

4224

2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. CROUCH, BURLING, BARCLAY, HAWLEY -- Multi-Sponsored by -- M. of A. BACALLES, FINCH, GIGLIO, OAKS, QUINN, RAIA -- read once and referred to the Committee on Agriculture

AN ACT to amend the public authorities law, in relation to creating the concentrated animal feeding operation environmental compliance revolving loan program

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

1 Section 1. The public authorities law is amended by adding a new
2 section 1285-s to read as follows:
3 S 1285-S. CONCENTRATED ANIMAL FEEDING OPERATION ENVIRONMENTAL COMPLI-
4 ANCE REVOLVING LOAN PROGRAM. 1. NOTWITHSTANDING THE PROVISIONS OF ANY
5 GENERAL OR SPECIAL LAW TO THE CONTRARY, THE CORPORATION SHALL UNDERTAKE
6 TO PROVIDE FINANCIAL ASSISTANCE TO FARM OPERATORS FOR THE PLANNING OF
7 CERTIFIED NUTRIENT MANAGEMENT PLANS AND THE IMPLEMENTATION OF SUCH PLANS
8 AS SET FORTH IN THIS SECTION.
9 2. FOR PURPOSES OF THIS SECTION, AND NOTWITHSTANDING ANY PROVISION OF
10 LAW TO THE CONTRARY, AS USED IN THIS SECTION:
11 (A) "CONCENTRATED ANIMAL FEEDING OPERATION" SHALL MEAN A FARM OPERA-
12 TION PERMITTED PURSUANT TO TITLE SEVEN OR EIGHT OF ARTICLE SEVENTEEN OF
13 THE ENVIRONMENTAL CONSERVATION LAW.
14 (B) "FARM OPERATOR" SHALL MEAN A PERSON WHO ENGAGES IN FARMING OR
15 DESIRES TO ENGAGE IN FARMING AND WHO IS THE OWNER OF A FARM OPERATION,
16 AS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE
17 AGRICULTURE AND MARKETS LAW.
18 (C) "LENDER" SHALL MEAN ANY STATE OR FEDERALLY-CHARTERED SAVINGS BANK,
19 SAVINGS AND LOAN ASSOCIATION, STATE OR FEDERALLY CHARTERED SAVINGS BANKS
20 AND SAVINGS AND LOAN ASSOCIATIONS, FARM CREDIT SYSTEM INSTITUTION, OR
21 STATE OR FEDERALLY CHARTERED COMMERCIAL BANKS OR TRUST COMPANIES AUTHOR-
22 IZED TO DO BUSINESS IN THIS STATE.

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

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(D) "PROJECT" SHALL MEAN THE ARCHITECTURAL AND ENGINEERING SERVICES, PLANS AND SPECIFICATIONS, INCLUDING WATERSHED BASED OR INDIVIDUAL AGRICULTURAL NONPOINT SOURCE POLLUTION ASSESSMENTS, CONSULTANT AND LEGAL SERVICES, CONSTRUCTION, AND OTHER DIRECT EXPENSES RELATED TO IMPLEMENTATION OF A FARM OPERATION'S CERTIFIED NUTRIENT MANAGEMENT PLAN.

3. THE CORPORATION IS HEREBY AUTHORIZED TO ENTER INTO ANY CONTRACT, FINANCING OR LOAN AGREEMENT, OR OTHER INSTRUMENT IN CONNECTION WITH A LOAN MADE BY A LENDER TO A FARM OPERATOR FOR A PROJECT.

