to state agencies [~~or municipalities~~] for use of vacant public land for [~~community garden~~] **urban agriculture purposes, and a recommended application form to be used by individuals when applying to municipalities for use of vacant public land for urban agriculture** purposes;

c. Support and encourage contact between [~~community garden programs~~] **urban agriculture structures** already in existence and those programs in the initial stages of development;

d. Seek and provide such assistance, to the extent funds or grants may become available, for the purposes identified in this article;

e. Assist, support and encourage contact [~~and cooperation between, and the cooperative sharing of resources between community garden groups~~]**, partnerships, distributions, cooperations, and community outreach between urban agricultural businesses and organizations, community owned grocery stores**, school garden programs and local voluntary food assistance programs, such as community food pantries, soup kitchens, senior centers, and other community and not-for-profit organizations that provide or distribute food to the elderly, poor, and disadvantaged. Such support can include the provision of surplus community garden food or other agricultural products to such local voluntary food assistance programs; and

f. Assist, support and encourage communication, and the sharing of resources between [~~community garden~~] **urban agricultural businesses and**

organizations, the New York Harvest For New York Kids Week program established by the department pursuant to subdivision five-b of section sixteen of this chapter and individual farm-to-school and school garden programs, and, where applicable, the department of health, the department of state, the office of children and family services and the division of housing and community renewal.

g. May make agreements with urban agricultural businesses and organizations for assistance in promulgating the programs and efforts of the office. The commissioner is hereby authorized to enter into agreements with urban agricultural businesses and organizations at no direct cost to support expansion, access, education, and development of new urban agriculture structures, particularly for socially disadvantaged farmers and in food insecure communities.

§ 5. Section 31-i of the agriculture and markets law, as amended by chapter 528 of the laws of 2013, is amended to read as follows:

§ 31-i. Use of state or municipally owned land for [~~community gardens~~] **urban agriculture**. 1. Any state agency or municipality with title in fee or of a lesser interest to vacant public land may permit [~~community organizations to use such lands for community gardening~~] **use, lease, or sell such lands for urban agriculture** purposes. [~~Such~~] **When** use of vacant public land may be conditioned on the [~~community organization possessing~~] **possession of** liability insurance and accepting liability for injury or damage resulting from use of the vacant public land for [~~community gardening~~] **urban agriculture** purposes.

2. State agencies and municipalities which have received an application for use**, lease, or sale** of public lands for [~~community garden~~] **urban agriculture** purposes shall respond to the applicant within thirty days and make a final determination within one hundred eighty days.

§ 6. Section 31-j of the agriculture and markets law, as amended by chapter 635 of the laws of 2021, is amended to read as follows:

§ 31-j. [~~Community gardens~~] **Urban agriculture** task force. 1. The commissioner shall convene [~~a community gardens~~] **an urban agriculture** task force to identify and develop ways to encourage state agencies, municipalities and private parties to establish and expand [~~community gardens~~] **urban agriculture** and the activities conducted by such [~~gardens~~] **entities and bridge the gap between urban agricultural business and organizations and urban food insecurity**.

2. The task force shall be [~~chaired by the commissioner, or by such officer or employee of the department as shall be designated by the commissioner. The membership of the task force may include representation from appropriate state agencies and members that represent existing community gardens, counties, cities, towns, villages, school districts, other special use districts, public authorities and cooperative extension services. Membership of the task force shall include at least two representatives from organizations dedicated to the promotion, expansion or protection of community gardens.~~] **comprised of nine members. Such task force shall have one ex-officio chairperson, who shall be the commissioner or his or her designee. Two members shall be appointed by the governor, two members shall be appointed by the temporary president of the senate, two members shall be appointed by the speaker of the assembly, one member shall be appointed by the minority leader of the senate and one member shall be appointed by the minority leader of the assembly. This task force shall be composed of experts in urban agriculture and individuals that meet the following criteria:**

(a) Owns and operates an urban agricultural business or organization;

(b) Is on the board of a community owned grocery store or coop;

(c) Representative from an organization working on food insecurity and food apartheids;

(d) Representative culturally engaged community organization; and

(e) Appointments should reflect the diversity of background and cultures of urban communities around the state.

