

**STATE OF NEW YORK**

**GENERAL MUNICIPAL LAW**

**ARTICLE 16 Urban Development Action Area Act (Sections 690 to 698)**

§ 690. Short title. This article shall be known and may be cited and referred to as the "urban development action area act".

§ 691. Policy and purposes of article. There exist in many municipalities within this state municipally-owned areas which were acquired pursuant to the urban renewal powers delineated in article fifteen of this chapter or through condemnation for projects now abandoned or as a direct result of previous landowners' failure to meet in full their real estate tax or other obligations or through proceedings relating to abandoned multiple dwellings or which consist of municipal facilities no longer needed for public purposes. These areas are residential, non-residential, commercial, industrial, municipal facilities or vacant areas, and combinations thereof, which are slum or blighted, or which are becoming slum or blighted areas because of substandard, insanitary, deteriorated or deteriorating conditions, factors, and characteristics, with or without tangible physical blight. The existence of such areas constitutes a serious and growing menace, is injurious to the public safety, health, morals and welfare, contributes increasingly to the spread of crime, juvenile delinquency and disease, necessitates excessive and disproportionate expenditures of public funds for all forms of public service and maintenance and constitutes a negative influence on adjacent properties impairing their economic soundness and stability, thereby threatening the source of public revenues.

In order to protect and promote the safety, health, morals and welfare

of the people of the state and to promote the sound growth and development of our municipalities, it is necessary to provide incentives for the correction of such substandard, insanitary, blighted, deteriorated or deteriorating conditions, factors, and characteristics by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or conservation of such areas, the undertaking of public and private improvement programs related thereto and the encouragement and participation in these programs by private enterprise.

Moreover in order to assure that each segment of our society, particularly enterprises experienced in the construction of one to four family residential structures and business enterprises which are controlled by members of minorities, is accorded a real and proper ability to participate in projects to be undertaken pursuant to this article, it must be the public policy of each municipality operating pursuant to the provisions hereof to take such initiatives as are appropriate to effect such participation.

It is necessary for the accomplishment of such purposes to grant municipalities of this state the rights and powers provided in this article. The use of such rights and powers to correct such conditions, factors and characteristics and to eliminate or prevent the development and spread of deterioration and blight through the clearance, replanning, reconstruction, rehabilitation, conservation or renewal of such areas, for residential, commercial, industrial, community, public and other uses is a public use and public purpose essential to the public interest, and for which public funds may be expended.

§ 692. Definitions. As used in this article the following terms shall mean:

1. "Governing body". The local legislative body.
2. "Municipality". A city having a population of one hundred thousand or more and the town of Huntington.
3. "Eligible area". Real property, title to which is held by a municipality. Provided, however, that in a city of one million or more, property that the city conveys by deed made pursuant to a judgment of foreclosure in an in rem tax lien foreclosure proceeding, or property whose conveyance is caused by, or the result of, the city's foreclosure of a tax lien thereon, including property to which title has not vested in the city, which is then acquired by a third party, shall also be deemed an eligible area under this article. Provided further, however, that in a city of one million or more, property that has been acquired by the federal government as the result of the foreclosure of a mortgage loan insured or held by the federal government shall also be deemed an eligible area under this article. Provided further, however, that real property consisting of two contiguous acres or more of wooded land which exists as substantially undeveloped at the time this article becomes effective shall not be included as an eligible area for purposes of this article.
4. "Agency". The officer, board, commission, department, or other agency of the municipality designated by the governing body, or as otherwise provided by law, to carry out the functions vested in the agency under this article or delegated to the agency by the governing body in order to carry out the purpose and provisions of this article, except that in a city having a population of one million or more, the term "agency" shall mean a department of housing preservation and development.
5. "Urban development action area". An area designated by the governing body, or by the commission where so authorized to act by the

governing body, pursuant to section six hundred ninety-three of this article as appropriate for urban development, at least sixty percent of which constitutes an eligible area.

6. "Urban development action area project". A project which shall be consistent with the policy and purposes stated in section six hundred ninety-one of this article, and located in an urban development action area, unless the area designation requirement is waived pursuant to section six hundred ninety-three of this article. The project summary for an urban development action area project shall include but shall not be limited to: a statement of proposed land uses; proposed public, semi-public, private or community facilities or utilities; a statement as to proposed new codes and ordinances and amendments to existing codes and ordinances as are required or necessary to effectuate the project; a proposed time schedule for the effectuation of such project, and such additional statements or documentation as the agency may deem appropriate.

7. "Commission". The local commission or board charged with the planning of land use within the municipality or other analogous body or, if there be none, the board of estimate or other governing body of the municipality.

