

6900

I N S E N A T E

February 23, 2010

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the local finance law, in relation to temporary alternative methods of financing snow and ice removal expenses in the town of Brookhaven

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

1 Section 1. The local finance law is amended by adding a new section
2 26.05 to read as follows:
3 S 26.05 TEMPORARY ALTERNATIVE METHODS OF FINANCING SNOW AND ICE
4 REMOVAL EXPENSES IN THE TOWN OF BROOKHAVEN. A. DEFINITIONS. WITH
5 RESPECT TO THE TOWN OF BROOKHAVEN WHICH HAS CALENDAR FISCAL YEARS WHICH
6 COMMENCED ON THE FIRST DAY OF JANUARY, TWO THOUSAND NINE AND THE FIRST
7 DAY OF JANUARY, TWO THOUSAND TEN, THE TERMS "EXTRAORDINARY EXPENSES FOR
8 SNOW AND ICE REMOVAL" AND "SUCH EXTRAORDINARY EXPENSES", AS USED IN THIS
9 SECTION, SHALL MEAN THE EXPENSES INCURRED FOR THE REMOVAL OF SNOW AND
10 ICE FROM THE PUBLIC THOROUGHFARES AND PUBLIC PLACES OF SUCH TOWN DURING
11 ANY MONTH IN SUCH YEARS, IN EXCESS OF THE NORMAL EXPENSES WHICH WOULD
12 HAVE BEEN INCURRED FOR SUCH PURPOSES DURING SUCH PERIODS, AS DETERMINED
13 BY THE TOWN BOARD OF SUCH TOWN. IN MAKING ANY SUCH DETERMINATION, THE
14 TOWN BOARD SHALL NOT INCLUDE AS A PART OF SUCH EXTRAORDINARY EXPENSES
15 THE SALARIES AND WAGES OF REGULAR EMPLOYEES, EXCEPT FOR OVERTIME WORK
16 AND WORK ON SUNDAYS AND HOLIDAYS.
17 B. THE FINANCING OF SNOW AND ICE REMOVAL EXPENSES BY THE ISSUANCE OF
18 SERIAL BONDS. 1. THE TOWN BOARD OF THE TOWN OF BROOKHAVEN WHICH HAS
19 FISCAL YEARS WHICH COMMENCED ON THE FIRST DAY OF JANUARY, TWO THOUSAND
20 NINE AND THE FIRST DAY OF JANUARY, TWO THOUSAND TEN, MAY AUTHORIZE THE
21 ISSUANCE OF SERIAL BONDS IN TWO THOUSAND TEN TO PROVIDE FOR THE PAYMENT
22 OF ALL OR PART OF THE EXTRAORDINARY EXPENSES OF SNOW AND ICE REMOVAL
23 INCURRED DURING ANY MONTH IN SUCH YEARS, TO REIMBURSE ANY FUND OR
24 ACCOUNT OF SUCH TOWN FROM WHICH MONIES TO PAY SUCH EXTRAORDINARY
25 EXPENSES HAVE BEEN ADVANCED OR TO REPLENISH ANY FUND OR ACCOUNT OF SUCH
26 TOWN FROM WHICH SUCH EXTRAORDINARY EXPENSES HAVE BEEN PAID, OR ANY
27 COMBINATION OF SUCH PURPOSES, NOTWITHSTANDING THAT THERE MAY HAVE BEEN

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

LBD15628-02-0

1 LACK OF STATUTORY AUTHORITY FOR ANY SUCH ADVANCE OR PAYMENT FROM SUCH
2 FUND OR ACCOUNT. THE PERIOD OF PROBABLE USEFULNESS OF SUCH OBJECTS OR
3 PURPOSES SHALL BE FIVE YEARS. ANY SUCH SERIAL BONDS SHALL HAVE A MAXIMUM
4 MATURITY OF OVER TWO YEARS, BUT THE DATE OF FINAL MATURITY OF ANY SUCH
5 ISSUE SHALL NOT EXTEND BEYOND THE FIRST DAY OF DECEMBER IN THE YEAR TWO
6 THOUSAND FIFTEEN.

