S T A T E O F N E W Y O R K

890

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. McDONOUGH, KOLB, RAIA -- read once and referred to the Committee on Housing

AN ACT to amend the private housing finance law, in relation to authorizing the New York state housing finance agency to make loans to eligible persons to assist in the purchase of a home

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

Section 1. The private housing finance law is amended by adding a new article 19-A to read as follows:

ARTICLE XIX-A

HOME OWNERSHIP LOANS

SECTION 1115. LEGISLATIVE PURPOSES.

1115-A. DEFINITIONS.

1115-B. CREATION OF "HOUSING PURCHASE AND REHABILITATION FUND".

1115-C. PURPOSE AND TERMS OF LOAN.

1115-D. LOAN REPAYMENT.

1115-E. ISSUANCE OF BONDS.

1115-F. ADOPTION OF REGULATIONS.

S 1115. LEGISLATIVE PURPOSES. IT IS HEREBY FOUND AND DECLARED THAT MANY NEW YORK RESIDENTS LACK SUFFICIENT FINANCIAL RESOURCES TO MAKE DOWN PAYMENTS ON PRIVATE HOUSING; THAT IT IS IN THE PUBLIC INTEREST TO PROVIDE STATE FINANCIAL ASSISTANCE TO SUCH RESIDENTS TO ENCOURAGE HOME OWNERSHIP AND THE REHABILITATION OF DETERIORATING HOUSING IN ORDER TO STABILIZE COMMUNITIES, IMPROVE THE TAX BASE AND ASSIST HOME OWNERSHIP BY LOW AND MODERATE INCOME FAMILIES.

S 1115-A. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "ELIGIBLE FAMILY OR PERSON" MEANS A FAMILY OR PERSON WHO LACKS THE AMOUNT OF INCOME NECESSARY, AS DETERMINED BY THE AGENCY, TO PURCHASE SAFE AND ADEQUATE HOUSING WITHOUT SPECIAL FINANCIAL ASSISTANCE.

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

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2. "AGENCY" MEANS THE NEW YORK STATE HOUSING FINANCE AGENCY CREATED BY SECTION FORTY-THREE OF THIS CHAPTER.

S 1115-B. CREATION OF "HOUSING PURCHASE AND REHABILITATION FUND". THERE IS ESTABLISHED A "HOUSING PURCHASE AND REHABILITATION FUND". SUCH FUND SHALL BE USED TO MAKE LOANS AUTHORIZED BY THIS ARTICLE AND FOR EXPENSES INCURRED BY THE AGENCY IN THE IMPLEMENTATION OF THE PROGRAM ESTABLISHED BY THIS ARTICLE.

S 1115-C. PURPOSE AND TERMS OF LOAN. 1. THE AGENCY, ACTING ON BEHALF OF THE STATE MAY IN ITS DISCRETION, ENTER INTO A CONTRACT WITH AN ELIGIBLE FAMILY OR PERSON TO PROVIDE, BASED ON THE FINANCIAL NEEDS OF SUCH FAMILY OR PERSON, A LOAN TO ASSIST IN THE PURCHASE OF A DWELLING OR THE PURCHASE AND REHABILITATION OF A DWELLING CONTAINING UP TO FOUR RESIDENTIAL UNITS, PROVIDED SUCH FAMILY OR PERSON SHALL RESIDE IN AT LEAST ONE OF SUCH UNITS.

2. SUCH LOAN SHALL NOT EXCEED TWENTY PERCENT OF THE COST OF ACQUIRING SUCH DWELLING OR TWENTY PERCENT OF THE VALUE OF SUCH DWELLING AFTER REHABILITATION, IF GREATER. SUCH VALUE SHALL BE DETERMINED FROM THE APPRAISAL, IF ANY, REQUIRED BY THE LENDING INSTITUTION GRANTING THE FIRST MORTGAGE LOAN ON SUCH DWELLING, AND IF NO SUCH APPRAISAL HAS BEEN MADE AT THE TIME THAT A CONTRACT FOR LOAN IS ENTERED INTO PURSUANT TO THIS ARTICLE, THE AGENCY SHALL CAUSE SUCH APPRAISAL TO BE MADE.