§ 693. Area designation. An urban development action area shall by resolution be designated by the governing body, or by the commission where so authorized to act by the governing body, on its own initiative or upon recommendation of the agency, provided at least sixty percent of such area is an eligible area. Any such designation shall be in conformance with the standards and procedures required for all land use determinations pursuant to general, special or local law or charter. Provided, however, that if a proposed urban development action area

project is to be developed on an eligible area and consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings or, until June thirtieth, two thousand twenty-one, for up to six urban development action area projects in any calendar year, the construction of up to ninety dwelling units financed by the federal government and restricted to occupancy by the elderly or by persons with disabilities without any change in land use permitted by local zoning, the governing body, or the commission where so authorized to act by the governing body, may waive the area designation requirement.

§ 694. Urban development action area project and approval thereof. 1.

Following or in conjunction with the designation of an area or the waiver of an area designation pursuant to section six hundred ninety-three of this article, the agency shall prepare or cause to be prepared, with provisions which, where appropriate, are expressly designed to encourage and stimulate businesses experienced in the development of one to four family low-rise residential structures or minority or women-owned business enterprises in proposed projects, a project summary for a proposed urban development action area project.

2. A proposal for an urban development action area or for a part or portion of such area, shall be submitted to the commission which shall certify, after a public hearing held on due notice, its unqualified approval, its disapproval, or its qualified approval with recommendations for modifications therein. The commission shall forward its certification to the governing body.

3. Following receipt of the commission's certification after a public hearing held on due notice, the governing body may:

(a) if the commission shall have certified its unqualified approval,

approve the area designation by a majority vote;

(b) if the commission shall have certified its disapproval nevertheless approve the area designation, but only by a three-fourths vote;

(c) if the commission shall have certified its qualified approval together with recommendations for modifications, approve the area designation together with the modifications recommended by the commission by a majority vote, or approve the area designation without such modifications but only by a three-fourths vote.

4. In order to approve the proposal for an urban development action area the governing body must by resolution first find that: (a) the present status of the area tends to impair or arrest the sound growth and development of the municipality;

(b) the financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to section six hundred ninety-six of this article, is necessary to enable the project to be undertaken; and

(c) the area designation is consistent with the policy and purposes stated in section six hundred ninety-one of this article.

5. Any approval of an urban development action area project shall be in conformance with the standards and procedures required for all land use determinations pursuant to general, special or local law or charter. In a city having a population of one million or more, the governing body may require that the agency incorporate into the project any or all of the following: (i) the proposed number of residential units; (ii) whether such units are home ownership units, rental units or condominium or cooperative units; (iii) a best estimate of the initial rents or selling prices for such units; (iv) the proposed income restrictions, if any, on renters or purchasers of such units; and (v) the basis on which

the consideration for the sale or lease of the property is to be determined. Provided, however, that if the proposed urban development action area project consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings or, until June thirtieth, two thousand twenty-one, for up to six urban development action area projects in any calendar year, the construction of up to ninety dwelling units financed by the federal government and restricted to occupancy by the elderly or by persons with disabilities without any change in land use permitted by local zoning, the governing body, or the commission where so authorized to act by the governing body, may waive any such standards and procedures required by local law or charter.

§ 695. Disposition of property. 1. In addition to employing any other lawful method of utilizing or disposing of an eligible area, a municipality may sell, lease for a term not exceeding ninety-nine years, or otherwise dispose of any such real property and appurtenances thereto, to any person, firm or corporation at the highest marketable price or rental at public auction or by sealed bids pursuant to the provisions of any general, special or local laws applicable to the sale or disposition of real property by such municipality.

2. Notwithstanding any provision to the contrary contained in this article or any other law, general, special or local, applicable to the sale of real property by a municipality, such real property and appurtenances thereto may be sold, leased for a term not exceeding ninety-nine years or otherwise disposed of for the effectuation of any of the purposes of this article to:

(a) any person, firm or corporation designated by the agency and approved by the governing body or, in a city having a population of one

million or more, by the mayor, as a qualified and eligible sponsor in accordance with established rules and procedures prescribed by the agency, provided that: (i) the agency has published, in at least one newspaper of general circulation in the municipality at least ten days prior to such sale, lease or other disposition, a notice which shall include a project summary of the proposed urban development action area project and such notice shall be in the form and manner prescribed by the agency; (ii) such proposed sponsor agrees to pay the minimum price or rental fixed by the agency for such real property; (iii) such proposed sponsor matches any bid higher than such minimum price or rental; and (iv) such sale, lease or other disposition requires effectuation of the urban development action area project within a definite and reasonable period of time; or