7 2. NOTWITHSTANDING SUBDIVISION ONE OF THIS PARAGRAPH, SERIAL BONDS MAY
8 NOT BE AUTHORIZED TO BE ISSUED FOR THE PURPOSE OF FINANCING ANY PORTION
9 OF SUCH EXTRAORDINARY EXPENSES DESCRIBED IN SUCH SUBDIVISION WHICH HERE-
10 TOFORE HAVE BEEN OR HEREAFTER SHALL BE FINANCED BY THE ISSUANCE OF BUDG-
11 ET NOTES OR FOR THE PURPOSE OF REDEEMING ANY SUCH NOTES.

12 3. EXCEPT AS PROVIDED IN THIS SECTION, SUCH SERIAL BONDS AND ANY BOND
13 ANTICIPATION NOTES IN ANTICIPATION THEREOF, SHALL BE AUTHORIZED, SOLD
14 AND ISSUED IN THE MANNER PROVIDED BY THIS CHAPTER. ANY BOND ANTICIPATION
15 NOTES ISSUED IN ANTICIPATION OF SUCH BONDS SHALL, FOR THE PURPOSE OF
16 DETERMINING THE POWER OF THE ISSUER TO CONTRACT INDEBTEDNESS AND TO
17 RAISE TAXES UPON REAL ESTATE, BE DEEMED TO BE SERIAL BONDS OF AN ISSUE
18 HAVING A MAXIMUM MATURITY OF MORE THAN TWO YEARS AS DESCRIBED IN SUBDI-
19 VISION A OF SECTION FIVE AND SECTION TEN OF ARTICLE EIGHT OF THE STATE
20 CONSTITUTION AND FOR THE PURPOSES OF (I) PARAGRAPH ONE-A OF SECTION
21 136.00 OF THIS ARTICLE, AND (II) ALL LAWS RELATING TO THE FINANCIAL
22 REPORTS, DEBT STATEMENTS AND REAL ESTATE TAX MARGIN COMPUTATIONS OF SUCH
23 TOWN. THE SUPERVISOR OF THE TOWN OF BROOKHAVEN SHALL IMMEDIATELY AFTER
24 THE ISSUANCE OR RENEWAL OF SUCH BOND ANTICIPATION NOTES NOTIFY THE STATE
25 COMPTROLLER OF SUCH ISSUANCE OR RENEWAL. THE STATE COMPTROLLER MAY
26 PRESCRIBE THE FORM OF ANY SUCH NOTICE AND SHALL FURNISH SUCH FORMS TO
27 MUNICIPALITIES FOR THE PURPOSE OF MAKING ANY SUCH REPORT.

28 4. CAPITAL NOTES MAY NOT BE ISSUED TO FINANCE ANY OBJECT OR PURPOSE
29 FOR WHICH SERIAL BONDS ARE AUTHORIZED TO BE ISSUED PURSUANT TO THIS
30 PARAGRAPH. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT AFFECT THE POWER
31 OF THE TOWN OF BROOKHAVEN TO FINANCE ALL OR PART OF ANY SUCH EXTRAOR-
32 DINARY EXPENSES PURSUANT TO THE PROVISIONS OF SECTION 29.00 OF THIS
33 TITLE AND PARAGRAPH C OF THIS SECTION.

34 5. SECTION 104.10 OF THIS ARTICLE SHALL NOT BE APPLICABLE IN RELATION
35 TO, OR AS THE RESULT OF, THE ADOPTION OF A BOND RESOLUTION AUTHORIZING
36 THE ISSUANCE OF SERIAL BONDS PURSUANT TO THIS PARAGRAPH. THE PROVISIONS
37 OF SECTION 10.00, PARAGRAPH A OF SECTION 21.00 OF THIS ARTICLE AND ANY
38 OTHER SECTION OF THIS CHAPTER, OR THE PROVISIONS OF ANY GENERAL, SPECIAL
39 OR LOCAL LAW, WHICH WOULD RESTRICT, LIMIT OR PROHIBIT THE ISSUANCE OF
40 SUCH BONDS (EXCEPT THOSE ENACTED TO CONFORM WITH THE STATE CONSTITUTION)
41 ARE, TO THE EXTENT THAT THIS SECTION IS UTILIZED BY THE TOWN OF BROOKHA-
42 VEN, SUSPENDED AND MADE INEFFECTIVE INsofar AS NECESSARY TO EFFECTUATE
43 THE PURPOSES OF THIS SECTION.

