

BILL TEXT:

STATE OF NEW YORK

7312

2005-2006 Regular Sessions

IN ASSEMBLY

April 13, 2005

Introduced by M. of A. GREEN -- Multi-Sponsored by -- M. of A. LAVELLE,
J. RIVERA -- read once and referred to the Committee on Governmental
Operations

AN ACT to amend the executive law and the civil practice law and rules,
in relation to establishing the New York state commission to quantify
the debt owed to people of African descent and permitting certain
claims and making an appropriation therefor

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

1 Section 1. This act shall be known and may be cited as the New York
2 state "Commission to quantify the debt owed to people of African
3 descent".
4 § 2. Legislative findings and declarations. The New York state legis-
5 lature finds and declares the origins of slavery in what became New York
6 state date back to 1626 with the arrival of a ship owned by the Dutch
7 West India company which forcibly transported a group of Africans to New
8 Amsterdam. It is further found that during the transatlantic trade of
9 enslaved Africans the port of New York city ranked seventh out of the
10 top twelve according to the number of ships dispatched to transport
11 Africans from Africa to the Americas. It is further found that by 1790
12 the institution of slavery in New York legalized the holding of nearly
13 22,000 Africans in bondage, thereby denying them life, liberty, compen-
14 sation for their work, citizenship, their cultural heritage and the
15 sanctity of the family unit. Enslaved females of African descent were
16 especially vulnerable to the violence of slavery and were routinely made
17 the victims of sexual crimes. Consistent with the final declaration
18 issued at the World Conference against Racism, Racial Discrimination,
19 Xenophobia and Related Intolerance held in Durban, South Africa from
20 August 31, 2001 through September 8, 2001 this legislative body acknowl-
21 edges that slavery and the slave trade, including the transatlantic
22 slave trade, were appalling tragedies in the history of humanity not

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

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1 only because of their abhorrent barbarism but also in terms of their
2 magnitude, organized nature and especially their negation of the essence
3 of the victim, and further acknowledge that slavery and the slave trade
4 are a crime against humanity and should always have been so. It is
5 further found that the inhumanity of slavery was followed by segregation
6 and other forms of state sanctioned social and economic discrimination.

7 In order to quantify the debt owed to both individual heirs of
8 enslaved Africans and communities of African descent in New York it is
9 necessary for this state legislature to establish the New York state
10 commission to quantify the debt owed to people of African descent. For
11 the purposes of this act a person of African descent shall mean an Afri-
12 can American, Caribbean American or other persons of African ancestry.

13 § 3. Legislative purpose. The purpose of this act is to establish the
14 New York state commission to quantify debt owed to people of African
15 descent to recommend appropriate remedies in consideration of the
16 commission's findings.

17 § 4. The executive law is amended by adding a new article 15-C to read
18 as follows:

19 ARTICLE 15-C

20 NEW YORK STATE COMMISSION TO QUANTIFY

21 DEBT OWED TO PEOPLE OF AFRICAN DESCENT

22 Section 328. New York state commission to quantify debt owed to people
23 of African descent.

24 § 328. New York state commission to quantify debt owed to people of
25 African descent. 1. There is hereby established a New York state
26 commission to quantify the debt owed to people of African descent.

27 2. The commission shall be composed of nine members, who shall be
28 appointed within sixty days after the effective date of this article as
29 follows:

30 (a) three members shall be appointed by the governor. Of the gover-
31 nor's appointees, one appointee shall be a sitting judge on the New York
32 state court of claims, and one appointee shall be the commissioner of
33 the New York state division of human rights and one appointee shall be a
34 current member of the New York State freedom trail commission.

35 (b) three members shall be appointed by the speaker of the assembly.

36 (c) three members shall be appointed by the temporary president of the
37 senate.

38 3. All members of the commission shall be persons who are especially
39 qualified to serve on the commission by virtue of their education,
40 training, or experience, particularly in the fields of New York state
41 history, African American history, African Caribbean history, finance,
42 and economics.

43 4. The commission shall elect a chair and other officers it deems
44 appropriate. It shall hire appropriate staff and consultants to perform
45 its work.

46 5. Each member shall be paid a per diem rate the equivalent of the
47 annual rate of basic pay payable for GS-30, and shall include travel
48 time required to perform commission work. All members shall be reim-
49 bursed for travel.