(b) any person, firm or corporation designated by the agency as a qualified and eligible sponsor in accordance with established rules and procedures prescribed by the agency without public auction or sealed bids, provided that (i) the price or rental to be paid by such sponsor for such property and all other essential terms and conditions of such sale, lease or other disposition shall be included in the notice published by the agency pursuant to subparagraph (i) of paragraph (a) of this subdivision, (ii) such sale, lease or other disposition requires the effectuation of an urban development action area project with a definite and reasonable period of time, and (iii) that such sale, lease or other disposition be approved by the governing body or, in any city having a population of one million or more, by the mayor, after a public hearing held not less than ten days after the publication of such notice.

3. A municipality may not transfer pursuant to this article any interest in any eligible area to any person, firm or corporation

constituting (i) any former owner in fee of all or part of the real property in which such interest is sought to be transferred or of any other real property which was acquired by the municipality through real property tax or other lien enforcement proceedings; (ii) any spouse of such a former owner; (iii) any business entity substantially controlled by such a former owner; or (iv) any successor in interest to such a former owner, except a purchaser from such successor in interest in good faith and for value. The municipality shall require an affidavit from each person, firm or corporation to whom it proposes to sell or lease an interest in any such eligible area certifying that the proposed sale or lease does not violate the provisions of this subdivision. Any deed, lease, or instrument which transfers an interest in any such eligible area in violation of this subdivision shall be voidable by the municipality, provided that a subsequent bona fide holder of an interest in the real property, whether as purchaser, lessee, or mortgagee shall not be affected by this subdivision three.

4. Any lease of real property and appurtenances thereto for a period in excess of one year including any renewals or options to renew or for a total rental may be made only upon a written appraisal of the market value thereof verified by an appraiser with at least five years experience appraising real property, made within a period of sixty days prior to the authorization to enter into such lease given by the governing body or, in any city having a population of one million or more, by the mayor, and filed in the office of that body or officer and made available for public examination and copying at least thirty days before such authorization. Any sale of real property and appurtenances thereto shall be made only upon a written appraisal of the value thereof by an appraiser with at least five years experience appraising real property, made within six months prior to the authorization of such sale

or other disposition by the governing body or, in any city having a population of one million or more, by the mayor, and filed in the office of that body or officer and made available for public examination and copying at least thirty days before such authorization.

5. Any deed, lease or instrument by which real property and appurtenances thereto, or air rights and concomitant easements or other rights of users necessary for the use and development of such air rights over streets, alleys, highways or other public rights of way, railway or subway tracks, bridge or tunnel approaches or entrances, or other similar facilities, or air rights sites and necessary sitework, the foundations and platforms constructed or to be constructed in connection therewith, or any interest therein is conveyed or disposed of pursuant to this section shall contain provisions requiring the purchaser, lessee or grantee to replan, clear, rehabilitate, restore, renew, conserve, improve, reconstruct or redevelop such property in accordance with the urban development action area project as approved by the governing body and within a definite and reasonable period of time subject to the terms of the contract or lease or deed relating thereto between the municipality and the sponsor, and shall contain provisions insuring the use of such real property for purposes consistent with such urban development action area project.

6. (a) Leases authorized by this section may contain provisions subordinating the fee interest of a municipality to a sponsor for purposes of pledging or assigning such fee interest to the primary leasehold mortgagee of such lease, provided that the amount to which the fee is subordinated shall not exceed the lessee's cost of completing its obligation to replan, clear, rehabilitate, restore, renew, conserve, improve, reconstruct or redevelop such property in accordance with the lease provisions.

(b) A municipality may execute such instruments as may be required to implement the provisions of this subdivision.

(c) Leases and such other instruments as may be required shall contain provisions stating that: (i) the municipality shall assume no liability for any debt underlying the pledge or assignment of the fee interest; (ii) the municipality, at its option, may satisfy any obligation for which the fee interest is assigned or pledged; and (iii) no foreclosure action shall be maintained against such subordinated fee interest until the obligation of the sponsor to replan, clear, rehabilitate, restore, renew, conserve, improve, reconstruct or redevelop such property has been completed in accordance with the lease provisions.

