

341

2009-2010 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2009

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Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to creating the New York state community service loan board and making an appropriation therefor

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

1     Section 1. The executive law is amended by adding a new article 26-C  
2     to read as follows:

3     ARTICLE 26-C

4     NEW YORK STATE COMMUNITY SERVICE LOAN BOARD

5     SECTION 751. DEFINITIONS.

6             752. NEW YORK STATE COMMUNITY SERVICE LOAN BOARD.

7             753. PURPOSES OF THE BOARD.

8             754. GENERAL POWERS OF THE BOARD.

9             755. SPECIAL POWERS OF THE BOARD.

10            756. COOPERATION OF OTHER STATE AGENCIES.

11            757. DETERMINATION OF ELIGIBILITY FOR PAYMENT OF INTEREST ON  
12            MONEY OWED TO ELIGIBLE ORGANIZATIONS.

13     S 751. DEFINITIONS. AS USED IN THIS ARTICLE THE FOLLOWING TERMS SHALL  
14     HAVE THE FOLLOWING MEANINGS:

15         1. "BOARD" MEANS THE NEW YORK STATE COMMUNITY SERVICE LOAN BOARD  
16         CREATED BY THIS ARTICLE.

17         2. "ELIGIBLE ORGANIZATION" MEANS ANY NOT-FOR-PROFIT AGENCY OR LOCAL  
18         GOVERNMENT ENTITY PREVIOUSLY UNDER CONTRACT AND IN THE PROCESS OF RENEW-  
19         ING, ESTABLISHING OR PERFORMING A SUBSEQUENT CONTRACT TO PERFORM  
20         SERVICES FOR A STATE AGENCY. SAID AGENCY OR LOCAL GOVERNMENT AGENCY MAY  
21         NOT HAVE AN ANNUAL OPERATING BUDGET WHICH IS IN EXCESS OF ONE MILLION  
22         FIVE HUNDRED THOUSAND DOLLARS.

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

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1 3. "SHORT TERM LOAN" MEANS A NO-INTEREST LOAN MADE BY THE BOARD TO AN  
2 ELIGIBLE ORGANIZATION PURSUANT TO ANY TERMS OR CONDITIONS WHICH MAY BE  
3 IMPOSED BY THE BOARD.

4 S 752. NEW YORK STATE COMMUNITY SERVICE LOAN BOARD. 1. THE NEW YORK  
5 STATE COMMUNITY SERVICE LOAN BOARD IS HEREBY CREATED TO HAVE AND EXER-  
6 CISE THE POWERS, DUTIES AND PREROGATIVES PROVIDED BY THE PROVISIONS OF  
7 THIS ARTICLE. THE BOARD SHALL CONSIST OF SEVEN MEMBERS TO BE APPOINTED  
8 AS FOLLOWS: ONE MEMBER SHALL BE APPOINTED BY THE GOVERNOR AND ONE MEMBER  
9 SHALL BE APPOINTED BY THE STATE COMPTROLLER, ONE MEMBER SHALL BE  
10 APPOINTED BY THE MAJORITY LEADER OF THE SENATE, ONE MEMBER SHALL BE  
11 APPOINTED BY THE MINORITY LEADER OF THE SENATE, ONE MEMBER SHALL BE  
12 APPOINTED BY THE SPEAKER OF THE ASSEMBLY AND ONE MEMBER SHALL BE  
13 APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY. THE SECRETARY OF STATE  
14 SHALL SERVE AS A MEMBER AND SHALL BE THE CHAIRPERSON OF THE BOARD. THE  
15 SECRETARY OF STATE SHALL APPOINT A DESIGNEE TO ACT IN THE PLACE OF THE  
16 SECRETARY IN HIS OR HER ABSENCE. SUCH DESIGNEE SHALL HAVE ALL THE POWERS  
17 GIVEN TO THE SECRETARY PURSUANT TO THIS ARTICLE. THE BOARD SHALL BE  
18 CREATED AND ADMINISTERED WITHIN THE NEW YORK STATE DEPARTMENT OF STATE.