S 1115-D. LOAN REPAYMENT. 1. ANY LOAN CONTRACTED FOR PURSUANT TO THIS ARTICLE SHALL BE SECURED BY A SECOND MORTGAGE ON THE DWELLING PURCHASED BY THE RECIPIENT OF SUCH LOAN. IF THE RECIPIENT OF SUCH LOAN ASSIGNS, TRANSFERS OR OTHERWISE CONVEYS HIS INTEREST IN SUCH DWELLING OR CEASES TO OCCUPY SUCH DWELLING, THE UNPAID PRINCIPAL BALANCE OF SAID SECOND MORTGAGE, TOGETHER WITH INTEREST THEREON, SHALL BECOME DUE AND PAYABLE. IF THE RECIPIENT OF ANY LOAN IS UNABLE TO REPAY THE LOAN, THE AGENCY, AT ITS DISCRETION, MAY ADJUST THE INTEREST RATE, TERMS AND CONDITIONS OF THE LOAN TO FACILITATE REPAYMENT.

2. REPAYMENT OF ANY LOAN PROVIDED IN ACCORDANCE WITH THIS ARTICLE SHALL BE SUBJECT TO AN INTEREST RATE TO BE DETERMINED IN ACCORDANCE WITH TERMS AND CONDITIONS AS THE AGENCY MAY ESTABLISH. IN NO CASE SHALL THE TERM EXCEED THE TERM OF THE FIRST MORTGAGE OBTAINED FOR THE PURPOSE OF PURCHASING SUCH DWELLING EXCEPT, IN THE CASE OF A GRADUATED PAYMENT MORTGAGE LOAN, THE TERM OF THE LOAN MADE PURSUANT TO THIS ARTICLE MAY EXCEED THE EXPECTED TERM OF SUCH MORTGAGE LOAN PROVIDED THE TERM OF THE LOAN MADE PURSUANT TO THIS ARTICLE DOES NOT EXCEED THE LESSER OF (A) THE TERM INDICATED BY THE LIMITED AMORTIZATION SCHEDULE OF THE GRADUATED PAYMENT MORTGAGE LOAN OR (B) THIRTY YEARS. PAYMENTS BY HOMEOWNERS SHALL BE PAID TO THE AGENCY AND DEPOSITED IN THE HOUSING PURCHASE AND REHABILITATION FUND.

S 1115-E. ISSUANCE OF BONDS. 1. THE AGENCY SHALL HAVE THE POWER AND IS HEREBY AUTHORIZED FROM TIME TO TIME TO ISSUE ITS NEGOTIABLE BONDS AND NOTES IN CONFORMITY WITH APPLICABLE PROVISIONS OF THE UNIFORM COMMERCIAL CODE IN SUCH PRINCIPAL AMOUNTS AS, IN THE OPINION OF THE AGENCY, SHALL BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE, BUT NOT IN EXCESS OF AN AGGREGATE AMOUNT OF TWENTY MILLION DOLLARS.

2. EXCEPT AS MAY OTHERWISE BE EXPRESSLY PROVIDED BY THE AGENCY, ALL BONDS AND NOTES ISSUED SHALL BE PAYABLE OUT OF ANY MONEYS, ASSETS OR REVENUES OF THE STATE, SUBJECT ONLY TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS PLEDGING ANY PARTICULAR MONEYS, ASSETS OR REVENUES.

3. BONDS AND NOTES SHALL BE AUTHORIZED BY A RESOLUTION OR RESOLUTIONS OF THE AGENCY ADOPTED IN THE MANNER PROVIDED BY LAW.

4. SUCH BONDS OR NOTES SHALL BEAR SUCH DATE OR DATES, SHALL MATURE AT SUCH TIME OR TIMES, SHALL BEAR INTEREST AT SUCH RATE OR RATES, SHALL BE

OF SUCH DENOMINATIONS, SHALL BE IN SUCH FORM, CARRY SUCH REGISTRATION PRIVILEGES, BE EXECUTED IN SUCH MANNER, BE PAYABLE IN LAWFUL MONEY OF THE UNITED STATES OF AMERICA AT SUCH PLACE OR PLACES WITHIN OR WITHOUT THE STATE, BE SUBJECT TO SUCH TERMS OF REDEMPTION PRIOR TO MATURITY AS MAY BE PROVIDED BY SUCH RESOLUTION OR RESOLUTIONS OR SUCH CERTIFICATE WITH RESPECT TO SUCH BONDS OR NOTES, AS THE CASE MAY BE; PROVIDED, HOWEVER, THAT THE MAXIMUM MATURITY OF BONDS SHALL NOT EXCEED THIRTY YEARS FROM THE DATE THEREOF AND THE MAXIMUM MATURITY OF NOTES OR ANY RENEWALS THEREOF SHALL NOT EXCEED SEVEN YEARS FROM THE DATE OF THE ORIGINAL ISSUE OF SUCH NOTES.

