

5836

2011-2012 Regular Sessions

I N A S S E M B L Y

March 2, 2011

Introduced by M. of A. McENENY -- read once and referred to the Committee on Economic Development

AN ACT in relation to alternative finance investment bonds

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and intent. 1. New York's historical
2 prosperity has derived from the freedom and innovative nature of the
3 state's capital markets and New York's roles as a center of foreign
4 trade and investment, which has helped build the industries and create
5 the jobs that earned the state the nickname of the Empire State.
6 2. The legislature finds that in order to bring more jobs to New York
7 in a global economy, and to increase the state's competitiveness, the
8 state must find new sources of capital investment to create opportunities
9 throughout the state. An innovative way to accomplish this goal
10 would be to create alternate investment instruments that would attract
11 capital from investors who for personal, moral or religious reasons are
12 unable to use conventional debt instruments such as bonds due to their
13 inability to purchase securities that generate interest.
14 3. New York has the proud heritage of being a model for the rest of
15 the nation in the areas of ethnic, national, racial, and religious
16 tolerance and diversity. However, over time large numbers of New Yorkers
17 have been unable to participate in investment opportunities offered by
18 the state, or in public-private partnerships due to the lack of diverse
19 means of long term capital investments. Broadening the state's portfolio
20 of investment instruments would not only enfranchise large groups of New
21 Yorkers and lower the costs of state and local borrowing, but would also
22 aid in community renewal and revitalization. Creating more inclusive
23 forms of state financial opportunities would also broaden the streams of
24 capital available to the state, lowering the cost of financing and once
25 again involving the world's investors in the development of our state's
26 economy.

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

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1 4. The legislature therefore declares that expanding New York's tools
2 for economic development by creating new forms of alternative invest-
3 ments would enable it to participate in the multi-billion dollar market
4 for alternative investment vehicles akin to conventional bonds, thus
5 freeing up new capital for business and job creation. The creation of
6 these innovative financial instruments will furthermore permit individ-
7 uals and institutions of all faiths to invest in and issue such instru-
8 ments, redressing historic wrongs and low participation rates in our
9 economy.

10 S 2. (1) Definitions. (a) "Alternative finance investment bond" shall
11 mean a certificate of equal value representing undivided shares of
12 ownership of tangible assets, usufructs and services or (in the owner-
13 ship of) the assets of particular projects or special investment activ-
14 ity.

15 (b) "Alternative finance investment bond agreement" shall mean an
16 agreement where:

17 (i) the agreement provides for a person ("the bond holder") to pay a
18 sum of money ("the capital") to another ("the bond issuer"),

19 (ii) the agreement identifies assets, or a class of assets, which the
20 bond issuer will acquire for the purpose of generating income or gains
21 directly or indirectly ("bond assets"),

22 (iii) the agreement specifies a period at the end of which they cease
23 to have effect ("the bond term"),

24 (iv) the bond issuer undertakes under the agreement:

25 (A) to make a repayment of the capital ("the redemption payment") to
26 the bond holder during or at the end of the bond term (whether or not in
27 installments), and

28 (B) to pay to the bond holder other payments on one or more occasions
29 during or at the end of the bond term ("additional payments"), and

30 (v) the amount of the additional payments does not exceed an amount
31 which would be a reasonable commercial return on a loan of the capital.

32 (2) The chair of the dormitory authority, the director of the budget,
33 the superintendent of banking, the commissioner of insurance, and the
34 commissioner of taxation and finance are hereby authorized and directed
35 to assist the chair of the New York state urban development corporation
36 in creating, within one calendar year of the effective date of this act,
37 an investment instrument for the state of New York that will be compli-
38 ant with the definition of alternative finance investment bonds, and
39 regulated in a manner consistent with traditional bonds and other debt
40 instruments.

41 (3) The chair of the New York state urban development corporation is
42 hereby directed to consult with the state comptroller and the attorney
43 general concerning the regulation of alternative finance investment
44 bonds, and whether such bonds may be issued by New York municipal enti-
45 ties in addition to any issuances by the state of New York, and shall
46 provide the legislature with language necessary for the regulation of
47 such security.

48 (4) Within ninety days of the effective date of this act, the chair of
49 the New York state urban development corporation shall report to the
50 governor, the temporary president of the senate, and the speaker of the
51 assembly, the minority leader of the senate and minority leader of the
52 assembly concerning the potential domestic and foreign market for alter-
53 native finance investment bonds, and how such investment vehicles might
54 be used in economic development generally, and specifically in
55 distressed census tracts.

56 S 3. This act shall take effect immediately.