44 C. THE FINANCING OF SNOW AND ICE REMOVAL EXPENSES BY THE ISSUANCE OF
45 BUDGET NOTES. 1. IF THE TOWN OF BROOKHAVEN HAS HERETOFORE ISSUED BUDGET
46 NOTES PURSUANT TO THE PROVISIONS OF SUBDIVISION TWO OF PARAGRAPH A OF
47 SECTION 29.00 OF THIS TITLE TO PROVIDE FOR THE PAYMENT OF EXTRAORDINARY
48 EXPENSES OF SNOW AND ICE REMOVAL, AS DEFINED IN THIS SECTION, THE TOWN
49 BOARD OF THE TOWN OF BROOKHAVEN, BY RESOLUTION, MAY DETERMINE THAT SUCH
50 NOTES SHALL BE DEEMED TO HAVE BEEN ISSUED PURSUANT TO THE PROVISIONS OF
51 SUBDIVISION ONE OF PARAGRAPH A OF SUCH SECTION AND THAT SUCH NOTES SO
52 ISSUED SHALL NOT THEREAFTER BE CONSIDERED IN DETERMINING THE POWER OF
53 SUCH TOWN TO ISSUE BUDGET NOTES PURSUANT TO SUCH SUBDIVISION TWO.

54 2. IF THE TOWN OF BROOKHAVEN HAS HERETOFORE ISSUED BUDGET NOTES PURSU-
55 ANT TO THE PROVISIONS OF SUBDIVISION ONE OR TWO OF PARAGRAPH A OR PARA-
56 GRAPH B OF SECTION 29.00 OF THIS TITLE, TO PROVIDE FOR THE PAYMENT OF

1 EXTRAORDINARY EXPENSES OF SNOW AND ICE REMOVAL, AS DEFINED IN THIS
2 SECTION, THE TOWN BOARD MAY DETERMINE THAT THE PROVISIONS OF PARAGRAPH J
3 OF SUCH SECTION SHALL NOT BE APPLICABLE IN RELATION TO THE MATURITY OF
4 SUCH NOTES AND (I) THAT SUCH NOTES SHALL MATURE IN EQUAL ANNUAL INSTALL-
5 MENTS IN TWO DIFFERENT FISCAL YEARS, BUT THE FINAL MATURITY OF SUCH
6 NOTES SHALL NOT EXTEND BEYOND THE CLOSE OF THE SECOND FISCAL YEAR IMME-
7 DIATELY SUCCEEDING THE YEAR OF THEIR ISSUE, OR (II) IF THE FISCAL PROCE-
8 DURES APPLICABLE TO SUCH MUNICIPALITY WILL ENABLE THE NECESSARY BUDGET-
9 ARY APPROPRIATIONS FOR DEBT SERVICE TO BE MADE AND SUCH APPROPRIATIONS
10 TO BECOME AVAILABLE, THAT SUCH NOTES SHALL MATURE IN THREE EQUAL ANNUAL
11 INSTALLMENTS IN THREE DIFFERENT FISCAL YEARS, BUT THE FINAL MATURITY OF
12 ANY SUCH NOTES SHALL NOT EXCEED THREE YEARS IN ACCORDANCE WITH THE
13 PROVISIONS OF PARAGRAPH A OF SECTION 11.00 OF THIS ARTICLE WHICH
14 PRESCRIBES A PERIOD OF PROBABLE USEFULNESS OF THREE YEARS FOR OBJECTS OR
15 PURPOSES FINANCED BY THE ISSUANCE OF BUDGET NOTES. SUCH BUDGET NOTES
16 WHICH MATURE IN THREE EQUAL ANNUAL INSTALLMENTS, AS AFORESAID, SHALL,
17 FOR THE PURPOSE OF DETERMINING THE POWER OF THE ISSUER TO CONTRACT
18 INDEBTEDNESS AND TO RAISE TAXES ON REAL ESTATE, BE DEEMED TO BE SERIAL
19 BONDS OF AN ISSUE HAVING A MAXIMUM MATURITY OF MORE THAN TWO YEARS AS
20 DESCRIBED IN SUBDIVISION A OF SECTION FIVE AND SECTION TEN OF ARTICLE
21 EIGHT OF THE STATE CONSTITUTION AND FOR THE PURPOSES OF (A) PARAGRAPH
22 ONE-A OF SECTION 136.00 OF THIS ARTICLE AND (B) ALL LAWS RELATING TO
23 FINANCIAL REPORTS, DEBT STATEMENTS AND REAL ESTATE TAX MARGIN COMPUTA-
24 TIONS OF SUCH TOWN. IF THE TOWN BOARD OF THE TOWN OF BROOKHAVEN DETER-
25 MINES THAT SUCH BUDGET NOTES SHALL MATURE IN THREE EQUAL ANNUAL INSTALL-
26 MENTS, AS AFORESAID, THE CHIEF FISCAL OFFICER OF SUCH MUNICIPALITY
27 IMMEDIATELY AFTER THE ADOPTION OF THE RESOLUTION MAKING SUCH DETERMI-
28 NATION SHALL FILE A COPY OF THE RESOLUTION WITH THE STATE COMPTROLLER
29 AND SHALL IMMEDIATELY AFTER THE ISSUANCE OR RENEWAL OF SUCH NOTES NOTIFY
30 THE STATE COMPTROLLER OF SUCH ISSUANCE OR RENEWAL. THE STATE COMPTROLLER
31 MAY PRESCRIBE THE FORM OF ANY SUCH NOTICE AND SHALL FURNISH SUCH FORMS
32 TO MUNICIPALITIES FOR THE PURPOSE OF MAKING ANY SUCH REPORT.

