

4930

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 9, 2011

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Introduced by M. of A. BRENNAN, ROSENTHAL, MILLMAN, PHEFFER, ORTIZ,  
CAHILL, JAFFEE, WRIGHT, SCHIMEL, HOOPER, N. RIVERA -- Multi-Sponsored  
by -- M. of A. BROOK-KRASNY, GOTTFRIED, PEOPLES-STOKES, ROBINSON --  
read once and referred to the Committee on Judiciary

AN ACT to amend the state finance law and the judiciary law, in relation  
to the retention of qualified public service attorneys through assist-  
ance in repaying student loans

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

1     Section 1. This act shall be known and may be cited as the "public  
2     interest legal services loan assistance act."  
3     S 2. Declaration of policy and legislative intent. The legislature  
4     reaffirms that the efficient and effective provision of high-quality  
5     legal services on behalf of the state, its political subdivisions and  
6     the populations therein depends on competent, dedicated attorneys making  
7     a long-term commitment to public-service work, whether as prosecutors,  
8     public defenders or other indigent defense attorneys, civil legal  
9     services attorneys, or the equivalent. The legislature finds, however,  
10    that because these attorneys often carry significant and increasing  
11    student loan debt burdens and have grave difficulty in repaying such  
12    debts on the relatively low salaries paid by most public interest posi-  
13    tions, many of these attorneys are being forced to leave public service.  
14    The loss of so many capable public interest attorneys, often at the very  
15    time they have achieved sufficient training and experience to handle the  
16    most complex matters of public concern, has had an adverse impact on  
17    government generally and reduced the capacity of the criminal and civil  
18    justice systems to provide the consistently high-quality legal services  
19    the people of New York state deserve. The legislature finds that the  
20    difficulty of attracting and retaining well-trained public interest  
21    lawyers due to student loan debt frustrates the achievement of important  
22    constitutional and statutory policy objectives, increases the cost of

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

LBD08069-01-1

1 state and local government, and diminishes public confidence in the  
2 criminal and civil justice systems. The legislature therefore recognizes  
3 the value of retaining these seasoned public servants in public interest  
4 positions and finds that it is in the public interest to provide finan-  
5 cial assistance to help these attorneys repay their student loans.  
6 Accordingly, the legislature hereby establishes the public interest  
7 legal services loan assistance fund.

8 S 3. The state finance law is amended by adding a new section 99-t to  
9 read as follows:

10 S 99-T. PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND. 1. THERE  
11 IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND  
12 THE CHIEF ADMINISTRATOR OF THE COURTS A SPECIAL FUND TO BE KNOWN AS THE  
13 "PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND" OF THE STATE OF  
14 NEW YORK.

15 2. THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND SHALL  
16 CONSIST OF THE MONIES DEPOSITED THEREIN PURSUANT TO SUBDIVISION ONE OF  
17 SECTION FOUR HUNDRED SIXTY-FIVE OF THE JUDICIARY LAW, AND ALL MONIES  
18 DEPOSITED THEREIN OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE  
19 PURSUANT TO LAW, INCLUDING VOLUNTARY CONTRIBUTIONS, TOGETHER WITH ANY  
20 INTEREST ACCRUED THEREON.

21 3. ALL MONIES IN THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE  
22 FUND SHALL BE AVAILABLE, SUBJECT TO APPROPRIATIONS, FOR THE PAYMENT OF  
23 SERVICES AND EXPENSES AS PROVIDED FOR IN THE PUBLIC INTEREST LEGAL  
24 SERVICES LOAN ASSISTANCE PROGRAM AUTHORIZED BY ARTICLE FIFTEEN-A OF THE  
25 JUDICIARY LAW, INCLUDING THE COSTS TO THE UNIFIED COURT SYSTEM INCURRED  
26 IN THE ADMINISTRATION OF SUCH PROGRAM.

27 4. ALL PAYMENTS OF MONEY FROM THE PUBLIC INTEREST LEGAL SERVICES LOAN  
28 ASSISTANCE FUND SHALL BE MADE ON THE AUDIT AND WARRANT OF THE COMP-  
29 TROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE CHIEF ADMINISTRATOR OF  
30 THE COURTS.

