

2781

2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. CROUCH, BURLING, HAWLEY, BARCLAY, FINCH, GIGLIO,  
OAKS, 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.

23 (D) "PROJECT" SHALL MEAN THE ARCHITECTURAL AND ENGINEERING SERVICES,  
24 PLANS AND SPECIFICATIONS, INCLUDING WATERSHED BASED OR INDIVIDUAL AGRI-

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

LBD04745-01-1

1 CULTURAL NONPOINT SOURCE POLLUTION ASSESSMENTS, CONSULTANT AND LEGAL  
2 SERVICES, CONSTRUCTION, AND OTHER DIRECT EXPENSES RELATED TO IMPLEMENTA-  
3 TION OF A FARM OPERATION'S CERTIFIED NUTRIENT MANAGEMENT PLAN.

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

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

20 5. IN CONNECTION WITH THE ISSUANCE OF ANY BOND OR NOTE ISSUED IN  
21 CONNECTION WITH OR FOR THE CONCENTRATED ANIMAL FEEDING OPERATION ENVI-  
22 RONMENTAL COMPLIANCE REVOLVING LOAN PROGRAM, THE CORPORATION MAY FIX AND  
23 COLLECT ANY FEES AND CHARGES, INCLUDING BUT NOT LIMITED TO REIMBURSEMENT  
24 OF ALL COSTS OF FINANCING INCURRED BY THE CORPORATION, AS THE CORPO-  
25 RATION SHALL DETERMINE TO BE REASONABLE.

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

32 7. ANY BONDS OR NOTES ISSUED TO FINANCE THE PROVISIONS OF THIS SECTION  
33 SHALL BE SPECIAL LIMITED OBLIGATIONS OF THE CORPORATION PAYABLE SOLELY  
34 OUT OF THE REVENUE DERIVED FROM ANY LOAN OR FINANCE AGREEMENT, DEBT  
35 OBLIGATION OR SALES CONTRACT, COLLATERAL OR OTHER PROPERTY RECEIVED IN  
36 CONNECTION WITH THE CONCENTRATED ANIMAL FEEDING OPERATION ENVIRONMENTAL  
37 COMPLIANCE REVOLVING LOAN PROGRAM. ALL ASSETS AND LIABILITIES CREATED  
38 THROUGH THE ISSUANCE OF BONDS OR NOTES UNDER THIS SECTION SHALL BE SEPA-  
39 RATE FROM ALL OTHER ASSETS AND LIABILITIES OF THE CORPORATION. THE  
40 CORPORATION SHALL HAVE NO MORAL OR LEGAL OBLIGATION OR LIABILITY TO ANY  
41 FARM OPERATOR OR OTHER PERSON UNDER THIS SECTION EXCEPT AS EXPRESSLY  
42 PROVIDED BY WRITTEN CONTRACT. NO FUNDS IN THE CONCENTRATED ANIMAL FEED-  
43 ING OPERATION ENVIRONMENTAL COMPLIANCE REVOLVING LOAN PROGRAM MAY BE  
44 COMMINGLED WITH ANY OTHER FUNDS OF THE CORPORATION.

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

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

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

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

1 bonds and notes of a state agency, the payment of the cost of any  
2 project, the payment of interest on bonds and notes of the corporation,  
3 the establishment of reserves to secure such bonds and notes; the  
4 provision of working capital and all other expenditures of the corpo-  
5 ration incident to and necessary or convenient to carry out its purposes  
6 and powers;

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

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

1 ty-four of this title but the remedies of the holders thereof shall be  
2 set forth in the terms of such special obligations and the instruments  
3 constituting such security; the making of loans, providing of financial  
4 or extension of credit to or on behalf of beginning farmers for purposes  
5 of section twelve hundred eighty-five-r of this title only; THE MAKING  
6 OF LOANS, PROVIDING OF FINANCING, OR EXTENSION OF CREDIT TO OR ON BEHALF  
7 OF FARM OPERATORS FOR THE PURPOSES OF SECTION TWELVE HUNDRED  
8 EIGHTY-FIVE-S OF THIS TITLE ONLY;  
9 S 4. This act shall take effect on the one hundred twentieth day after  
10 it shall have become a law.