3. The commissioner, may request the assistance of state agencies to carry out the work of the task force.

4. (a) The goals of the task force [~~may~~] shall include, but are not limited to, the study, evaluation and development of recommendations: (i) to encourage the establishment and expansion of [~~community gardens~~] urban agriculture by state agencies, municipal governments and private parties, (ii) to encourage cooperation between the activities and operations of [~~community gardens~~] urban agriculture, healthy incentive programs, and provision of donated food to local voluntary food assistance programs for the poor and disadvantaged, (iii) [~~to increase the benefits that community gardens may provide to the local community in which they are located, (iv)~~] to encourage cooperation with urban agriculture organizations to increase the opportunities for immigrants, those who are undocumented, refugees, temporary protected status, and other status, to participate in urban agriculture, (iv) to encourage cooperation with [~~community-based~~] urban agriculture organizations to increase the opportunities for seniors, those aged sixty years of age or older, to participate in [~~community gardens~~] urban agriculture, (v) to encourage the expansion of the production of fresh fruits and vegetables in areas served by [~~community gardens~~] urban agriculture so that such fresh produce can be consumed locally to help encourage healthier life styles and wellness, and to help reduce the incidence of adult and childhood obesity, [~~(vi) to develop after school programs that establish, maintain and expand community gardens, and (vii) to encourage the development and expansion of community gardens in food deserts as defined in section two hundred sixty of this chapter~~] and (vi) to address the issue of food insecurity in urban areas by expanding access for underserved, nutritionally deficient urban communities to healthy, locally produced food.

(b) In achieving the goals of the task force, the task force may consider recommendations that: (i) encourage the execution of conservation easements by state agencies, municipalities or private parties to establish or protect [~~community gardens~~] urban agriculture, (ii) encourage the creation of mechanisms to transfer development rights to protect [~~community gardens~~] urban agriculture or encourage the donation, sale, or lease of lands for [~~community gardens~~] urban agriculture, (iii) development of model zoning codes, local land use laws or other municipal policies that could encourage the establishment or retention of [~~community gardens~~] urban agriculture, and (iv) develop and identify new and innovative methods to increase the production, marketing and distribution of locally produced, fresh food in urban communities in New York state, (v) encourage the creation of new urban agriculture, (vi) develop and identify mechanisms for urban agriculture to address the issue of urban food insecurity, such as food supply networks in urban areas including through, but not limited to local grocers, cooperations, and farmers markets, and (vii) any other activity to achieve the goals deemed appropriate by the task force according to the provisions of this article.

5. [~~The task force shall submit a report to the governor and the legislature on or before January first, two thousand twenty-three and on~~

~~or before January first of each fifth year thereafter on the status of community gardens in New York state. Such report shall include:~~

~~(a) the number, nature and geographic location of community gardens;~~

~~(b) a description of the costs, benefits and impacts of community gardens;~~

~~(c) an assessment of the successes, failures and barriers in developing, maintaining and expanding community gardens;~~

~~(d) lists of funding sources available to develop and expand community gardens along with the requirements for obtaining the funding;~~

~~(e) an assessment of the funding, requirements and barriers for double the number of existing community gardens;~~

~~(f) a discussion of the goals outlined in subdivision four of this section and a description of the steps and projects undertaken to meet the goals for the task force as established in this section;~~

~~(g) an action plan for doubling the number of community gardens in the state of New York;~~

~~(h) recommendations for developing, maintaining and expanding community gardens in food deserts; and~~

~~(i) any other recommendations or assessments the task force deems appropriate for the report.~~

~~Between report due dates, the commissioner shall maintain the necessary records and data required to satisfy such report requirements and to satisfy information requests received from the governor and the legislature between such report due dates.~~] The task force shall write one report to the legislature and the governor, no later than sixteen months after the effective date of the chapter of the laws of two thousand twenty-two which amended this section. The report to the governor and the legislature shall include the task force's activities, findings and recommendations.

§ 7. The agriculture and markets law is amended by adding a new section 31-k to read as follows:

§ 31-k. Office of urban agriculture website and interactive map. 1. The department shall establish a website to promote the work and programs of the office of urban agriculture. The website must include municipal vacant land available for urban agriculture. The department must provide an opportunity to private entities to list their vacant land for the purposes of urban agriculture on the website. The website must include, but is not limited to:

(a) Name, location, hours of operation, contact information, and hyperlinks, as available, to all municipalities and private entities with vacant land for urban agriculture.

(b) The website should have an interactive map where a user may find vacant land for urban agriculture. This information should also be searchable by town/city, county, region or any other criteria the commissioner deems relevant.

(c) The website must make clear distinctions between municipal and private entity land, and whether it is for use, donation, sale, or lease.

2. The department shall establish procedures and timelines for municipalities and private entities to provide updated information detailed above for the website. In these procedures, the department must provide a system in which the information required in the website is updated monthly and provide continuous maintenance as needed.

3. The department shall promulgate rules and regulations and take all other actions necessary for the effective implementation of this section. Nothing in this section shall prohibit or limit the depart-

ment's ability to expand access to this vacant land for urban agriculture map to all New Yorkers, such as creating a mobile phone application.

§ 8. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.