19 2. THE MEMBERS OF THE BOARD SHALL POSSESS SUFFICIENT EXPERTISE IN THE  
20 AREAS OF HOUSING, SOCIAL SERVICES, MENTAL HEALTH AND FISCAL MANAGEMENT  
21 OF NOT-FOR-PROFIT AGENCIES. THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT  
22 SALARY BUT SHALL BE ENTITLED TO REASONABLE REIMBURSEMENT FOR ACTUAL  
23 COSTS INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES PURSUANT TO  
24 THIS SECTION, PROVIDED HOWEVER THAT SUCH MEMBERS ARE NOT, AT THE TIME  
25 SUCH EXPENSES ARE INCURRED, PUBLIC EMPLOYEES OR PUBLIC OFFICERS OTHER-  
26 WISE ENTITLED TO SUCH REIMBURSEMENT.

27 3. MEMBERS WHO ARE NEITHER PUBLIC OFFICERS NOR PUBLIC EMPLOYEES MAY  
28 ENGAGE IN PRIVATE EMPLOYMENT SUBJECT TO THE LIMITATIONS CONTAINED IN  
29 SECTIONS SEVENTY-THREE AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW.

30 4. THE SECRETARY OF STATE OR AUTHORIZED REPRESENTATIVE MUST BE PRESENT  
31 AT ALL TIMES IN ORDER THAT THE BOARD MAY CONDUCT ITS BUSINESS. IN ADDI-  
32 TION TO CASTING HIS OR HER VOTE, THE SECRETARY, OR AUTHORIZED REPRESENTATIVE,  
33 SHALL CAST ONE PROXY VOTE FROM EACH MEMBER ABSENT FROM AN  
34 ANNOUNCED MEETING OF THE BOARD. THE SECRETARY SHALL EXERCISE THE POWER  
35 TO CAST PROXY VOTES ON ANY AND ALL MATTERS THAT COME BEFORE THE BOARD.

36 5. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS OR ANY OTHER  
37 LAW, GENERAL, SPECIAL OR LOCAL, NO OFFICER OR EMPLOYEE OF THE STATE, OR  
38 OF ANY CIVIL DIVISION THEREOF, SHALL BE DEEMED TO HAVE FORFEITED OR  
39 SHALL FORFEIT HIS OR HER OFFICE OR EMPLOYMENT OR ANY BENEFITS PROVIDED  
40 UNDER THE RETIREMENT AND SOCIAL SECURITY LAW BY REASON OF HIS OR HER  
41 ACCEPTANCE OF MEMBERSHIP ON THE BOARD; PROVIDED, HOWEVER, A MEMBER WHO  
42 HOLDS SUCH OTHER PUBLIC OFFICE OR EMPLOYMENT SHALL RECEIVE NO ADDITIONAL  
43 COMPENSATION FOR SERVICES RENDERED PURSUANT TO THIS ARTICLE, BUT SHALL  
44 BE ENTITLED TO REIMBURSEMENT FOR HIS OR HER ACTUAL AND NECESSARY  
45 EXPENSES INCURRED IN THE PERFORMANCE OF SUCH SERVICES UP TO A MAXIMUM OF  
46 TWENTY-FIVE DOLLARS PER DIEM.

47 6. BY MARCH FIFTEENTH OF EACH YEAR, THE CHAIRPERSON OF THE BOARD SHALL  
48 SUBMIT TO THE GOVERNOR AND THE LEGISLATURE, A REPORT OF THE PREVIOUS  
49 YEAR'S ACTIVITIES OF THE BOARD INCLUDING, BUT NOT LIMITED TO, THE NUMBER  
50 OF LOAN APPLICATIONS, NAMES OF ELIGIBLE ORGANIZATIONS RECEIVING LOANS  
51 TOGETHER WITH THE AMOUNT AND PURPOSE OF THE LOAN, ASSETS AND LIABILITIES  
52 OF THE BOARD AND FUND BALANCES.

53 7. THE BOARD SHALL MAKE EVERY EFFORT TO EFFICIENTLY CARRY OUT ITS  
54 PURPOSES AND SHALL USE THE STAFF AND TECHNICAL SERVICES OF THE OFFICE OF  
55 THE SECRETARY OF STATE, AND WHEN NECESSARY, SHALL USE THE STAFF OF THE

1 APPROPRIATE STATE AGENCY AS THE DESIGNATED CONTRACT AGENCY FOR WHICH A  
2 LOAN IS BEING APPLIED.

3 S 753. PURPOSES OF THE BOARD. THE BOARD SHALL PROVIDE SHORT TERM LOANS  
4 TO ELIGIBLE NOT-FOR-PROFIT AGENCIES AND LOCAL GOVERNMENT ENTITIES OUT OF  
5 MONIES APPROPRIATED IN THE GENERAL FUND TO THE CREDIT OF THE STATE  
6 PURPOSES ACCOUNT.

