

2506

2011-2012 Regular Sessions

I N S E N A T E

January 24, 2011

Introduced by Sen. McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the private housing finance law, in relation to creating a veteran's home and land ownership loan program

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

1 Section 1. The private housing finance law is amended by adding a new
2 article 19-A to read as follows:

3 ARTICLE XIX-A

4 VETERAN'S HOME AND LAND OWNERSHIP LOAN

5 SECTION 1115. LEGISLATIVE PURPOSE.

6 1115-A. DEFINITIONS.

7 1115-B. CREATION OF THE "VETERAN'S HOME AND LAND OWNERSHIP
8 LOAN FUND".

9 1115-C. PURPOSE AND TERMS OF LOAN.

10 1115-D. LOAN REPAYMENT.

11 1115-E. ISSUANCE OF BONDS.

12 1115-F. ADOPTION OF REGULATIONS.

13 S 1115. LEGISLATIVE PURPOSE. IT IS HEREBY FOUND AND DECLARED THAT MANY
14 NEW YORK RESIDENTS HAVE SERVED OUR NATION HONORABLY IN THE ARMED FORCES
15 OF THE UNITED STATES, AND THAT MANY SUCH NEW YORKERS HAVE SACRIFICED
16 CONSIDERABLY DURING THEIR SERVICE. IT IS IN THE PUBLIC INTEREST BOTH TO
17 DEMONSTRATE OUR APPRECIATION FOR THAT SERVICE BY PROVIDING STATE FINAN-
18 CIAL ASSISTANCE TO SUCH VETERANS; IN ORDER TO ENCOURAGE HOME OWNERSHIP
19 AND THE REHABILITATION OF DETERIORATING HOUSING, STABILIZE COMMUNITIES
20 AND IMPROVE THE LOCAL TAX BASE.

21 S 1115-A. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING
22 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

23 1. "PERSON" MEANS AN HONORABLY DISCHARGED VETERAN OF THE ARMED FORCES
24 OF THE UNITED STATES, OR THEIR SURVIVING UNMARRIED SPOUSE.

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

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2. "VETERAN" MEANS A PERSON WHO SERVED IN THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE DURING TIME OF WAR AS DEFINED BELOW, OR WHO WAS A RECIPIENT OF THE ARMED FORCES EXPEDITIONARY MEDAL, NAVY EXPEDITIONARY MEDAL, MARINE CORPS EXPEDITIONARY MEDAL, OR GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL, AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER HONORABLE CONDITIONS.

3. "SERVICE DURING TIME OF WAR" MEANS:

(A) THE INDIVIDUAL IN QUESTION WAS A RECIPIENT OF THE ARMED FORCES EXPEDITIONARY MEDAL, THE NAVY EXPEDITIONARY MEDAL OR THE MARINE CORPS EXPEDITIONARY MEDAL FOR PARTICIPATION IN OPERATIONS IN LEBANON FROM JUNE FIRST, NINETEEN HUNDRED EIGHTY-THREE TO DECEMBER FIRST, NINETEEN HUNDRED EIGHTY-SEVEN, IN GRENADA FROM OCTOBER TWENTY-THIRD, NINETEEN HUNDRED EIGHTY-THREE TO NOVEMBER TWENTY-FIRST, NINETEEN HUNDRED EIGHTY-THREE, OR IN PANAMA FROM DECEMBER TWENTIETH, NINETEEN HUNDRED EIGHTY-NINE TO JANUARY THIRTY-FIRST, NINETEEN HUNDRED NINETY, OR;

(B) THE INDIVIDUAL SERVED ON ACTIVE DUTY FOR NINETY DAYS OR MORE IN THE ARMED FORCES OF THE UNITED STATES DURING ANY ONE OF THE FOLLOWING WARS OR HOSTILITIES:

(I) IN WORLD WAR I FROM THE SIXTH DAY OF APRIL, NINETEEN HUNDRED SEVENTEEN TO THE ELEVENTH DAY OF NOVEMBER, NINETEEN HUNDRED EIGHTEEN, INCLUSIVE;

(II) IN WORLD WAR II FROM THE SEVENTH DAY OF DECEMBER, NINETEEN HUNDRED FORTY-ONE TO THE THIRTY-FIRST DAY OF DECEMBER, NINETEEN HUNDRED FORTY-SIX, INCLUSIVE;

