

STATE OF NEW YORK

3492

2025-2026 Regular Sessions

IN SENATE

January 28, 2025

Introduced by Sens. MAY, HARCKHAM, HOYLMAN-SIGAL, JACKSON, SALAZAR --
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 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 habi-
19 tation to existing community or public water and sewerage systems
20 including sewage treatment works;

21 (iii) in a city, town, or village having a population of ninety thou-
22 sand persons or less, fewer than two hundred total residential units in
23

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

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1 a building in which no more than twenty percent of the floor area
2 consists of commercial or community facility uses to be connected at the
3 commencement of habitation to existing community or public water and
4 sewerage systems including sewage treatment works;

5 (iv) in a city, town, or village having a population of greater than
6 ninety thousand but less than one million, fewer than five hundred total
7 residential units in a building in which no more than twenty percent of
8 the floor area consists of commercial or community facility uses to be
9 connected at the commencement of habitation to existing community or
10 public water and sewerage systems including sewage treatment works; or

11 (v) in a city having a population of one million or more persons,
12 fewer than one thousand total residential units in a building in which
13 no more than twenty percent of the floor area consists of commercial or
14 community facility uses to be connected at the commencement of habita-
15 tion to existing community or public water and sewerage systems includ-
16 ing sewage treatment works.

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

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

21 (ii) be located on previously disturbed land;

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

26 (iv) not be located in an area:

27 (1) projected to experience flooding in the event of sea level rise
28 greater than or equal to the high-medium projection by year twenty-one
29 hundred as set forth in regulations promulgated pursuant to section
30 3-0319 of this chapter, or any other science-based projection of future
31 sea level conditions deemed satisfactory by the commissioner;

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

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

38 (v) complete a Phase I Environmental Site Assessment pursuant to the
39 federal Comprehensive Environmental Response, Compensation and Liabil-
40 ity Act (42 U.S.C. Chapter 103), and complete testing for lead water
41 and paint, asbestos, and radon, the results of which shall be submitted
42 by the proposed developer of such multiple dwelling to the local agency
43 responsible for approving or denying the application for such multiple
44 dwelling. If the Phase I Environmental Site Assessment finds contam-
45 ination that exceeds acceptable levels of contaminants for residential
46 use as set forth in regulations promulgated pursuant to titles thirteen
47 and fourteen of article twenty-seven and title five of article fifty-six
48 of this chapter and related regulations governing environmental remedi-
49 ation, the local agency responsible for approving or denying the appli-
50 cation may require remediation of the site to applicable standards for
51 residential use prior to the issuing of a construction permit for
52 construction of a multiple dwelling;

53 (vi) receive a written certification from a qualified environmental
54 professional, as such term shall be defined by the department in regu-
55 lation, that the construction of such multiple dwelling will not violate

1 any state wetland laws under articles twenty-four and twenty-five of
2 this chapter, or any rules or regulations promulgated thereto;

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

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

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

15 (2) Enterprise green communities review and certification; or

16 (3) Passive House Institute Passive House certification.

17 2. Actions with respect to construction of multiple dwellings subject
18 to limited review. (a) Notwithstanding any law, rule or regulation to
19 the contrary, actions with respect to the construction of new multiple
20 dwellings that are not exempt from environmental review under subdivi-
21 sion one of this section, and that are qualifying actions, shall not be
22 subject to any environmental review standards under this article, or
23 rules or regulations promulgated thereto, that do not consist of core
24 environmental concerns, as such term shall be defined by the department
25 in regulation. Topics of review that shall be exempt under this subdivi-
26 sion as failing to meet the standard of core environmental concerns
27 shall include, but not be limited to, traffic impacts, casting of shad-
28 ing or shadows, impacts on views from neighboring buildings, consistency
29 with community character, impacts on neighborhood character, and the
30 resources of local school systems; except that, in the case of a disad-
31 vantaged community, such topics of concern may include traffic impacts
32 and the resources of local school systems.