31 S 4. Subdivision 1 of section 465 of the judiciary law, as amended by  
32 section 6 of part K of chapter 56 of the laws of 2010, is amended to  
33 read as follows:

34 1. Every person applying for examination for admission to practice as  
35 an attorney and counselor at law shall pay a fee of [two] FOUR hundred  
36 [fifty] dollars, or seven hundred fifty dollars if, to qualify to take  
37 the bar examination, the person must satisfy the rules of the court of  
38 appeals for the admission of attorneys and counselors at law governing  
39 the study of law in a foreign country, for each taking or retaking of  
40 the examination, or if dispensation has been received from the taking of  
41 the examination, [four] FIVE hundred dollars for credential review for  
42 admission on motion. All such fees shall be paid into the state treasury  
43 in the manner provided by section one hundred twenty-one of the state  
44 finance law, PROVIDED THAT ONE HUNDRED FIFTY DOLLARS OF EACH FEE FOR THE  
45 TAKING OR RETAKING OF THE EXAMINATION AND ONE HUNDRED DOLLARS OF EACH  
46 FEE FOR CREDENTIAL REVIEW FOR ADMISSION ON MOTION SHALL BE DEPOSITED IN  
47 THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND ESTABLISHED  
48 PURSUANT TO SECTION NINETY-NINE-T OF THE STATE FINANCE LAW.

49 S 5. The judiciary law is amended by adding a new article 15-A to read  
50 as follows:

51 ARTICLE 15-A

52 PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE PROGRAM  
53 SECTION 499-A. DEFINITIONS.

54 499-B. PROGRAM ADMINISTRATION.

55 499-C. PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE.

56 S 499-A. DEFINITIONS. AS USED IN THIS ARTICLE:

1 1. "ELIGIBLE ATTORNEY" MEANS AN ATTORNEY ADMITTED TO PRACTICE LAW IN  
2 NEW YORK STATE WHO DURING THE STATE FISCAL YEAR FOR WHICH SUCH ATTORNEY  
3 SEEKS REIMBURSEMENT FOR THE PAYMENT OF A STUDENT LOAN EXPENSE WAS  
4 EMPLOYED EITHER AS A PROSECUTOR, AN INDIGENT DEFENSE ATTORNEY, OR A  
5 CIVIL LEGAL SERVICES ATTORNEY; AND WHO HAS BOTH HELD A DEGREE FROM A LAW  
6 SCHOOL FOR NOT MORE THAN ELEVEN YEARS AND WAS WITHIN THE ELIGIBLE PERIOD  
7 DURING THE TIME FOR WHICH SUCH PERSON IS SEEKING SUCH REIMBURSEMENT.

8 2. "PROSECUTOR" MEANS A FULL-TIME DISTRICT ATTORNEY, AS DEFINED IN  
9 SUBDIVISION THIRTY-TWO OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW.

10 3. "INDIGENT DEFENSE ATTORNEY" MEANS AN ATTORNEY WHO IS A FULL-TIME  
11 EMPLOYEE OF ANY OF THE AGENCIES DESIGNATED BY SUBDIVISIONS ONE AND TWO  
12 OF SECTION SEVEN HUNDRED TWENTY-TWO OF THE COUNTY LAW, AND WHO IS  
13 ENGAGED FULL-TIME IN THE PRACTICE OF CRIMINAL LAW ON BEHALF OF PERSONS  
14 CHARGED WITH A CRIME WHO ARE FINANCIALLY UNABLE TO OBTAIN COUNSEL.