(III) IN THE KOREAN HOSTILITIES FROM THE TWENTY-SEVENTH DAY OF JUNE, NINETEEN HUNDRED FIFTY TO THE THIRTY-FIRST DAY OF JANUARY, NINETEEN HUNDRED FIFTY-FIVE, INCLUSIVE;

(IV) IN THE VIETNAM CONFLICT FROM THE TWENTY-SECOND DAY OF DECEMBER, NINETEEN HUNDRED SIXTY-ONE TO THE SEVENTH DAY OF MAY, NINETEEN HUNDRED SEVENTY-FIVE; OR

(V) IN THE PERSIAN GULF CONFLICT FROM THE SECOND DAY OF AUGUST, NINETEEN HUNDRED NINETY TO THE END OF SUCH CONFLICT.

4. "AGENCY" MEANS THE NEW YORK STATE HOUSING FINANCE AGENCY CREATED BY SECTION FORTY-THREE OF THIS CHAPTER.

S 1115-B. CREATION OF THE "VETERAN'S HOME AND LAND OWNERSHIP LOAN FUND". THERE IS HEREBY ESTABLISHED A "VETERAN'S HOME AND LAND OWNERSHIP LOAN FUND". SUCH FUND SHALL BE USED TO MAKE LOANS AUTHORIZED BY THIS ARTICLE AND FOR EXPENSES INCURRED BY THE AGENCY IN THE IMPLEMENTATION OF THE PROGRAM ESTABLISHED BY THIS ARTICLE.

S 1115-C. PURPOSE AND TERMS OF LOAN. 1. THE AGENCY, ACTING ON BEHALF OF THE STATE MAY IN ITS DISCRETION, ENTER INTO A CONTRACT WITH AN ELIGIBLE PERSON TO PROVIDE A LOAN TO ASSIST IN THE PURCHASE OF A DWELLING OR THE PURCHASE AND REHABILITATION OF A DWELLING CONTAINING UP TO FOUR RESIDENTIAL UNITS, PROVIDED SUCH PERSON SHALL RESIDE IN AT LEAST ONE OF SUCH UNITS. SUCH LOAN MAY ALSO BE MADE FOR THE PURCHASE OF UNIMPROVED REAL PROPERTY WHEN SUCH PROPERTY SHALL BE USED FOR THE CONSTRUCTION OF A NEW DWELLING.

2. SUCH LOAN SHALL NOT EXCEED TWENTY PERCENT OF THE VALUE FOR THE PURCHASE OF A HOME, OR FORTY THOUSAND DOLLARS FOR THE PURCHASE OF UNIMPROVED REAL PROPERTY. SUCH VALUE SHALL BE DETERMINED FROM THE APPRAISAL, IF ANY, REQUIRED BY THE LENDING INSTITUTION GRANTING THE FIRST MORTGAGE LOAN ON SUCH DWELLING, AND IF NO SUCH APPRAISAL HAS BEEN MADE AT THE TIME THAT A CONTRACT FOR LOAN IS ENTERED INTO PURSUANT TO THIS ARTICLE, THE AGENCY SHALL CAUSE SUCH APPRAISAL TO BE MADE.

S 1115-D. LOAN REPAYMENT. 1. ANY LOAN CONTRACTED FOR PURSUANT TO THIS ARTICLE SHALL BE SECURED BY A SECOND MORTGAGE ON THE DWELLING OR UNIM-

1 PROVED REAL PROPERTY PURCHASED BY THE RECIPIENT OF SUCH LOAN IF THE
2 RECIPIENT OF SUCH LOAN ASSIGNS, TRANSFERS OR OTHERWISE CONVEYS HIS OR
3 HER INTEREST IN SUCH DWELLING OR CEASES TO OCCUPY SUCH DWELLING, THE
4 UNPAID PRINCIPAL BALANCE OF SAID SECOND MORTGAGE, TOGETHER WITH INTEREST
5 THEREON, SHALL BECOME DUE AND PAYABLE. IF THE RECIPIENT OF ANY LOAN IS
6 UNABLE TO REPAY THE LOAN, THE AGENCY, AT ITS DISCRETION, MAY ADJUST THE
7 INTEREST RATE, TERMS AND CONDITIONS OF THE LOAN TO FACILITATE REPAYMENT.