4. IN ORDER TO EFFECTUATE THE PURPOSES OF THIS SECTION, THE CORPORATION MAY EXTEND CREDIT TO OR ON BEHALF OF A FARM OPERATOR FOR THE CONSTRUCTION OR ACQUISITION OF A PROJECT, OR FOR THE REIMBURSEMENT FOR COSTS INCURRED BY A FARM OPERATOR IN CONNECTION WITH A PROJECT, PROVIDED SUCH FARM OPERATOR HAS RECEIVED A COMMITMENT TO RECEIVE FROM A LENDER A LOAN OR OTHER FINANCIAL ASSISTANCE ACCEPTABLE TO THE CORPORATION. IN THE EXERCISE OF THE POWERS GRANTED IN THIS SECTION IN CONNECTION WITH A PROJECT FOR A FARM OPERATOR, THE CORPORATION MAY REQUIRE THE INCLUSION IN ANY CONTRACT, LOAN AGREEMENT OR OTHER INSTRUMENT OF SUCH PROVISIONS FOR THE FINANCING OF SUCH PROJECT AND SUCH OTHER FINANCIAL AND OTHER COVENANTS AS MAY APPLY TO SUCH FARM OPERATORS AS THE CORPORATION MAY DEEM DESIRABLE AND/OR APPROPRIATE AND TO DO ALL THINGS NECESSARY TO EXECUTE ANY INSTRUMENT IN CONNECTION AND DESIRABLE WITH SUCH FINANCING.

5. IN CONNECTION WITH THE ISSUANCE OF ANY BOND OR NOTE ISSUED IN CONNECTION WITH OR FOR THE CONCENTRATED ANIMAL FEEDING OPERATION ENVIRONMENTAL COMPLIANCE REVOLVING LOAN PROGRAM, THE CORPORATION MAY FIX AND COLLECT ANY FEES AND CHARGES, INCLUDING BUT NOT LIMITED TO REIMBURSEMENT OF ALL COSTS OF FINANCING INCURRED BY THE CORPORATION, AS THE CORPORATION SHALL DETERMINE TO BE REASONABLE.

6. IN CONNECTION WITH THE EXTENSION OF CREDIT AND THE ISSUANCE OF A BOND OR NOTE FOR THE CONSTRUCTION OR ACQUISITION OF A PROJECT AS PROVIDED IN THIS SECTION, A FARM OPERATOR SHALL SUBMIT TO THE CORPORATION AN APPLICATION FOR THE EXTENSION OF CREDIT OR A LOAN. THE CORPORATION MAY DENY SUCH APPLICATION FOR ANY REASON IT DEEMS APPROPRIATE IN THE PUBLIC INTEREST.

7. ANY BONDS OR NOTES ISSUED TO FINANCE THE PROVISIONS OF THIS SECTION SHALL BE SPECIAL LIMITED OBLIGATIONS OF THE CORPORATION PAYABLE SOLELY OUT OF THE REVENUE DERIVED FROM ANY LOAN OR FINANCE AGREEMENT, DEBT OBLIGATION OR SALES CONTRACT, COLLATERAL OR OTHER PROPERTY RECEIVED IN CONNECTION WITH THE CONCENTRATED ANIMAL FEEDING OPERATION ENVIRONMENTAL COMPLIANCE REVOLVING LOAN PROGRAM. ALL ASSETS AND LIABILITIES CREATED THROUGH THE ISSUANCE OF BONDS OR NOTES UNDER THIS SECTION SHALL BE SEPARATE FROM ALL OTHER ASSETS AND LIABILITIES OF THE CORPORATION. THE CORPORATION SHALL HAVE NO MORAL OR LEGAL OBLIGATION OR LIABILITY TO ANY FARM OPERATOR OR OTHER PERSON UNDER THIS SECTION EXCEPT AS EXPRESSLY PROVIDED BY WRITTEN CONTRACT. NO FUNDS IN THE CONCENTRATED ANIMAL FEEDING OPERATION ENVIRONMENTAL COMPLIANCE REVOLVING LOAN PROGRAM MAY BE COMMINGLED WITH ANY OTHER FUNDS OF THE CORPORATION.

8. (A) THE CORPORATION SHALL PROMULGATE REGULATIONS, DEVELOPED IN CONSULTATION WITH THE COMMISSIONER OF AGRICULTURE AND MARKETS, FOR THE PURPOSE OF CARRYING OUT ITS RESPONSIBILITIES UNDER THIS SECTION, INCLUDING ESTABLISHING THE CRITERIA AND STANDARDS FOR EVALUATING THE PROJECT TO BE FINANCED AND THE ELIGIBILITY OF THE FARM OPERATOR.