50 6. The commission shall, among other things, exercise the following
51 powers and duties:

52 (a) research, identify and document those businesses and corporations
53 doing business in New York state which profited, or attempted to profit
54 from their business involvement with the international and domestic
55 trade of enslaved Africans, or from the exploitation of the forced labor
56 of enslaved Africans;

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1 (b) quantify the debt owed by those New York state businesses identi-
2 fied in paragraph (a) of this subdivision to individual heirs of
3 enslaved Africans or persons of African descent enslaved in New York on
4 or before July fourth, eighteen hundred twenty-seven, the date slavery
5 was abolished by state statute;

6 (c) quantify the debt owed by the New York state government and/or any
7 local governments for lost benefits, lost wages, interest and as compen-
8 sation for the respective government's de jure and/or de facto support
9 and protection of the institutions of slavery and segregation as prac-
10 ticed in the state of New York;

11 (d) recommend genealogical and historical methodologies to confirm
12 that a claimant is an heir of an enslaved person of African descent who
13 resided in New York state on or before July fourth, eighteen hundred
14 twenty-seven. In recommending methodologies the commission shall
15 acknowledge and factor in the historical experiences which prevent the
16 overwhelming majority of people of African descent from knowing, learn-
17 ing or tracing their lineage to enslaved ancestors;

18 (e) recommend to the New York state legislature specific remedies to
19 compensate communities of African descent throughout New York state for
20 the violation of their collective human and civil rights in over two
21 centuries of enslavement, in what became the United States of America,
22 more than a century of treatment as second class citizens and the
23 continuing economic and social impact of these consequences on living
24 people of African descent in New York state; and

25 (f) recommend to the New York state legislature specific remedies to
26 compensate children of African descent and families throughout New York
27 state for the legacy of centuries of slavery, segregation and discrimi-
28 nation in what became the United States of America, with specific recom-
29 mendations for addressing the legacies of family dissolution and perva-
30 sive impoverishment. The commissioner may establish a Twenty-first
31 Century Freedpersons Initiative.

32 7. The commission may acquire directly from the head of any depart-
33 ment, agency or instrumentality of the executive branch of government,
34 available information that the commission considers useful in the
35 discharge of its duties. All departments, agencies, and instrumental-
36 ties of the executive branch of government shall promptly cooperate with
37 the commission's request for information.

38 8. No later than one year from the effective date of this article, the
39 commission shall record, publish, and make available to the governor,
40 the temporary president of the senate, the speaker of the assembly and
41 the public its findings and recommendations.

42 § 5. The civil practice law and rules is amended by adding two new
43 sections 214-f and 214-g to read as follows:

44 § 214-f. Action to recover damages for the heirs of persons enslaved
45 in New York state; corporations. 1. Notwithstanding any other provision
46 of law to the contrary, any action arising from an occurrence on or
47 before December thirty-first, eighteen hundred twenty-seven brought by
48 an heir of a person enslaved in what is now defined as New York state,
49 or by an heir of an enslaved person under the jurisdiction of New York
50 state law enforcement authorities after July fourth, eighteen hundred
51 twenty-seven, and which is barred as of the effective date of this
52 section because the applicable period of limitation has expired is here-
53 by revived, and an action thereon may be commenced and prosecuted
54 provided such action is commenced within ten years of the effective date
55 of this section. The provisions of this section shall be inapplicable to

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1 any civil action governed by the statute of limitations of another
 2 jurisdiction.

3 2. An heir of a person enslaved in what is now defined as New York
 4 state on or before December thirty-first, eighteen hundred twenty-seven,
 5 or an heir of an enslaved person under the jurisdiction of New York
 6 state law enforcement authorities after July fourth, eighteen hundred
 7 twenty-seven, may bring an action to recover damages for labor performed
 8 as an enslaved person from any New York corporate entity or successor in
 9 interest which attempted to profit from the slave trade or from the
 10 institution of slavery. That action may be brought in a supreme court of
 11 this state, which court shall have jurisdiction over that action until
 12 its completion or resolution.

13 § 214-g. Action to recover damages for the heirs of persons enslaved
 14 in New York state; individual estates. 1. Notwithstanding any other
 15 provision of law to the contrary, any action arising from an occurrence
 16 on or before December thirty-first, eighteen hundred twenty-seven
 17 brought by an heir of a person enslaved in what is now defined as New
 18 York state, or by an heir of an enslaved person under the jurisdiction
 19 of New York state law enforcement authorities after July fourth, eigh-
 20 teen hundred twenty-seven, and which is barred as of the effective date
 21 of this section because the applicable period of limitation has expired
 22 is hereby revived, and an action thereon may be commenced and prosecuted
 23 provided such action is commenced within ten years of the effective date
 24 of this section. The provisions of this section shall be inapplicable to
 25 any civil action governed by the statute of limitations of another
 26 jurisdiction.