8 2. REPAYMENT OF ANY LOAN PROVIDED IN ACCORDANCE WITH THIS ARTICLE
9 SHALL BE SUBJECT TO AN INTEREST RATE TO BE DETERMINED IN ACCORDANCE WITH
10 TERMS AND CONDITIONS AS THE AGENCY MAY ESTABLISH. IN NO CASE SHALL THE
11 TERM EXCEED THE TERM OF THE FIRST MORTGAGE OBTAINED FOR THE PURPOSE OF
12 PURCHASING SUCH DWELLING EXCEPT, IN THE CASE OF A GRADUATED PAYMENT
13 MORTGAGE LOAN, THE TERM OF THE LOAN MADE PURSUANT TO THIS ARTICLE MAY
14 EXCEED THE EXPECTED TERM OF SUCH MORTGAGE LOAN PROVIDED. THE TERM OF THE
15 LOAN MADE PURSUANT TO THIS ARTICLE DOES NOT EXCEED THE LESSER OF:

16 (A) THE TERM INDICATED BY THE LIMITED AMORTIZATION SCHEDULE OF THE
17 GRADUATED PAYMENT MORTGAGE LOAN; OR

18 (B) THIRTY YEARS. PAYMENTS BY HOMEOWNERS SHALL BE PAID TO THE AGENCY
19 AND DEPOSITED IN THE VETERAN'S HOME AND LAND OWNERSHIP LOAN FUND.

20 S 1115-E. ISSUANCE OF BONDS. 1. THE AGENCY SHALL HAVE THE POWER AND IS
21 HEREBY AUTHORIZED FROM TIME TO TIME TO ISSUE ITS NEGOTIABLE BONDS AND
22 NOTES IN CONFORMITY WITH APPLICABLE PROVISIONS OF THE UNIFORM COMMERCIAL
23 CODE IN SUCH PRINCIPAL AMOUNTS AS, IN THE DISCRETION OF THE AGENCY,
24 SHALL BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE, BUT NOT IN
25 EXCESS OF AN AGGREGATE AMOUNT OF TWENTY MILLION DOLLARS.

26 2. EXCEPT AS MAY OTHERWISE BE EXPRESSLY PROVIDED BY THE AGENCY, ALL
27 BONDS AND NOTES ISSUED SHALL BE PAYABLE OUT OF ANY MONEYS, ASSETS OR
28 REVENUES OF THE STATE, SUBJECT ONLY TO ANY AGREEMENT WITH BONDHOLDERS OR
29 NOTEHOLDERS PLEDGING ANY PARTICULAR MONEYS, ASSETS OR REVENUES.

30 3. BONDS AND NOTES SHALL BE AUTHORIZED BY A RESOLUTION OR RESOLUTIONS
31 OF THE AGENCY ADOPTED IN THE MANNER PROVIDED BY LAW.

32 4. SUCH BONDS OR NOTES SHALL BEAR SUCH DATE OR DATES, SHALL MATURE AT
33 SUCH TIME OR TIMES, SHALL BEAR INTEREST AT SUCH RATE OR RATES, SHALL BE
34 OF SUCH DENOMINATIONS, SHALL BE IN SUCH FORM, CARRY SUCH REGISTRATION
35 PRIVILEGES, BE EXECUTED IN SUCH MANNER, BE PAYABLE IN LAWFUL MONEY OF
36 THE UNITED STATES OF AMERICA AT SUCH PLACE OR PLACES WITHIN OR WITHOUT
37 THE STATE, BE SUBJECT TO SUCH TERMS OF REDEMPTION PRIOR TO MATURITY AS
38 MAY BE PROVIDED BY SUCH RESOLUTION OR RESOLUTIONS OR SUCH CERTIFICATE
39 WITH RESPECT TO SUCH BONDS OR NOTES, AS THE CASE MAY BE; PROVIDED,
40 HOWEVER, THAT THE MAXIMUM MATURITY OF BONDS SHALL NOT EXCEED THIRTY
41 YEARS FROM THE DATE THEREOF AND THE MAXIMUM MATURITY OF NOTES OR ANY
42 RENEWALS THEREOF SHALL NOT EXCEED SEVEN YEARS FROM THE DATE OF THE
43 ORIGINAL ISSUE OF SUCH NOTES.