(B) THE CORPORATION SHALL CONSULT WITH THE COMMISSIONER OF AGRICULTURE AND MARKETS REGARDING PROMOTION OF THE PROGRAM AND AGRICULTURALLY RELATED QUESTIONS REGARDING THE PROGRAM OR APPLICATIONS.

1 S 2. Paragraph (a) of subdivision 1 of section 1290 of the public
2 authorities law, as amended by chapter 366 of the laws of 2004, is
3 amended to read as follows:

4 (a) The corporation shall have power and is hereby authorized from
5 time to time to issue its negotiable or non-negotiable bonds and notes
6 in conformity with applicable provisions of the uniform commercial code
7 in such principal amount, as, in the opinion of the corporation, shall
8 be necessary to provide sufficient funds for achieving its purposes,
9 including the acquisition and construction, operation and maintenance of
10 sewage treatment works, sewage collecting systems, solid waste disposal
11 facilities, storm water collecting systems, water management facilities,
12 air pollution control facilities, the removal, disposal and remediation
13 of petroleum storage tanks and the remediation of the sites thereof and
14 any other project or projects authorized pursuant to the provisions of
15 this title, and paying the cost thereof; the making of loans to persons
16 and, for purposes of sections twelve hundred eighty-five-j, twelve
17 hundred eighty-five-m and twelve hundred eighty-five-o of this title
18 only, to any municipality or recipient for such purposes; the making of
19 loans, providing of financing or extension of credit to or on behalf of
20 beginning farmers for purposes of section twelve hundred eighty-five-r
21 of this title only; THE MAKING OF LOANS, PROVIDING OF FINANCING, OR
22 EXTENSION OF CREDIT TO OR ON BEHALF OF CONCENTRATED ANIMAL FEEDING OPER-
23 ATION ENVIRONMENTAL COMPLIANCE REVOLVING LOAN PROGRAM FOR PURPOSES OF
24 SECTION TWELVE HUNDRED EIGHTY-FIVE-S OF THIS TITLE ONLY; the financing
25 of the design, acquisition, construction, improvement and installation
26 of all or any portion of Riverbank Park, provided however, that any such
27 bonds or notes issued to finance Riverbank Park shall only be issued in
28 such principal amount as shall be necessary to provide sufficient funds
29 for the repayment of amounts disbursed pursuant to appropriations or
30 reappropriations under chapter fifty-four of the laws of nineteen
31 hundred ninety-one including any subsequent reappropriation of the unex-
32 pended balance of such appropriations or reappropriations for the
33 purpose of Riverbank Park, plus an amount sufficient to fund any debt
34 service reserve fund established by the corporation for the purpose of
35 Riverbank Park and to provide for the payment of fees and other charges
36 and expenses of the corporation in connection with such bonds and notes,
37 which principal amount shall constitute the statutory ceiling on the
38 amount of bonds and notes that can be issued for such purpose; the
39 financing of all or any portion of any state park infrastructure project
40 or reimbursement of the state for expenditures relating thereto, plus an
41 amount to provide for the payment of fees and other charges and expenses
42 of the corporation in connection with such bonds and notes; the
43 provision of funds to the state for any amounts contributed or to be
44 contributed to the water pollution control revolving fund, the pipeline
45 for jobs fund or the drinking water revolving fund provided, however,
46 that any such bonds or notes issued to provide funds to the water
47 pollution control revolving fund, the pipeline for jobs fund or the
48 drinking water revolving fund shall only be issued in such principal
49 amount as shall be necessary to provide sufficient funds for the repay-
50 ment of amounts disbursed pursuant to any appropriation or reappropri-
51 ation enacted for the pipeline for jobs fund or for the payment of the
52 state match for federal capitalization grants for the water pollution
53 control revolving fund or the drinking water revolving fund, plus an
54 amount sufficient to fund any debt service reserve fund and to provide
55 for fees, charges and other costs of issuance, which principal amount
56 shall constitute the statutory ceiling on the amount of bonds and notes