5. ANY SUCH BONDS OR NOTES MAY BE SOLD AT SUCH PRICE OR PRICES, AT PUBLIC OR PRIVATE SALE, IN SUCH MANNER AND FROM TIME TO TIME AS MAY BE DETERMINED BY THE AGENCY, AND THE AGENCY MAY PAY ALL EXPENSES, PREMIUMS AND COMMISSIONS WHICH IT MAY DEEM NECESSARY OR ADVANTAGEOUS IN CONNECTION WITH THE ISSUANCE AND SALE THEREOF. NO BONDS OR NOTES MAY BE SOLD AT PRIVATE SALE, HOWEVER, UNLESS SUCH SALE AND THE TERM THEREOF HAVE BEEN APPROVED IN WRITING BY (A) THE COMPTROLLER, IF SUCH SALE IS NOT TO THE COMPTROLLER, OR (B) THE STATE DIRECTOR OF THE BUDGET, IF SUCH SALE IS TO THE COMPTROLLER.

6. THE AGENCY IS AUTHORIZED TO PROVIDE FOR THE ISSUANCE OF ITS BONDS OR NOTES FOR THE PURPOSE OF REFUNDING ANY SUCH BONDS OR NOTES THEN OUTSTANDING, INCLUDING THE PAYMENT OF ANY REDEMPTION PREMIUMS THEREON AND ANY INTEREST ACCRUED OR TO ACCRUE TO THE REDEMPTION DATE NEXT SUCCEEDING THE DATE OF DELIVERY OF SUCH REFUNDING BONDS OR NOTES. THE PROCEEDS OF ANY SUCH BONDS OR NOTES ISSUED FOR THE PURPOSE OF SO REFUNDING OUTSTANDING BONDS OR NOTES SHALL BE FORTHWITH APPLIED TO THE PURCHASE OR RETIREMENT OF SUCH OUTSTANDING BONDS OR NOTES OR THE REDEMPTION OF SUCH OUTSTANDING BONDS OR NOTES ON THE REDEMPTION DATE NEXT SUCCEEDING THE DATE OF DELIVERY OF SUCH REFUNDING BONDS OR NOTES AND MAY, PENDING SUCH APPLICATION, BE PLACED IN ESCROW TO BE APPLIED TO SUCH PURCHASE OR RETIREMENT OR REDEMPTION ON SUCH DATE. ANY SUCH ESCROWED PROCEEDS, PENDING SUCH USE, MAY BE INVESTED AND REINVESTED ONLY IN OBLIGATIONS OF OR GUARANTEED BY THE STATE OR THE UNITED STATES OF AMERICA AND EITHER (A) THE YIELD FROM WHICH DOES NOT EXCEED THE AVERAGE NET INTEREST COST PER ANNUM, EXPRESSED AS A PERCENTAGE, ON SUCH REFUNDING BONDS BY MORE THAN ONE-HALF OF ONE PERCENT, OR (B) THE INCOME FROM WHICH IS EXEMPT FROM FEDERAL TAXATION, MATURING AT SUCH TIME OR TIMES AS SHALL BE APPROPRIATE TO ASSURE THE PROMPT PAYMENT, AS TO PRINCIPAL, INTEREST AND REDEMPTION PREMIUM, IF ANY, ON THE OUTSTANDING BONDS OR NOTES TO BE SO REFUNDED BY PURCHASE, RETIREMENT OR REDEMPTION, AS THE CASE MAY BE. THE INTEREST, INCOME AND PROFITS, IF ANY, EARNED OR REALIZED ON ANY SUCH INVESTMENT MAY ALSO BE APPLIED TO THE PAYMENT OF THE OUTSTANDING BONDS OR NOTES TO BE SO REFUNDED BY PURCHASE, RETIREMENT OR REDEMPTION, AS THE CASE MAY BE. AFTER THE TERMS OF THE ESCROW HAVE BEEN FULLY SATISFIED AND CARRIED OUT, ANY BALANCE OF SUCH PROCEEDS AND INTEREST, IF ANY, EARNED OR REALIZED ON THE INVESTMENTS THEREOF MAY BE RETURNED TO THE AGENCY FOR USE BY IT IN ANY LAWFUL MANNER. ALL SUCH BONDS OR NOTES SHALL BE ISSUED AND SECURED AND SHALL BE SUBJECT TO THE PROVISIONS OF LAW IN THE SAME MANNER AND TO THE SAME EXTENT AS ANY OTHER BONDS OR NOTES ISSUED PURSUANT TO LAW.