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

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

37 (ii) be located on previously disturbed land;

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

42 (iv) not be located in an area:

43 (1) projected to experience flooding in the event of sea level rise
44 greater than or equal to the high-medium projection by year twenty-one
45 hundred as set forth in regulations promulgated pursuant to section
46 3-0319 of this chapter, or any other science-based projection of future
47 sea level conditions deemed satisfactory by the commissioner;

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

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

54 3. Mandatory review. Every action that is a qualifying action under
55 subdivision one or two of this section shall be subjected to a determi-
56 nation by the local permitting authority of whether such action is

1 exempt under subdivision one of this section, and if such action is not
2 exempt under subdivision one of this section, whether such action is
3 exempt under subdivision two of this section. If, after sixty days, the
4 local agency responsible for approving or denying the application for
5 such multiple dwelling has failed to return such a determination, the
6 applicant may appeal to the division of housing and community renewal
7 for a determination, and in such case the division shall render a deter-
8 mination within sixty days of receipt of the application.

9 4. Historic sites. An action otherwise exempt from environmental
10 review requirements under subdivision one of this section may be
11 required to undergo environmental review pursuant to this article or the
12 rules or regulations promulgated pursuant hereto on the basis that the
13 multiple dwelling would be constructed wholly or partially within a
14 historic site, provided, however that such action affects a contributing
15 property within such historic site, and provided further that such envi-
16 ronmental review is limited in its scope to such contributing property.
17 An action shall not be required to undergo an environmental review under
18 this subdivision solely on the basis that such the proposed multiple
19 dwelling would be substantially contiguous to a historic site, or
20 located in a neighborhood containing historic sites.

21 5. Wastewater treatment and stormwater management. (a) An action
22 exempt from environmental review requirements under subdivision one or
23 two of this section may provide concept plans to either the appropriate
24 local governmental entity or the department that demonstrate that the
25 multiple dwelling will have adequate wastewater treatment to accommodate
26 the completed multiple dwelling for no less than thirty years. The
27 department shall establish a method by which developers of proposed
28 multiple dwellings may submit such concept plans pursuant to this para-
29 graph. Upon submission of such concept plans, the local governmental
30 entity or the department, as applicable, shall approve or deny such
31 concept wastewater treatment plans no later than thirty days after
32 submission of such plans.

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

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

39 (a) contribute more than a de minimis amount of pollution or any
40 disproportionate pollution burden after the completion of construction;
41 or

42 (b) directly displace low-income households by reducing, in aggre-
43 gate, their residential housing opportunities in a disadvantaged commu-
44 nity.

45 7. Authority of the commissioner. The commissioner shall be authorized
46 to consult with any other state or local agency and to promulgate and/or
47 amend any rules and/or regulations such commissioner shall deem neces-
48 sary for the implementation of the provisions of this section; provided,
49 however, that the department and the division of housing and community
50 renewal shall jointly promulgate such rules and regulations as they
51 shall deem necessary for the implementation of subdivision six of this
52 section.

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

1 11. "Historic site" means a historic building, structure, facility,
2 site or district, or prehistoric site that is listed on the National
3 Register of Historic Places (36 CFR Parts 60 and 63), or that is listed
4 on the state register of historic places or that has been determined by
5 the commissioner of parks, recreation and historic preservation to be
6 eligible for listing on the state register of historic places pursuant
7 to section 14.07 or 14.09 of the parks, recreation and historic preser-
8 vation law, or historic buildings listed as landmarks by the New York
9 city landmarks preservation commission.

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

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

16 14. "Multiple dwelling" means a dwelling that is either rented,
17 leased, let or hired out, or sold, to be occupied, or is occupied as the
18 residence or home of four or more separate individuals or groups of
19 individuals living independently of each other, including, but not
20 limited to, apartments, condominiums, and townhouses. A "multiple dwell-
21 ing" shall not be deemed to include a class B multiple dwelling as
22 defined by section four of the multiple dwelling law, or a hospital,
23 convent, monastery, residential care facility, or a building used wholly
24 for commercial purposes.

25 15. "Residential unit" means a room or group of rooms within a multi-
26 ple dwelling that is designated as the living quarters for an individual
27 or group of individuals living independently from other individuals
28 occupying such multiple dwelling.

29 16. "Previously disturbed land" shall mean a parcel or lot of land
30 that was occupied or formerly occupied by a building or otherwise
31 improved or utilized one year prior to the effective date of this subdi-
32 vision, and was not most recently used for commercial agricultural
33 purposes.

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

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

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