27 2. An heir of a person enslaved in New York state on or before Decem-
 28 ber thirty-first, eighteen hundred twenty-seven, or an heir of an
 29 enslaved person under the jurisdiction of New York state law enforcement
 30 authorities after July fourth, eighteen hundred twenty-seven, may bring
 31 an action to recover damages for unjust enrichment, negligent infliction
 32 of mental distress, intentional infliction of mental distress, human
 33 rights violations or any other appropriate cause of action from the
 34 estate of any individual or individuals who profited from or attempted
 35 to profit from the slave trade or the institution of slavery while domi-
 36 ciled in, residing in or doing business in what is now the state of New
 37 York. Such action may be brought in a supreme court of this state, which
 38 court shall have jurisdiction over that action until its completion or
 39 resolution.

40 § 6. The sum of five hundred thousand dollars (\$500,000), or so much
 41 thereof as may be necessary, is hereby appropriated to the commission to
 42 quantify debt owed to people of African descent out of any moneys in the
 43 state treasury in the general fund for the purpose of carrying out the
 44 provisions of this act. Such moneys shall be payable on the audit and
 45 warrant of the comptroller on vouchers certified or approved in the
 46 manner prescribed by law.

47 § 7. This act shall take effect immediately.

SPONSORS MEMO:

**NEW YORK STATE ASSEMBLY
 MEMORANDUM IN SUPPORT OF LEGISLATION
 submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A7312

SPONSOR: Green (MS)

TITLE OF BILL: An act to amend the executive law and the civil prac-

RETRIEVE BILL

tice law and rules, in relation to establishing the New York state commission to quantify the debt owed to people of African descent and permitting certain claims and making an appropriation therefor

PURPOSE: To establish the New York commission to quantify the debt owed to people of African descent as a result of slavery, segregation and other forms of discrimination, and to recommend appropriate remedies in consideration of the commission's findings. This proposal also permits certain civil claims.

SUMMARY OF SPECIFIC PROVISIONS: * Section 3 sets out the composition of and qualifications for membership on the commission.

* Section 4 describes the commission's duties, which include quantifying the debt owed by New York's business entities and local and state governments to compensate:

(1) individual descendants of a person of African descent enslaved in New York on or before July 4, 1827; individual descendants of an enslaved person of African descent under the jurisdiction of law enforcement.

(2) New York's communities, and of African descent, for the continuing violation of their collective human and civil rights as a consequence of state supported slavery and its legacy of segregation, discrimination, and second class citizenship.

* Section 4 also requires the commission to report its findings and recommendations to the Governor's office, The New York state legislature and to the public.

* Section 5 amends the civil practice laws and rules and permits an heir of a person enslaved in New York on or before December 31, 1827 to sue to recover damages for unpaid labor, and other claims.

* Section 6 Appropriates the sum of \$500,000.00 to implement the work of the commission.

JUSTIFICATION: This bill seeks to quantify the debt owed to descendants of people of African descent who suffered the many cruelties, deprivations and indignities of slavery as practiced in New York for nearly two centuries. New York's colonial, and subsequent state and local governments, and businesses sanctioned and profited from the inhumane and immoral trade in men, women and children of African ancestry. Tremendous profits were made from the wages, unjust enrichment and forced labor and the second class citizenship of enslaved Africans. Slavery's legacy of poverty, illiteracy, segregation and discrimination has never been adequately addressed. This bill would provide a mechanism for research and deliberations on how to compensate communities, especially children and families of African descent for the collective wrongs suffered as a result of state sanctioned slavery and discrimination.

Financial reparations for crimes against humanity and for state sponsored discriminations have become a remedy for identifiable victims of such crimes. Native Americans, Jewish holocaust victims, Japanese Americans interned during World War II, and victims and their descendants of the Rosewood riots in Florida are recent examples of this standard.

PRIOR LEGISLATIVE HISTORY: None

RETRIEVE BILL

FISCAL IMPLICATIONS: A \$500,000.00 appropriation is required.

EFFECTIVE DATE: This act shall take effect immediately.