7. WHETHER OR NOT THE BONDS AND NOTES ARE OF SUCH FORM AND CHARACTER AS TO BE NEGOTIABLE INSTRUMENTS UNDER THE TERMS OF THE UNIFORM COMMERCIAL CODE, THE BONDS AND NOTES ARE HEREBY MADE NEGOTIABLE INSTRUMENTS WITHIN THE MEANING OF AND FOR ALL THE PURPOSES OF THE UNIFORM COMMERCIAL CODE, SUBJECT ONLY TO THE PROVISIONS OF THE BONDS AND NOTES FOR REGISTRATION.

8. ANY RESOLUTION OR RESOLUTIONS AUTHORIZING ANY BONDS OR NOTES PURSUANT TO THE PROVISIONS OF THIS ARTICLE MAY CONTAIN PROVISIONS WHICH MAY BE A PART OF THE CONTRACT WITH THE HOLDERS OF SUCH BONDS OR NOTES, AS TO: (A) PLEDGING OR CREATING A LIEN, TO THE EXTENT PROVIDED BY SUCH RESOLUTION OR RESOLUTIONS, ON ALL OR ANY PART OF ANY MONEYS HELD IN TRUST OR OTHERWISE BY OTHERS FOR THE PAYMENT OF SUCH BONDS OR NOTES; (B) THE SETTING ASIDE OF RESERVES OR SINKING FUNDS AND THE REGULATION OR DISPOSITION THEREOF; (C) LIMITATIONS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF ANY ISSUE OF SUCH BONDS OR NOTES THEN OR THEREAFTER TO BE ISSUED MAY BE APPLIED; (D) LIMITATIONS ON THE ISSUANCE OF ADDITIONAL BONDS OR NOTES, THE TERMS UPON WHICH ADDITIONAL BONDS OR NOTES MAY BE ISSUED AND SECURED, AND UPON THE REFUNDING OF OUTSTANDING OR OTHER BONDS OR NOTES; (E) THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH THE HOLDERS OF BONDS OR NOTES MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS OR NOTES THE HOLDERS OF WHICH MUST CONSENT THERETO AND THE MANNER IN WHICH SUCH CONSENT MAY BE GIVEN; (F) PROVIDING FOR THE RIGHTS AND REMEDIES OF THE HOLDERS OF BONDS OR NOTES IN THE EVENT OF DEFAULT, PROVIDING, HOWEVER, THAT SUCH RIGHTS AND REMEDIES SHALL NOT BE INCONSISTENT WITH THE GENERAL LAWS OF THIS STATE; AND (G) ANY OTHER MATTERS OF LIKE OR DIFFERENT CHARACTER, WHICH IN ANY WAY AFFECT THE SECURITY AND PROTECTION OF THE BONDS OR NOTES AND THE RIGHTS OF THE HOLDERS THEREOF.

S 1115-F. ADOPTION OF REGULATIONS. THE AGENCY SHALL ADOPT REGULATIONS PROVIDING FOR FINANCIAL QUALIFICATIONS OF ELIGIBLE FAMILIES OR PERSONS, REQUIREMENTS AND LIMITATIONS AS TO ADJUSTMENTS OF TERMS AND CONDITIONS OF REPAYMENT, FUNDING PRIORITIES AND ANY ADDITIONAL REQUIREMENTS AS IT DEEMS NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.