7 S 754. GENERAL POWERS OF THE BOARD. EXCEPT AS OTHERWISE LIMITED BY  
8 THIS ARTICLE, THE BOARD SHALL HAVE THE POWER:

9 1. TO MAKE AND ALTER BY-LAWS FOR ITS ORGANIZATION AND INTERNAL MANAGE-  
10 MENT, AND RULES AND REGULATIONS GOVERNING THE EXERCISE OF ITS POWERS AND  
11 THE FULFILLMENT OF ITS PURPOSES UNDER THIS ARTICLE;

12 2. TO MAKE LOANS TO ELIGIBLE ORGANIZATIONS;

13 3. TO ENTER INTO CONTRACTS AND TO EXECUTE ALL INSTRUMENTS NECESSARY OR  
14 CONVENIENT OR DESIRABLE FOR THE PURPOSES OF THE BOARD OR TO CARRY OUT  
15 ANY POWERS EXPRESSLY GIVEN IT IN THIS ARTICLE;

16 4. TO APPOINT SUCH OFFICERS AND EMPLOYEES AS IT MAY REQUIRE FOR THE  
17 PERFORMANCE OF ITS DUTIES, AND TO FIX AND DETERMINE THEIR QUALIFICA-  
18 TIONS, DUTIES AND COMPENSATION;

19 5. TO INVEST MONIES DEEMED BY THE BOARD AS REASONABLE, BUT IN NO EVENT  
20 SHALL INVESTMENTS EVER EXCEED TEN PERCENT OF THE TOTAL AMOUNT OF THE  
21 FUND;

22 6. TO MAINTAIN SUCH ACCOUNTS AS ARE NECESSARY FOR THE PURPOSES OF THE  
23 BOARD AND AS THE BOARD MAY AUTHORIZE, PERMIT MONIES IN SUCH ACCOUNTS TO  
24 BE PAID OUT ON CHECKS ISSUED BY A DESIGNATED OFFICER OR EMPLOYEE SUBJECT  
25 TO THE PERIODIC AUDIT OF THE STATE COMPTROLLER AND HIS OR HER LEGALLY  
26 AUTHORIZED REPRESENTATIVES;

27 7. TO ACCEPT ANY GIFTS OR GRANTS OR LOANS OF FUNDS OR PROPERTY AND TO  
28 COMPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE, WITH THE TERMS AND  
29 CONDITIONS THEREOF; AND

30 8. TO DO ALL THINGS NECESSARY, CONVENIENT OR DESIRABLE TO CARRY OUT  
31 ITS PURPOSES AND FOR THE EXERCISE OF THE POWERS GRANTED IN THIS ARTICLE.

32 S 755. SPECIAL POWERS OF THE BOARD. 1. THE BOARD IS HEREBY AUTHORIZED,  
33 UPON THE FILING OF AN APPLICATION WHICH SHALL NOT EXCEED TWO PAGES IN  
34 LENGTH BY ANY ELIGIBLE ORGANIZATION, TO MAKE SHORT TERM LOANS TO SAID  
35 ORGANIZATIONS FOR THE FOLLOWING PURPOSES:

36 (A) TO ENABLE THE ELIGIBLE ORGANIZATION TO CONTINUE ITS DAY-TO-DAY  
37 OPERATIONS;

38 (B) TO PAY EMPLOYEE SALARIES; AND

39 (C) TO ALLOW IT TO MEET ANY AND ALL FINANCIAL OBLIGATIONS NOT OTHER-  
40 WISE PROHIBITED BY STATUTE OR THE ORIGINAL GRANT SPECIFICATIONS.

41 2. IN NO EVENT SHALL ANY SHORT TERM LOAN EXCEED TEN PERCENT OF THE  
42 ANTICIPATED YEARLY GRANT NOR SHALL IT EXCEED THE SUM OF SIXTY THOUSAND  
43 DOLLARS.

44 3. AN APPLICATION FOR A SHORT TERM LOAN SHALL BE ACCOMPANIED BY  
45 DOCUMENTATION FROM THE APPROPRIATE STATE AGENCY EVIDENCING AN OBLIGATION  
46 ON THE PART OF THE STATE AGENCY TO PAY MONIES TO AN ELIGIBLE ORGANIZA-  
47 TION.