44 5. ANY SUCH BONDS OR NOTES MAY BE SOLD AT SUCH PRICE OR PRICES, AT
45 PUBLIC OR PRIVATE SALE, IN SUCH MANNER AND FROM TIME TO TIME AS MAY BE
46 DETERMINED BY THE AGENCY, AND THE AGENCY MAY PAY ALL EXPENSES, PREMIUMS
47 AND COMMISSIONS WHICH IT MAY DEEM NECESSARY OR ADVANTAGEOUS IN
48 CONNECTION WITH THE ISSUANCE AND SALE THEREOF. NO BONDS OR NOTES MAY BE
49 SOLD AT PRIVATE SALE, HOWEVER, UNLESS SUCH SALE AND THE TERM THEREOF
50 HAVE BEEN APPROVED IN WRITING BY:

51 (A) THE COMPTROLLER, IF SUCH SALE IS NOT TO THE COMPTROLLER; OR

52 (B) THE STATE DIRECTOR OF THE BUDGET, IF SUCH SALE IS TO THE COMP-
53 TROLLER.

54 6. THE AGENCY IS AUTHORIZED TO PROVIDE FOR THE ISSUANCE OF ITS BONDS
55 OR NOTES FOR THE PURPOSE OF REFUNDING ANY SUCH BONDS OR NOTES THEN
56 OUTSTANDING, INCLUDING THE PAYMENT OF ANY REDEMPTION PREMIUMS THEREON

1 AND ANY INTEREST ACCRUED OR TO ACCRUE TO THE REDEMPTION DATE NEXT
2 SUCCEEDING THE DATE OF DELIVERY OF SUCH REFUNDING BONDS OR NOTES. THE
3 PROCEEDS OF ANY SUCH BONDS OR NOTES ISSUED FOR THE PURPOSE OF SO REFUND-
4 ING OUTSTANDING BONDS OR NOTES SHALL BE FORTHWITH APPLIED TO THE
5 PURCHASE OR RETIREMENT OF SUCH OUTSTANDING BONDS OR NOTES OR THE REDEMP-
6 TION OF SUCH OUTSTANDING BONDS OR NOTES ON THE REDEMPTION DATE NEXT
7 SUCCEEDING THE DATE OF DELIVERY OF SUCH REFUNDING BONDS OR NOTES AND
8 MAY, PENDING SUCH APPLICATION, BE PLACED IN ESCROW TO BE APPLIED TO SUCH
9 PURCHASE OR RETIREMENT OR REDEMPTION ON SUCH DATE. ANY SUCH ESCROWED
10 PROCEEDS, PENDING SUCH USE, MAY BE INVESTED AND REINVESTED ONLY IN OBLI-
11 GATIONS OF OR GUARANTEED BY THE STATE OR THE UNITED STATES OF AMERICA
12 AND EITHER:

13 (A) THE YIELD FROM WHICH DOES NOT EXCEED THE AVERAGE NET INTEREST COST
14 PER ANNUM, EXPRESSED AS A PERCENTAGE, ON SUCH REFUNDING BONDS BY MORE
15 THAN ONE-HALF OF ONE PERCENT; OR

16 (B) THE INCOME FROM WHICH IS EXEMPT FROM FEDERAL TAXATION, MATURING AT
17 SUCH TIME OR TIMES AS SHALL BE APPROPRIATE TO ASSURE THE PROMPT PAYMENT,
18 AS TO PRINCIPAL, INTEREST AND REDEMPTION PREMIUM, IF ANY, ON THE
19 OUTSTANDING BONDS OR NOTES TO BE SO REFUNDED BY PURCHASE, RETIREMENT OR
20 REDEMPTION, AS THE CASE MAY BE.

21 THE INTEREST, INCOME AND PROFITS, IF ANY, EARNED OR REALIZED ON ANY
22 SUCH INVESTMENT MAY ALSO BE APPLIED TO THE PAYMENT OF THE OUTSTANDING
23 BONDS OR NOTES TO BE SO REFUNDED BY PURCHASE, RETIREMENT OR REDEMPTION,
24 AS THE CASE MAY BE. AFTER THE TERMS OF THE ESCROW HAVE BEEN FULLY SATIS-
25 FIED AND CARRIED OUT, ANY BALANCE OF SUCH PROCEEDS AND INTEREST, IF ANY,
26 EARNED OR REALIZED ON THE INVESTMENTS THEREOF MAY BE RETURNED TO THE
27 AGENCY FOR USE BY IT IN ANY LAWFUL MANNER. ALL SUCH BONDS OR NOTES SHALL
28 BE ISSUED AND SECURED AND SHALL BE SUBJECT TO THE PROVISIONS OF LAW IN
29 THE SAME MANNER AND TO THE SAME EXTENT AS ANY OTHER BONDS OR NOTES
30 ISSUED PURSUANT TO LAW.