(d) Notwithstanding any standards or procedures established for land disposition by general, special or local law or charter, if an urban development action area project is to be developed on an eligible area and consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings or, until June thirtieth, two thousand twenty-one, for up to six urban development action area projects in any calendar year, the construction of up to ninety dwelling units financed by the federal government and restricted to occupancy by the elderly or by persons with disabilities without any change in land use permitted by local zoning, a municipality may dispose of the real property constituting such urban development action project to any person, firm, or corporation qualified pursuant to this subdivision by resolution of its governing body or, in any city having a population of one million or more, by action of the mayor, provided that such disposition is in accordance with the requirements of this subdivision. Disposition of real property acquired by condemnation shall be in accordance with the requirements of section four hundred six of the eminent domain procedure law, if applicable.

7. In a city having a population of one million or more, within one hundred fifty days following receipt of a written submission from the agency requesting waiver of designation of an urban development action area and approval of an urban development action area project, the governing body shall (i) approve or disapprove by resolution the requested waiver of designation of an urban development action area pursuant to section six hundred ninety-three of this article, and (ii) approve or disapprove by resolution the proposed urban development action area project pursuant to section six hundred ninety-four of this article. If the governing body fails to take such action within one hundred fifty days following receipt of such written submission from the agency, then (i) the waiver of designation of an urban development action area requested by the agency shall be deemed approved pursuant to section six hundred ninety-three of this article, and (ii) the urban development action area project proposed by the agency shall be deemed approved pursuant to section six hundred ninety-four of this article.

§ 696. Tax incentives. Upon the consent of the governing body of any municipality in which an urban development action area project is or is to be located, the real property of a project may be exempted from local and municipal taxes, other than assessments for local improvements and land value, to the extent of all or part of the value of the improvement included in such project, for a period of twenty years from the first date on which taxes otherwise would become due in the absence of the exemption, during the last ten years of which the exemption shall be decreased in equal annual or biennial decrements according to a formula established by the governing body at the time it gives its consent to the tax exemption, pursuant to this section. If the project consists of new construction, the land value for purposes of determining exemptions

permitted by this section shall be the lesser of the assessed valuation immediately prior to commencement of construction or the assessed valuation of the land appearing on the assessment roll in the first year after completion of construction. Such exemption may only be made available where the urban development action area project includes the construction of a new structure or the renovation, rehabilitation or conversion of an existing structure where the cost of such renovation, rehabilitation or construction is at least equal to one hundred percent of the assessed value of such structure as determined in the tax year immediately preceding the governing body's grant of tax exemption to such project. Any lease of real property and appurtenances thereto for a period not exceeding twenty years shall require payments to the municipality in lieu of taxes. Such additional payments shall be required to be in equal annual or biennial escalating amounts over the life of any lease for a period not exceeding twenty years so as to ensure that payments in lieu of taxes made during the final year of such lease shall be equal to all local and municipal taxes. All renewals of any lease shall include provision for payment of rental and in lieu of tax payments greater than or equal to those required during the final year of the original lease. Any lease of real property and appurtenances thereto for a period in excess of twenty years but not exceeding ninety-nine years shall require payments in lieu of taxes. Such payments shall commence in the tenth year of such lease and increase in equal annual or biennial amounts until the twentieth year so that such payments commencing in the twenty-first year and continuing until the conclusion of the lease shall be equal to all local and municipal taxes.

\* § 696-a. Loans. Notwithstanding the provisions of any general, special or local law, an agency is hereby authorized to make or contract

to make grants or loans: (i) to the owner of any property that is part of an urban development action area project for the purpose of rehabilitation of an existing private or multiple dwelling, (ii) for the purpose of providing site improvements, including, but not limited to, water and sewer facilities, sidewalks, landscaping, the curing of problems caused by abnormal site conditions, excavation and construction of footings and foundations and other improvements associated with the provision of infrastructure, or (iii) for the purpose of providing for other costs of construction for the development of private and multiple dwelling housing accommodations. In the case of a grant made under this section for the rehabilitation of an existing multiple dwelling intended to be converted to a condominium or cooperative form of ownership or for the development of one to four unit housing accommodations or a condominium or cooperative housing corporation, such grant shall require a regulatory agreement with the agency limiting profits. Any loan made in accordance with this section shall be secured by a note and mortgage upon the property improved or, in the case of a condominium, a note and mortgage upon each of the housing accommodations aided by such loan, or in the case of a cooperative housing corporation, a note and mortgage upon the economic interest in such corporation of each tenant-shareholder aided by such loan, or upon the property improved, or upon both such economic interest or property. Such loan shall be repaid over such period as the agency shall determine. In the case of a loan for rehabilitation of an existing multiple dwelling intended to be converted to a condominium or cooperative form of ownership or a loan for the provision of infrastructure or for the provision of other costs of construction for the development of one to four unit housing accommodations or a condominium or cooperative housing corporation, such note and mortgage may provide that the loan shall automatically be

