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

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 19, 2011

Introduced by M. of A. FITZPATRICK, BARCLAY -- Multi-Sponsored by -- M. of A. BURLING, CONTE, CROUCH, GIGLIO, McDONOUGH, RAIA, SALADINO, TEDISCO, THIELE -- read once and referred to the Committee on Housing

AN ACT to amend the public authorities law, in relation to establishing a home equity protection insurance program

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

Section 1. Subdivision 30 of section 2404 of the public authorities law, as renumbered by chapter 229 of the laws of 2007, is renumbered subdivision 31 and a new subdivision 30 is added to read as follows:

(30) TO ESTABLISH AND ADMINISTER A HOME EQUITY PROTECTION INSURANCE PROGRAM IN ACCORDANCE WITH SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART.

S 2. The public authorities law is amended by adding a new section 2405-f to read as follows:

S 2405-F. HOME EQUITY PROTECTION INSURANCE PROGRAM. (1) THE AGENCY IS HEREBY DIRECTED, TO THE EXTENT IT FINDS PRACTICABLE, TO ESTABLISH A HOME EQUITY PROTECTION INSURANCE PROGRAM WHEREBY IT WILL ISSUE A COMMITMENT TO INSURE AND INSURE THE FULL VALUE OF A ONE-TO-FOUR FAMILY RESIDENCE, INCLUDING A CONDOMINIUM AND A COOPERATIVE, THAT IS OWNER-OCCUPIED BY ANY PERSON OR PERSONS WHO MEET THE INCOME QUALIFICATIONS FOR A FORWARD COMMITMENT MORTGAGE PURSUANT TO SECTION TWENTY-FOUR HUNDRED FIVE-B OF THIS PART. THE FULL VALUE OF THE RESIDENTIAL REAL PROPERTY SHALL BE DETERMINED BY EITHER ITS PURCHASE PRICE, THE PURCHASE PRICE PLUS THE COST OF ANY REHABILITATION TO THE RESIDENCE, OR AN APPRAISAL. THE INSURANCE SHALL BE ISSUED BY THE AGENCY AFTER THE PURCHASE OR THE REHABILITATION OF THE REAL PROPERTY UPON PAYMENT OF A PREMIUM THAT THE AGENCY SHALL DETERMINE.

(2) UPON THE SALE OF THE RESIDENTIAL REAL PROPERTY THAT IS INSURED BY THE AGENCY THROUGH ITS HOME EQUITY INSURANCE PROGRAM, THE AGENCY SHALL PAY THE POLICY HOLDER/OWNER THE DIFFERENCE BETWEEN THE FACE VALUE OF THE

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

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INSURANCE POLICY AND THE SALES PRICE OF THE INSURED PREMISES IF SUCH SALES PRICE IS LESS THAN THE INSURED AMOUNT AND IF THE POLICY HOLDER/OWNER HAS LIVED IN THE PREMISES FOR A PERIOD OF NOT LESS THAN THREE YEARS. THE AGENCY SHALL ESTABLISH PROCEDURES TO BE FOLLOWED BY A POLICY HOLDER/OWNER IN THE EVENT OF A PAYMENT UNDER THE TERMS OF ANY HOME EQUITY PROTECTION INSURANCE POLICY. THE AGENCY SHALL NOT BE REQUIRED TO PAY ON A CLAIM FOR A LOSS OF EQUITY IF IT DETERMINES THAT SUCH LOSS OCCURRED PREDOMINANTLY FROM THE POLICY HOLDER/OWNER'S NEGLECT OF THE REAL PROPERTY'S PHYSICAL CONDITION.

(3)(A) THE AGENCY SHALL CREATE A HOME EQUITY PROTECTION INSURANCE FUND TO BE USED AS A REVOLVING FUND FOR CARRYING OUT THE PROVISIONS OF THIS SECTION WITH RESPECT TO RESIDENTIAL REAL PROPERTY INSURED THEREUNDER. THE AGENCY SHALL PAY INTO SUCH FUND ALL MONEYS WHICH MAY BE AVAILABLE TO THE AGENCY FOR THE PURPOSES OF SUCH FUND FROM ANY SOURCE, INCLUDING BUT NOT LIMITED TO THE MONEYS RECEIVED FROM PREMIUMS DERIVED FROM THE ISSUANCE OF HOME EQUITY PROTECTION INSURANCE POLICIES.

(B) THE AGENCY SHALL MAINTAIN IN THE EQUITY INSURANCE FUND AS A RESERVE AN AMOUNT OF MONEY OR CASH EQUIVALENTS EQUAL TO NO LESS THAN TWENTY PERCENT OF THE AMOUNTS INSURED UNDER THE AGENCY'S HOME EQUITY PROTECTION INSURANCE CONTRACTS.

(4) MONEYS IN SUCH FUND MAY BE INVESTED (A) IN SPECIAL TIME DEPOSIT ACCOUNTS IN, OR CERTIFICATES OF DEPOSIT ISSUED BY, A BANK, TRUST COMPANY, SAVINGS BANK OR SAVINGS AND LOAN ASSOCIATION LOCATED AND AUTHORIZED TO DO BUSINESS IN THIS STATE; PROVIDED, HOWEVER, THAT SUCH TIME DEPOSIT ACCOUNT OR CERTIFICATE OF DEPOSIT SHALL BE PAYABLE WITHIN SUCH TIME AS THE PROCEEDS MAY BE NEEDED TO MEET EXPENDITURES ESTIMATED TO BE INCURRED BY THE AGENCY AND PROVIDED FURTHER THAT SUCH TIME DEPOSIT ACCOUNT OR CERTIFICATE OF DEPOSIT BE SECURED BY A PLEDGE OF OBLIGATIONS OF THE UNITED STATES OF AMERICA OR OBLIGATIONS OF THE STATE, ANY CITY OF THE STATE, OR OTHER MUNICIPAL CORPORATION, SCHOOL DISTRICT OR DISTRICT CORPORATION OF THE STATE OR OBLIGATIONS OF AGENCIES OF THE FEDERAL GOVERNMENT; OR (B) IN OBLIGATIONS OF THE UNITED STATES OF AMERICA OR THE STATE WHICH MAY FROM TIME TO TIME BE LEGALLY PURCHASED BY SAVINGS BANKS WITHIN THE STATE AS AN INVESTMENT OF FUNDS BELONGING TO THEM OR IN THEIR CONTROL, OR IN OBLIGATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION PROVIDED SUCH OBLIGATIONS SHALL BE PAYABLE OR REDEEMABLE AT THE OPTION OF THE OWNER WITHIN SUCH TIMES AS THE PROCEEDS MAY BE NEEDED TO MEET EXPENDITURES ESTIMATED TO BE INCURRED BY THE AGENCY.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.