33 3. NOTWITHSTANDING ANY OF THE PROVISIONS OF SECTION 29.00 OF THIS
34 TITLE, THE TOWN BOARD OF THE TOWN OF BROOKHAVEN MAY AUTHORIZE THE ISSU-
35 ANCE OF BUDGET NOTES PURSUANT TO SUBDIVISION ONE OF PARAGRAPH A OR PARA-
36 GRAPH B OF SUCH SECTION TO PROVIDE FOR THE PAYMENT OF ALL OR PART OF THE
37 EXTRAORDINARY EXPENSES OF SNOW AND ICE REMOVAL, AS DEFINED IN THIS
38 SECTION, TO REIMBURSE ANY FUND OR ACCOUNT OF SUCH TOWN FROM WHICH MONIES
39 TO PAY SUCH EXTRAORDINARY EXPENSES HAVE BEEN ADVANCED OR TO REPLENISH
40 ANY FUND OR ACCOUNT OF THE MUNICIPALITY FROM WHICH SUCH EXTRAORDINARY
41 EXPENSES HAVE BEEN PAID, OR ANY COMBINATION OF SUCH PURPOSES, NOTWITH-
42 STANDING THAT THERE MAY HAVE BEEN LACK OF STATUTORY AUTHORITY FOR ANY
43 SUCH ADVANCE OR PAYMENT FROM SUCH FUND OR ACCOUNT. THE TOWN BOARD MAY
44 DETERMINE THAT SUCH NOTES MAY MATURE IN THE MANNER PROVIDED IN PARAGRAPH
45 J OF SECTION 29.00 OF THIS TITLE, OR, IF THE FISCAL PROCEDURES APPLICA-
46 BLE TO SUCH TOWN WILL ENABLE THE NECESSARY BUDGETARY APPROPRIATIONS FOR
47 DEBT SERVICE TO BE MADE AND SUCH APPROPRIATIONS TO BECOME AVAILABLE,
48 THAT SUCH NOTES SHALL MATURE IN TWO EQUAL ANNUAL INSTALLMENTS IN TWO
49 DIFFERENT FISCAL YEARS, BUT THE FINAL MATURITY OF SUCH NOTES SHALL NOT
50 EXTEND BEYOND THE CLOSE OF THE SECOND FISCAL YEAR IMMEDIATELY SUCCEEDING
51 THE YEAR OF THEIR ISSUE.

52 4. IF THE TOWN OF BROOKHAVEN WHICH HAD CALENDAR FISCAL YEARS WHICH
53 COMMENCED ON THE FIRST DAY OF JANUARY, TWO THOUSAND NINE AND THE FIRST
54 DAY OF JANUARY, TWO THOUSAND TEN, ISSUED BUDGET NOTES IN SUCH YEARS
55 PURSUANT TO THE PROVISIONS OF SECTION 29.00 OF THIS TITLE TO FINANCE THE
56 PAYMENT OF EXPENSES OF REMOVAL OF SNOW AND ICE IN SUCH FISCAL YEARS AND

