

STATE OF NEW YORK

6283--A

2025-2026 Regular Sessions

IN ASSEMBLY

March 3, 2025

Introduced by M. of A. KELLES, SIMONE, BICHOTTE HERMELYN, LASHER, SHRESTHA, EPSTEIN -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

4 § 8-0119. Certain actions exempt or subject to limited review.

5 1. Exempt actions for construction of residential dwellings. (a)
6 Notwithstanding any law, rule or regulation to the contrary, qualifying
7 actions with respect to the construction of a new multiple dwelling or
8 more than one contiguous multiple dwellings, including building permits,
9 variances, subdivision approvals, site plan approvals, and zoning text
10 amendments, that meet the following thresholds shall be automatically
11 determined not to have a significant impact on the environment and shall
12 be exempt from any environmental review requirements under this article
13 or any rules or regulations promulgated pursuant hereto:

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

16 (ii) fewer than fifty total residential units in a building in which
17 no more than twenty percent of the floor area consists of commercial or
18 community facility uses, not to be connected at the commencement of
19 habitation to existing community or public water and sewerage systems
20 including sewage treatment works;
21

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

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(iii) in a city, town, or village having a population of ninety thousand persons or less, fewer than two hundred total residential units in a building in which no more than twenty percent of the floor area consists of commercial or community facility uses 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 residential units in a building in which no more than twenty percent of the floor area consists of commercial or community facility uses 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 in a building in which no more than twenty percent of the floor area consists of commercial or community facility uses 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 multiple dwelling shall:

(i) be located in a census tract defined as an urbanized area or an urban cluster by the federal Census Bureau or in a village with a minimum population density of one thousand people per square mile;

(ii) be located on previously disturbed land;

(iii) qualify as affordable housing, as shall be determined by the division of housing and community renewal, relative to the municipality or county, as shall be determined by the division of housing and community renewal, in which it is located;

(iv) not be located in an area:

(1) projected to experience flooding in the event of sea level rise greater than or equal to the high-medium projection by year twenty-one hundred as set forth in regulations promulgated pursuant to section 3-0319 of this chapter, or any other science-based projection of future sea level conditions deemed satisfactory by the commissioner;

(2) designated as a special flood hazard area by the federal emergency management agency, provided that this provision shall not apply to municipalities that have adopted a building code that mitigates flood hazard risk by requiring new construction to be elevated above the base flood elevation as defined by the federal emergency management agency; or

(3) designated as a critical environmental area by the department;

(v) complete a Phase I Environmental Site Assessment in accordance with all appropriate inquiries regulations of the United States Environmental Protection Agency under the federal Comprehensive Environmental Response, Compensation and Liability Act (Title forty of the Code of Federal Regulations, Section 312), and complete testing for lead water and paint, asbestos, and radon, the results of which shall be submitted by the proposed developer of such multiple dwelling to the local agency responsible for approving or denying the application for such multiple dwelling. If the Phase I Environmental Site Assessment identifies conditions indicative of releases or threatened releases of hazardous substances, the proposed developer shall conduct such physical sampling and testing as is necessary to ascertain the presence of hazardous substances. If such testing finds contamination that exceeds acceptable levels of contaminants for residential use as set forth in regulations promulgated pursuant to titles thirteen and fourteen of article twenty-seven and title five of article fifty-six of this chapter and related

regulations governing environmental remediation, the proposed project shall either (1) obtain a written signoff from the lead agency that no further environmental investigation is required or that a plan to address any hazardous materials is acceptable; or (2) consent that the development site will be developed pursuant to a regulatory agreement with a government agency with appropriate protections and development oversight requirements. Nothing in this subparagraph shall be deemed to exempt any such site from applicable provisions of article twenty-seven or title five of article fifty-six of this chapter, or other laws governing hazardous waste and the presence of hazardous substances;

(vi) receive a written certification from a qualified environmental professional, as such term shall be defined by the department in regulation, that the construction of such multiple dwelling will not violate any state wetland laws under articles twenty-four and twenty-five of this chapter, or any rules or regulations promulgated thereto;

(vii) receive a written certification from a qualified professional, as such term shall be defined by the department in regulation, that construction of such multiple dwelling, as proposed, will not violate any drinking water laws under article eleven of the public health law, or any rules or regulations promulgated thereto; and

(viii) receive certification by an architect licensed by the state that the building has been designed to meet one or more of the following building standards:

(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;

(3) Passive House Institute Passive House certification;

(4) fossil fuel free building standards under subdivisions six and seven of section 11-104 of the energy law and subdivision nineteen of section three hundred seventy-eight of the executive law; or

(5) in municipalities that have opted in, the New York Stretch Code as developed by the New York state energy research and development authority.

2. Actions with respect to construction of multiple dwellings subject to limited review. (a) Notwithstanding any law, rule or regulation to the contrary, actions with respect to the construction of new multiple dwellings that are not exempt from environmental review under subdivision one of this section, and that are qualifying actions, 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 department in regulation. 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, casting of shading or shadows, impacts on views from neighboring buildings, consistency with community character, impacts on neighborhood character, and the resources of local school systems; except that, in the case of a disadvantaged community, such topics of concern may include the resources of local school systems.

(b) To be determined as a "qualifying action" under paragraph (a) of this subdivision, the proposed multiple dwelling shall:

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

(ii) be located on previously disturbed land;

1 (iii) qualify as affordable housing, as shall be determined by the
2 division of housing and community renewal, relative to the municipality
3 or county, as shall be determined by the division of housing and commu-
4 nity renewal, in which it is located; and

5 (iv) not be located in an area:

6 (1) projected to experience flooding in the event of sea level rise
7 greater than or equal to the high-medium projection by year twenty-one
8 hundred as set forth in regulations promulgated pursuant to section
9 3-0319 of this chapter, or any other science-based projection of future
10 sea level conditions deemed satisfactory by the commissioner;

11 (2) designated as a special flood hazard area by the federal emergency
12 management agency, provided that this provision shall not apply to muni-
13 cipalities that have adopted a building code that mitigates flood hazard
14 risk by requiring new construction to be elevated above the base flood
15 elevation as defined by the federal emergency management agency ; or

16 (3) designated as a critical environmental area by the department.