48 4. PRIOR TO ENTERING INTO A LOAN AGREEMENT WITH AN ELIGIBLE BORROWER,  
49 THE CORPORATION SHALL REQUIRE PROOF OF THE ELIGIBLE BORROWER'S RELATION-  
50 SHIP WITH THE STATE OF NEW YORK, THE STATE'S INDEBTEDNESS TO THE ELIGI-  
51 BLE BORROWER AND THAT THE ELIGIBLE BORROWER REQUIRES THE SHORT TERM LOAN  
52 IN ORDER TO CARRY OUT ITS OPERATIONS DUE TO THE LACK OF FUNDS FROM ANY  
53 OTHER SOURCE.

54 5. IN THE EVENT AN ELIGIBLE BORROWER HAS AGREED UPON REPAYMENT TERMS  
55 AND NOT ENTERED INTO AN AGREEMENT WITH THE BOARD WHEREBY THE AMOUNT OF  
56 ITS SHORT TERM LOAN WOULD REDUCE ITS TOTAL GRANT AMOUNT BY THAT SAME

1 VALUE, AND FAILS TO MEET ITS REPAYMENT OBLIGATION PURSUANT TO THIS ARTI-  
2 CLE, THE BOARD IS EMPOWERED TO COLLECT THE OUTSTANDING BALANCE DIRECTLY  
3 FROM THE STATE AGENCY AND THE AMOUNT OF THE OUTSTANDING BALANCE SHALL BE  
4 DEDUCTED FROM THE AMOUNT OF THE GRANT.

5 6. ELIGIBLE BORROWERS WHICH FAIL TO REPAY ANY LOAN OBLIGATIONS SHALL  
6 BE INELIGIBLE FOR ANY GRANT FROM ANY STATE AGENCY FOR A PERIOD OF TWO  
7 YEARS.

8 S 756. COOPERATION OF OTHER STATE AGENCIES. THE GOVERNOR SHALL DESIG-  
9 NATE AGENCIES, STATE DEPARTMENTS, DIVISIONS, BOARDS, BUREAUS AND COMMIS-  
10 SIONS FROM WHICH, TO THE MAXIMUM EXTENT FEASIBLE, THE BOARD SHALL BE  
11 ENTITLED TO REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH  
12 SUCH FACILITIES, RESOURCES AND DATA AS IT MAY REASONABLY REQUEST TO  
13 PROPERLY CARRY OUT ITS POWERS AND DUTIES HEREUNDER.

14 S 757. DETERMINATION OF ELIGIBILITY FOR PAYMENT OF INTEREST ON MONEY  
15 OWED TO ELIGIBLE ORGANIZATIONS. EACH STATE AGENCY WHICH IS REQUIRED TO  
16 FULFILL A GRANT OBLIGATION TO AN ELIGIBLE ORGANIZATION AND WHICH FAILS  
17 TO MAKE SUCH PAYMENT SHALL MAKE AN INTEREST PAYMENT TO THE VOLUNTARY  
18 AGENCY REVOLVING LOAN FUND ON THE TOTAL AMOUNT OF THE GRANT TO BE  
19 AWARDED. INTEREST SHALL BE COMPUTED AT THE RATE EQUAL TO THE RATE SET  
20 BY THE COMMISSIONER OF TAXATION AND FINANCE FOR CORPORATE TAXES PURSUANT  
21 TO PARAGRAPH ONE OF SUBSECTION (E) OF SECTION ONE THOUSAND NINETY-SIX OF  
22 THE TAX LAW AND SHALL ACCRUE FROM THE DATE WHICH THE AGENCY REASONABLY  
23 COULD HAVE PAID THE GRANT, AS SHALL BE DETERMINED BY THE BOARD. INTER-  
24 EST PAYMENTS SHALL BE PAID INTO THE FUND.

25 S 2. The sum of one hundred thousand dollars (\$100,000), or so much  
26 thereof as may be necessary, is hereby appropriated to the department of  
27 state out of any moneys in the state treasury in the general fund to the  
28 credit of the state purposes account, not otherwise appropriated, and  
29 made immediately available, for the purpose of carrying out the  
30 provisions of this act. Such moneys shall be payable on the audit and  
31 warrant of the comptroller on vouchers certified or approved by the  
32 secretary of state in the manner prescribed by law.

33 S 3. This act shall take effect on the first of October next succeed-  
34 ing the date on which it shall have become a law.