1 that can be issued for such purpose; the financing of any environmental
2 infrastructure projects authorized by section twelve hundred eighty-
3 five-p of this title; the purchase of municipal bonds and notes, and
4 bonds and notes of a state agency, the payment of the cost of any
5 project, the payment of interest on bonds and notes of the corporation,
6 the establishment of reserves to secure such bonds and notes; the
7 provision of working capital and all other expenditures of the corpo-
8 ration incident to and necessary or convenient to carry out its purposes
9 and powers;

10 S 3. Paragraph (c) of subdivision 1 of section 1290 of the public
11 authorities law, as amended by chapter 366 of the laws of 2004, is
12 amended to read as follows:

13 (c) Except as may otherwise be expressly provided by the corporation,
14 every issue of its notes or bonds shall be (i) general obligations of
15 the corporation payable out of any revenues or monies of the corpo-
16 ration, subject only to any agreements with the holders of particular
17 notes or bonds pledging any particular receipts or revenues, (ii)
18 special obligations of the corporation payable solely from the revenues,
19 service charges, rentals, proceeds or other payments to be received on
20 account of the mortgage, loan or other agreements and payments, reserve
21 and insurance funds or accounts issuance of special obligations, and
22 fees, charges or other monies to be received by the corporation in
23 respect to loans pursuant to section twelve hundred eighty-five-b or
24 twelve hundred eighty-five-j of this title, or from amounts received by
25 the corporation pursuant to any contract, lease, easement, license or
26 other instrument entered into by the corporation pursuant to sections
27 twelve hundred eighty-five-k and twelve hundred eighty-five-l of this
28 title or, (iii) special obligations of the corporation payable solely
29 from amounts received pursuant to an agreement with the commissioner of
30 environmental conservation pursuant to subdivision twelve of section
31 twelve hundred eighty-five-j of this title, and may, but need not, be
32 secured by mortgages, assignments or pledges of such revenues, service
33 charges, rentals, proceeds, other payments, funds and accounts, fees,
34 charges and other monies, and by mortgages or assignments thereof in
35 respect to projects, and may include pooled financings subject only to
36 any agreements with the holders of particular special obligation notes
37 or bonds issued to finance the cost of, or loans for, a project or
38 projects; no general obligations of the corporation shall be issued to
39 finance the cost of, or loans for, a project or projects authorized to
40 be constructed pursuant to section twelve hundred eighty-five-b or
41 twelve hundred eighty-five-j of this title or to finance (A) the
42 contribution of the state to the water pollution control revolving fund,
43 (B) the design, acquisition, construction, improvement and installation
44 of all or any portion of Riverbank Park or (C) state park infrastructure
45 projects and no funds, monies, revenues or other assets of the corpo-
46 ration shall be used for loans authorized pursuant to section twelve
47 hundred eighty-five-b or twelve hundred eighty-five-j of this title,
48 except as may be available with respect to a project and a contract with
49 a person as aforesaid, or for the payment to the state for amounts
50 contributed by the state to the water pollution control revolving fund,
51 to finance the design, acquisition, construction, improvement and
52 installation of all or any portion of Riverbank Park or state park
53 infrastructure projects. Nor shall any special obligation authorized
54 pursuant hereto be payable from or secured by any debt service reserve
55 fund created pursuant to section twelve hundred ninety-one of this
56 title, and the state shall not be entitled to require the redemption of

1 such special obligations pursuant to section twelve hundred ninety-three
2 of this title; and such special obligation and the security therefor
3 shall not be subject to the provisions of section twelve hundred nine-
4 ty-four of this title but the remedies of the holders thereof shall be
5 set forth in the terms of such special obligations and the instruments
6 constituting such security; the making of loans, providing of financial
7 or extension of credit to or on behalf of beginning farmers for purposes
8 of section twelve hundred eighty-five-r of this title only; THE MAKING
9 OF LOANS, PROVIDING OF FINANCING, OR EXTENSION OF CREDIT TO OR ON BEHALF
10 OF FARM OPERATORS FOR THE PURPOSES OF SECTION TWELVE HUNDRED
11 EIGHTY-FIVE-S OF THIS TITLE ONLY;
12 S 4. This act shall take effect on the one hundred twentieth day after
13 it shall have become a law.