STATE OF NEW YORK

4933

2023-2024 Regular Sessions

IN ASSEMBLY

February 27, 2023

Introduced by M. of A. KELLES -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the public housing law, in relation to enacting the "sustainable affordable housing and sprawl prevention act"

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

Section 1. This act shall be known and may be cited as the "sustainable affordable housing and sprawl prevention act".

§ 2. The environmental conservation law is amended by adding a new section 8-0119 to read as follows:

§ 8-0119. Certain actions exempt or subject to limited review.

1. Exempt actions for construction of residential dwellings. (a) Notwithstanding any law, rule or regulation to the contrary, qualifying actions for the construction of a new multiple dwelling or more than one contiguous multiple dwellings that meet the following thresholds shall be automatically determined not to have a significant impact on the environment and shall be exempt from any environmental review requirements under this article or any rules or regulations promulgated thereto:

(i) fewer than ten total residential units in municipalities that have not adopted zoning or subdivision regulations;

(ii) fewer than fifty total residential units not to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iii) in a city, town, or village having a population of ninety thousand persons or less, fewer than two hundred total residential units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iv) in a city, town, or village having a population of greater than ninety thousand but less than one million, fewer than five hundred total

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

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residential units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works; or

(v) in a city having a population of one million or more persons, fewer than one thousand total residential units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works.

(b) To be determined as a "qualifying action" under paragraph (a) of this subdivision, such action shall:

(i) be located in a census track defined as an urbanized area or an urban cluster by the federal Census Bureau;

(ii) complete a Phase I Environmental Site Assessment (ESA) pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Chapter 103), and complete testing for lead water and paint, asbestos, and radon, the results of which shall be submitted by the proposed developer of such action to the local agency responsible for approving or denying the application for such action;

(iii) receive certification from a qualified environmental professional, as such term is defined by the commissioner pursuant to regulation, that such action, as proposed, will not violate any state wetland laws or drinking water laws under article eleven of the public health law, or any rules or regulations promulgated thereto; and

(iv) be certified under:

(1) the Leadership in Energy and Environmental Design Building Rating System (LEED) published by the United States Green Building Council for the category of certified gold, at minimum, as determined by a LEED accredited professional;

(2) Enterprise green communities review and certification; or

(3) Passive House Institute Passive House certification.

2. Actions for construction of multiple dwellings subject to limited review. Notwithstanding any law, rule or regulation to the contrary, actions for the construction of new multiple dwellings that are not exempt from environmental review under subdivision one of this section shall not be subject to any environmental review standards under this article, or rules or regulations promulgated thereto, that do not consist of core environmental concerns, as such term shall be defined by the commissioner. Topics of review that shall be exempt under this subdivision as failing to meet the standard of core environmental concerns shall include, but not be limited to, traffic impacts, casting of shading or shadows, impacts on views from neighboring buildings, consistency with community character, impacts on open space, impacts on neighborhood character, and the resources of local school systems.

3. Historic sites. An action otherwise exempt from environmental review requirements under subdivision one of this section may be required to undergo environmental review pursuant to this article or the rules or regulations promulgated thereto on the basis that such action occurs wholly or partially within a historic site, provided, however that such action directly involves a contributing property within such historic site, and provided further that such environmental review is limited in its scope to such contributing property. An action shall not be required to undergo an environmental review under this subdivision solely on the basis that such action is substantially contiguous to a historic site, or located in a neighborhood containing historic sites.

4. Authority of the commissioner. The commissioner shall be authorized to consult with any other state or local agency and to promulgate and/or

amend any rules and/or regulations he or she shall deem necessary for the implementation of the provisions of this section.

§ 3. Paragraph (i) of subdivision 4 of section 8-0105 of the environmental conservation law, as amended by chapter 252 of the laws of 1977, is amended and five new subdivisions 10, 11, 12, 13 and 14 are added to read as follows:

(i) projects or activities directly undertaken by any agency; or projects or activities supported in whole or part through contracts, grants, subsidies, loans, or other forms of funding assistance from one or more agencies; or projects or activities involving the issuance to a person of a lease, permit, license, variance authorization, certificate or other entitlement for use or permission to act by one or more agencies; or projects or activities involving the alteration of zoning ordinances by a local agency;

10. "Historic site" means a historic building, structure, facility, site or district, or prehistoric site that is listed on the National Register of Historic Places (36 CFR Parts 60 and 63), or that is listed on the state register of historic places or that has been determined by the commissioner of parks, recreation and historic preservation to be eligible for listing on the state register of historic places pursuant to section 14.07 or 14.09 of the parks, recreation and historic preservation law.

11. "Contributing property" means a building, structure, facility, or site located within a historic site that wholly or partially contributes to such designation as a historic site.

12. "Dwelling" means any building or structure or portion thereof which is occupied or intended to be occupied in whole or in part as the home, residence, or sleeping place of one or more human beings.

13. "Multiple dwelling" means a dwelling that is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of four or more separate individuals or groups of individuals living independently of each other. A "multiple dwelling" shall not be deemed to include a class B multiple dwelling as defined by section four of the multiple dwelling law, or a hospital, convent, monastery, residential care facility, or a building used wholly for commercial purposes.

14. "Residential unit" means a room or group of rooms within a multiple dwelling that is designated as the living quarters for an individual or group of individuals living independently from other individuals occupying such multiple dwelling.

§ 4. Section 8-0109 of the environmental conservation law is amended by adding a new subdivision 10 to read as follows:

10. A court shall not intervene with an environmental review conducted pursuant to this article or rules or regulations promulgated thereto unless there is substantial information missing that is material to the decision makers' review.

§ 5. Section 600 of the public housing law is amended by adding a new subdivision 6 to read as follows:

6. A covered housing agency in this state shall be subject, as applicable, to the provisions of article eight of the environmental conservation law and any rules and/or regulations promulgated thereto.

§ 6. This act shall take effect on the one hundred eightieth 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.