15 4. "CIVIL LEGAL SERVICES ATTORNEY" MEANS AN ATTORNEY WHO IS AN EMPLOY-  
16 EE OF:

17 (A) THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING ALL  
18 PUBLIC INSTRUMENTALITIES THEREUNDER, AND WHO IS ENGAGED IN THE FULL-TIME  
19 PRACTICE OF LAW ON BEHALF OF THE STATE OR ANY POLITICAL SUBDIVISION  
20 THEREOF; OR

21 (B) A NOT-FOR-PROFIT CORPORATION OF THIS STATE THAT IS (I) EXEMPT FROM  
22 THE PAYMENT OF FEDERAL INCOME TAXES PURSUANT TO SECTION 501(C)(3) OF THE  
23 INTERNAL REVENUE CODE, AND (II) ESTABLISHED FOR THE PURPOSE OF PROVIDING  
24 LEGAL SERVICES THAT INCLUDE CIVIL LEGAL SERVICES TO PERSONS WITHIN NEW  
25 YORK STATE WHOSE ANNUAL INCOME DOES NOT EXCEED ONE HUNDRED FIFTY PERCENT  
26 OF THE PREVAILING POVERTY GUIDELINES ISSUED BY THE UNITED STATES DEPART-  
27 MENT OF HEALTH AND HUMAN SERVICES OR ANY SUCCESSOR AGENCY; AND WHO IS  
28 ENGAGED IN THE FULL-TIME PRACTICE OF LAW ON BEHALF OF SUCH PERSONS.

29 5. "ELIGIBLE PERIOD" MEANS THE SIX-YEAR PERIOD BETWEEN THE COMPLETION  
30 OF THE THIRD YEAR AND BEFORE THE COMMENCEMENT OF THE TENTH YEAR OF  
31 EMPLOYMENT AS A PROSECUTOR AS DEFINED IN SUBDIVISION TWO OF THIS  
32 SECTION, OR INDIGENT DEFENSE ATTORNEY AS DEFINED IN SUBDIVISION THREE OF  
33 THIS SECTION, OR CIVIL LEGAL SERVICES ATTORNEY AS DEFINED IN SUBDIVISION  
34 FOUR OF THIS SECTION. FOR PURPOSES OF THIS ARTICLE, ALL PERIODS OF TIME  
35 DURING WHICH AN ADMITTED ATTORNEY WAS EMPLOYED AS A PROSECUTOR, INDIGENT  
36 DEFENSE ATTORNEY OR CIVIL LEGAL SERVICES ATTORNEY SHALL BE COMBINED.

37 6. "STUDENT LOAN EXPENSE" MEANS THE TOTAL PAYMENTS IN SATISFACTION OF  
38 THE CUMULATIVE TOTAL OF THE ELIGIBLE ATTORNEY'S OUTSTANDING STUDENT LOAN  
39 DEBT COVERING THE TUITION AND OTHER COSTS OF ATTENDANCE AT A LAW SCHOOL,  
40 INCLUDING INTEREST, REQUIRED TO BE MADE BY THE ELIGIBLE ATTORNEY DURING  
41 A STATE FISCAL YEAR. FOR PURPOSES OF THIS ARTICLE, THE AMOUNT OF THE  
42 STUDENT LOAN EXPENSE SHALL BE REDUCED BY THE TOTAL OF ALL GRANTS, SCHOL-  
43 ARSHIPS, REIMBURSEMENTS, LOAN FORGIVENESS OR SIMILAR REDUCTIONS TO THE  
44 ATTORNEY'S INDEBTEDNESS THAT THE ATTORNEY HAS RECEIVED OR SHALL RECEIVE  
45 IN OR FOR SUCH YEAR.

46 S 499-B. PROGRAM ADMINISTRATION. THE CHIEF ADMINISTRATOR OF THE COURTS  
47 SHALL ADMINISTER THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE  
48 PROGRAM AND SHALL PROMULGATE RULES AND REGULATIONS CONSISTENT WITH THIS  
49 ARTICLE TO GOVERN THE ADMINISTRATION OF SUCH PROGRAM. THE CHIEF ADMINIS-  
50 TRATOR SHALL CREATE AN APPLICATION PROCESS TO DETERMINE ELIGIBILITY FOR  
51 APPLICANTS TO RECEIVE STUDENT LOAN EXPENSE GRANTS PURSUANT TO THIS ARTI-  
52 CLE.