17 3. Mandatory review. Every action that is a qualifying action under
18 subdivision one or two of this section shall be subjected to a determi-
19 nation by the local permitting authority of whether such action is
20 exempt under subdivision one of this section, and if such action is not
21 exempt under subdivision one of this section, whether such action is
22 exempt under subdivision two of this section. If, after sixty days, the
23 local agency responsible for approving or denying the application for
24 such multiple dwelling has failed to return such a determination, the
25 applicant may appeal to the division of housing and community renewal
26 for a determination, and in such case the division shall render a deter-
27 mination within sixty days of receipt of the application.

28 4. Historic sites. An action otherwise exempt from environmental
29 review requirements under subdivision one of this section may be
30 required to undergo environmental review pursuant to this article or the
31 rules or regulations promulgated pursuant hereto on the basis that the
32 multiple dwelling would be constructed wholly or partially within a
33 historic site, provided, however that such action affects a contributing
34 property within such historic site, and provided further that such envi-
35 ronmental review is limited in its scope to such contributing property.
36 An action shall not be required to undergo an environmental review under
37 this subdivision solely on the basis that such the proposed multiple
38 dwelling would be substantially contiguous to a historic site, or
39 located in a neighborhood containing historic sites.

40 5. Wastewater treatment and stormwater management. (a) An action
41 exempt from environmental review requirements under subdivision one or
42 two of this section may provide concept plans to either the appropriate
43 local governmental entity or the department that demonstrate that the
44 multiple dwelling will have adequate wastewater treatment to accommodate
45 the completed multiple dwelling for no less than thirty years. The
46 department shall establish a method by which developers of proposed
47 multiple dwellings may submit such concept plans pursuant to this para-
48 graph. Upon submission of such concept plans, the local governmental
49 entity or the department, as applicable, shall approve or deny such
50 concept wastewater treatment plans no later than thirty days after
51 submission of such plans.

52 (b) An action exempt from environmental review requirements under
53 subdivision one or two of this section shall be required to maintain
54 compliance with all applicable stormwater regulations.

1 6. Disadvantaged communities. The department shall require, by rule or
2 regulation, that qualifying actions with respect to the construction of
3 new multiple dwellings shall not:

4 (a) contribute more than a de minimis amount of pollution or any
5 disproportionate pollution burden after the completion of construction;
6 or

7 (b) directly displace low-income households by reducing, in aggregate,
8 their residential housing opportunities in a disadvantaged community.

9
10 7. Authority of the commissioner. The commissioner shall be authorized
11 to consult with any other state or local agency and to promulgate and/or
12 amend any rules and/or regulations such commissioner shall deem necessary
13 for the implementation of the provisions of this section; provided,
14 however, that the department and the division of housing and community
15 renewal shall jointly promulgate such rules and regulations as they
16 shall deem necessary for the implementation of subdivision six of this
17 section.

18 8. The proposed developer shall promptly provide to the department and
19 to the local agency, and shall promptly post on a publicly accessible
20 website, all certifications for the proposed developer's project that
21 are required by this section, and the Phase I site assessment and the
22 results of all testing required under subparagraph (v) of paragraph (b)
23 of subdivision one of this section.

24 § 3. Section 8-0105 of the environmental conservation law is amended
25 by adding six new subdivisions 11, 12, 13, 14, 15 and 16 to read as
26 follows:

27 11. "Historic site" means a historic building, structure, facility,
28 site or district, or prehistoric site that is listed on the National
29 Register of Historic Places (36 CFR Parts 60 and 63), or that is listed
30 on the state register of historic places or that has been determined by
31 the commissioner of parks, recreation and historic preservation to be
32 eligible for listing on the state register of historic places pursuant
33 to section 14.07 or 14.09 of the parks, recreation and historic preservation
34 law, or historic buildings listed as landmarks by the New York
35 city landmarks preservation commission.

36 12. "Contributing property" means a building, structure, facility, or
37 site located within a historic site or district that wholly or partially
38 contributes to such designation as a historic site.

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

42 14. "Multiple dwelling" means a dwelling that is either rented,
43 leased, let or hired out, or sold, to be occupied, or is occupied as the
44 residence or home of four or more separate individuals or groups of
45 individuals living independently of each other, including, but not
46 limited to, apartments, condominiums, and townhouses. A "multiple dwelling"
47 shall not be deemed to include a class B multiple dwelling as
48 defined by section four of the multiple dwelling law, or a hospital,
49 convent, monastery, residential care facility, or a building used wholly
50 for commercial purposes.

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

55 16. "Previously disturbed land" shall mean a parcel or lot of land
56 that was occupied or formerly occupied by a building or otherwise

1 improved or utilized at least one year prior to the effective date of
2 this subdivision, and was not most recently used for commercial agricul-
3 tural purposes.

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

6 6. A covered housing agency in this state shall be subject, as appli-
7 cable, to the provisions of article eight of the environmental conserva-
8 tion law and any rules and/or regulations promulgated thereto.

9 § 5. This act shall take effect on the one hundred eightieth day after
10 it shall have become a law. Effective immediately, the addition, amend-
11 ment and/or repeal of any rule or regulation necessary for the implemen-
12 tation of this act on its effective date are authorized to be made and
13 completed on or before such effective date.