31 7. WHETHER OR NOT THE BONDS AND NOTES ARE OF SUCH FORM AND CHARACTER
32 AS TO BE NEGOTIABLE INSTRUMENTS UNDER THE TERMS OF THE UNIFORM COMMER-
33 CIAL CODE, THE BONDS AND NOTES ARE HEREBY MADE NEGOTIABLE INSTRUMENTS
34 WITHIN THE MEANING OF AND FOR ALL THE PURPOSES OF THE UNIFORM COMMERCIAL
35 CODE, SUBJECT ONLY TO THE PROVISIONS OF THE BONDS AND NOTES FOR REGIS-
36 TRATION.

37 8. ANY RESOLUTION OR RESOLUTIONS AUTHORIZING ANY BONDS OR NOTES PURSU-
38 ANT TO THE PROVISIONS OF THIS ARTICLE MAY CONTAIN PROVISIONS WHICH MAY
39 BE A PART OF THE CONTRACT WITH THE HOLDERS OF SUCH BONDS OR NOTES, AS
40 TO:

41 (A) PLEDGING OR CREATING A LIEN, TO THE EXTENT PROVIDED BY SUCH RESOL-
42 UTION OR RESOLUTIONS, ON ALL OR ANY PART OF ANY MONEYS HELD IN TRUST OR
43 OTHERWISE BY OTHERS FOR THE PAYMENT OF SUCH BONDS OR NOTES;

44 (B) THE SETTING ASIDE OF RESERVES OR SINKING FUNDS AND THE REGULATION
45 OR DISPOSITION THEREOF;

46 (C) LIMITATIONS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF ANY
47 ISSUE OF SUCH BONDS OR NOTES THEN OR THEREAFTER TO BE ISSUED MAY BE
48 APPLIED;

49 (D) LIMITATIONS ON THE ISSUANCE OF ADDITIONAL BONDS OR NOTES, THE
50 TERMS UPON WHICH ADDITIONAL BONDS OR NOTES MAY BE ISSUED AND SECURED,
51 AND UPON THE REFUNDING OF OUTSTANDING OR OTHER BONDS OR NOTES;

52 (E) THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH THE
53 HOLDERS OF BONDS OR NOTES MAY BE AMENDED OR ABROGATED, THE AMOUNT OF
54 BONDS OR NOTES THE HOLDERS OF WHICH MUST CONSENT THERETO AND THE MANNER
55 IN WHICH SUCH CONSENT MAY BE GIVEN;

1 (F) PROVIDING FOR THE RIGHTS AND REMEDIES OF THE HOLDERS OF BONDS OR
2 NOTES IN THE EVENT OF DEFAULT, PROVIDED, HOWEVER, THAT SUCH RIGHTS AND
3 REMEDIES SHALL NOT BE INCONSISTENT WITH THE GENERAL LAWS OF THIS STATE;
4 AND

5 (G) ANY OTHER MATTERS OF LIKE OR DIFFERENT CHARACTER, WHICH IN ANY WAY
6 AFFECT THE SECURITY AND PROTECTION OF THE BONDS OR NOTES AND THE RIGHTS
7 OF THE HOLDERS THEREOF.

8 S 1115-F. ADOPTION OF REGULATIONS. THE AGENCY SHALL ADOPT REGULATIONS
9 PROVIDING FOR QUALIFICATIONS OF ELIGIBLE PERSONS, REQUIREMENTS AND LIMITATIONS
10 AS TO ADJUSTMENTS OF TERMS AND CONDITIONS OF REPAYMENT, FUNDING
11 PRIORITIES AND ANY ADDITIONAL REQUIREMENTS AS IT DEEMS NECESSARY TO
12 CARRY OUT THE PURPOSES OF THIS ARTICLE.

13 S 2. This act shall take effect on the one hundred eightieth day after
14 it shall have become a law; provided, however, that effective immediately,
15 the addition, amendment and/or repeal of any rule or regulation
16 necessary for the implementation of this act on its effective date are
17 authorized and directed to be made and completed on or before such
18 effective date.