reduced to zero over a period of owner-occupancy of the housing accommodations assisted by such loan. In the case of a grant or loan made under this section for the purpose of providing rental housing for persons of low income as defined in section two of the private housing finance law, such loan or grant shall require a regulatory agreement with the agency limiting profits and rentals charged. In the case of a loan made under this section for the purpose of providing rental housing for persons of low income as defined in section two of the private housing finance law, such note and mortgage may provide that the loan shall automatically be reduced to zero over a period of up to thirty years of compliance by the owner with a regulatory agreement with the agency limiting profits and rentals charged. The repayment of any loan made in accordance with this section shall be made in such manner as may be provided in such note and mortgage in connection with such loan, and may authorize the owner, with the consent of the agency, to prepay the principal of the loan subject to such terms and conditions as therein provided. Such note and mortgage may contain such other terms and conditions not inconsistent with the provisions of this article as the agency may deem necessary or desirable to carrying out the purposes and provisions of this article including, but not limited to, provisions concerning the repayment of the loan, the interest, if any, thereon, and other charges in connection therewith. For purposes of this section, the term "mortgage" shall include any pledge or assignment of shares or assignment of a proprietary lease in a cooperative housing corporation where such pledge or assignment is intended as security for the performance of an obligation and which imposes a lien on or affects title to such shares or such proprietary lease.

\* NB Effective July 1, 2021

§ 696-b. Condemnation. Notwithstanding any inconsistent provision of any general, special or local law, a municipality shall be authorized to exercise its power of eminent domain pursuant to the eminent domain procedure law for the purpose of condemning any interest of a third party in real property which may continue subsequent to the vesting of title of real property in the municipality pursuant to a foreclosure of a tax lien, whether or not title to such real property remains with the municipality at the time of the commencement of any proceeding brought pursuant to such law.

§ 696-c. Site preparation. A municipality shall be authorized to undertake site preparation for each eligible area prior to its disposition. Such site preparation may include, but need not be limited to, demolition, site clearance and the curing of problems caused by abnormal site conditions.

§ 696-d. Neighborhood improvement projects. 1. As used in this section the term "neighborhood improvement project" shall mean any non-residential use permitted by local zoning.

2. Notwithstanding the provisions of any general, special or local law, the agency in a city having a population of one million or more is hereby authorized to make or contract to make mortgage loans or to participate with another lender in the making of mortgage loans for the development of any neighborhood improvement project that such agency determines to be an improvement associated with the construction or rehabilitation of private or multiple dwellings. Real property assisted with a loan pursuant to this section shall be located: (i) in an urban development action area; (ii) in proximity to an urban development action area; or (iii) in proximity to an urban development action area

project for which the area designation requirement was waived pursuant to section six hundred ninety-three of this article.

3. Any loan made in accordance with this section shall be secured by a note and mortgage upon the property improved. Such note and mortgage shall specify the term and manner of repayment of such loan, and may authorize the owner, with the consent of such agency, to prepay the principal of the loan subject to such terms and conditions as therein provided. Such note and mortgage may contain such other terms and conditions not inconsistent with the provisions of this article as such agency may deem necessary or desirable to carrying out the purposes and provisions of this article, including, but not limited to: provisions concerning the repayment of the loan, the interest, if any, thereon, and other charges in connection therewith.

4. After June thirtieth, two thousand twelve, authorization to make or contract to make loans or to participate in the making of loans pursuant to the provisions of this section and subdivision forty-one-d of paragraph a of section 11.00 of the local finance law shall be restricted to loans made only within targeted commercial corridors designated by the agency prior to June thirtieth, two thousand ten.

§ 697. Application of article. The provisions of this article shall be applicable in any municipality wherein the local legislative body has adopted a resolution providing therefor, provided however, that at any time subsequent to the adoption of such a resolution the local legislative body may adopt a further resolution providing that the provisions of this article will no longer be applicable in the municipality and thereafter this article shall cease to be of force or effect therein. Upon adoption of a resolution providing for the application of this article in any municipality by the local legislative

body, a copy of such resolution shall be filed within thirty days with the commissioner of the state division of housing and community renewal. The commissioner shall prescribe rules and regulations requiring subsequently timely notice of all area designations and approved projects therein. Rules and regulations prescribed by the commissioner shall be limited exclusively to procedures, content and format for timely notification. The commissioner shall thereupon report to the legislature annually, commencing on January one, nineteen hundred eighty concerning all municipal applications of the provisions of this article. For purposes of this section the term "local legislative body" in any city having a population of one million or more means a city council of any such city.

§ 698. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.