53 S 499-C. PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE. 1. (A) AN  
54 ELIGIBLE ATTORNEY MAY APPLY, CONSISTENT WITH THIS ARTICLE AND THE RULES  
55 AND REGULATIONS PROMULGATED BY THE CHIEF ADMINISTRATOR, FOR THE  
56 REIMBURSEMENT OF STUDENT LOAN EXPENSE PAYMENTS MADE BY THE ELIGIBLE

1 ATTORNEY DURING A STATE FISCAL YEAR THAT FALLS COMPLETELY WITHIN THE  
2 ELIGIBLE PERIOD FOR SUCH ATTORNEY. SUCH APPLICATION SHALL BE FILED AT  
3 SUCH TIME AS THE CHIEF ADMINISTRATOR MAY REQUIRE.

4 (B) AN ELIGIBLE ATTORNEY, TO RECEIVE REIMBURSEMENT OF A STUDENT LOAN  
5 EXPENSE UNDER THIS ARTICLE, MAY APPLY FOR SUCH REIMBURSEMENT UPON THE  
6 COMPLETION OF THE FIRST YEAR OF HIS OR HER ELIGIBLE PERIOD, AND MAY  
7 APPLY FOR SUCH REIMBURSEMENT ANNUALLY THEREAFTER UPON THE COMPLETION OF  
8 THE SECOND THROUGH SIXTH YEARS OF SUCH ELIGIBLE PERIOD; PROVIDED, HOWEV-  
9 ER, THAT EACH SUCH APPLICATION SHALL BE ONLY FOR HIS OR HER STUDENT LOAN  
10 EXPENSE PAYMENTS DURING THE PREVIOUS STATE FISCAL YEAR.

11 2. DURING EACH STATE FISCAL YEAR COMMENCING ON OR AFTER APRIL FIRST,  
12 TWO THOUSAND TWELVE, THE STATE SHALL APPORTION AND PAY TO EACH ELIGIBLE  
13 ATTORNEY, PURSUANT TO THIS ARTICLE AND SUBJECT TO THE AVAILABILITY OF  
14 APPROPRIATIONS THEREFOR, AN AMOUNT EQUAL TO THE LESSER OF THE STUDENT  
15 LOAN EXPENSE OF SUCH ELIGIBLE ATTORNEY OR SIX THOUSAND DOLLARS. THE  
16 STATE ASSISTANCE APPORTIONED UNDER THIS SECTION SHALL BE DETERMINED BY  
17 THE CHIEF ADMINISTRATOR AND PAID OUT OF THE PUBLIC INTEREST LEGAL  
18 SERVICES LOAN ASSISTANCE FUND. IN THE EVENT THAT THE MONIES APPROPRIATED  
19 FROM SUCH FUND DURING A STATE FISCAL YEAR FOR PURPOSES OF MAKING ASSIST-  
20 ANCE PAYMENTS ARE NOT SUFFICIENT TO PAY FULLY THE AMOUNTS APPORTIONED  
21 DURING SUCH FISCAL YEAR TO ALL ELIGIBLE ATTORNEYS ENTITLED THERETO, EACH  
22 ELIGIBLE ATTORNEY SHALL BE ENTITLED TO RECEIVE ONLY AN AMOUNT REPRESENT-  
23 ING THE SAME PROPORTION TO THE TOTAL MONIES APPROPRIATED, LESS NECESSARY  
24 ADMINISTRATIVE COSTS, AS THE AMOUNT APPORTIONED TO HIM OR HER BEARS TO  
25 THE TOTAL AMOUNT APPORTIONED TO ALL ELIGIBLE ATTORNEYS FOR SUCH FISCAL  
26 YEAR.

27 S 6. Subdivision 1 of section 212 of the judiciary law is amended by  
28 adding a new paragraph (w) to read as follows:

29 (W) ADMINISTER THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE  
30 PROGRAM PURSUANT TO ARTICLE FIFTEEN-A OF THIS CHAPTER.

31 S 7. This act shall take effect September 1, 2012; provided, however,  
32 that the provisions of sections three and four of this act shall take  
33 effect September 1, 2011; and further provided, however, that the chief  
34 administrator of the courts is immediately authorized to promulgate any  
35 rules and regulations necessary to implement the provisions of this act.