1 IF SUCH BUDGET NOTES, UNDER THE PROVISIONS OF PARAGRAPH J OF SUCH
2 SECTION, COULD NOT BE RENEWED AFTER THE CLOSE OF ITS FISCAL YEARS WHICH
3 WOULD END IN THE YEAR TWO THOUSAND ELEVEN, THEN AND IN SUCH EVENT THE
4 TOWN BOARD OF SUCH TOWN MAY DETERMINE THAT THE PROVISIONS OF PARAGRAPH J
5 OF SUCH SECTION SHALL NOT BE APPLICABLE IN RELATION TO THE MATURITY OF
6 SUCH NOTES AND THAT SUCH NOTES SHALL MATURE IN EQUAL ANNUAL INSTALLMENTS
7 IN THE YEARS TWO THOUSAND ELEVEN AND TWO THOUSAND TWELVE.

8 5. IF THE TOWN OF BROOKHAVEN WHICH HAD CALENDAR FISCAL YEARS WHICH
9 COMMENCED ON THE FIRST DAY OF JANUARY, TWO THOUSAND NINE AND THE FIRST
10 DAY OF JANUARY, TWO THOUSAND TEN, AUTHORIZED THE ISSUANCE OF BUDGET
11 NOTES IN SUCH YEARS PURSUANT TO THE PROVISIONS OF SECTION 29.00 OF THIS
12 TITLE TO FINANCE THE PAYMENT OF EXPENSES OF REMOVAL OF SNOW AND ICE IN
13 SUCH YEAR AND IF SUCH NOTES WERE NOT ISSUED IN THE YEAR TWO THOUSAND
14 NINE OR TWO THOUSAND TEN, BUT WERE OR ARE TO BE ISSUED IN THE YEAR TWO
15 THOUSAND ELEVEN, AND IF SUCH BUDGET NOTES, UNDER THE PROVISIONS OF PARA-
16 GRAPH J OF SUCH SECTION, COULD NOT BE RENEWED AFTER THE CLOSE OF ITS
17 FISCAL YEAR WHICH WOULD END IN THE YEAR TWO THOUSAND TWELVE, THEN AND IN
18 ANY SUCH EVENT THE TOWN BOARD OF SUCH TOWN MAY DETERMINE THAT THE
19 PROVISIONS OF PARAGRAPH J OF SUCH SECTION SHALL NOT BE APPLICABLE IN
20 RELATION TO THE MATURITY OF SUCH NOTES AND THAT SUCH NOTES SHALL MATURE
21 IN EQUAL ANNUAL INSTALLMENTS IN THE YEARS TWO THOUSAND TWELVE AND TWO
22 THOUSAND THIRTEEN.

23 6. ANY RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BROOKHAVEN MAKING A
24 DETERMINATION PURSUANT TO SUBDIVISION ONE, TWO, THREE, FOUR OR FIVE OF
25 THIS PARAGRAPH MAY BE ADOPTED BY A MAJORITY VOTE OF THE FINANCE BOARD,
26 NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH D OF SECTION 40.00 OF THIS
27 ARTICLE.

28 7. THE PROVISIONS OF SUBDIVISION FOUR OF PARAGRAPH C OF SECTION 40.00
29 OF THIS ARTICLE AND OF ANY OTHER SECTION OF THIS CHAPTER AND THE
30 PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW WHICH WOULD RESTRICT,
31 LIMIT OR PROHIBIT THE RENEWAL OF BUDGET NOTES AS PROVIDED IN THIS PARA-
32 GRAPH (EXCEPT THOSE ENACTED TO CONFORM WITH THE STATE CONSTITUTION) ARE,
33 TO THE EXTENT THAT THIS SECTION IS UTILIZED BY THE TOWN OF BROOKHAVEN,
34 SUSPENDED AND MADE INEFFECTIVE INSOFAR AS NECESSARY TO EFFECTUATE THE
35 OBJECTS AND PURPOSES OF THIS SECTION.

36 D. SEPARABILITY. IF ANY CLAUSE, SENTENCE, SUBDIVISION, PARAGRAPH, OR
37 PART OF THIS SECTION BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION
38 TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE
39 REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE,
40 SENTENCE, SUBDIVISION, PARAGRAPH, OR PART THEREOF DIRECTLY INVOLVED IN
41 THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

42 S 2. This act shall take effect immediately.