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I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. GOLDEN, JOHNSON -- read twice and ordered printed,
and when printed to be committed to the Committee on Corporations,
Authorities and Commissions

AN ACT to amend the public authorities law, in relation to establishment
of a reverse mortgage loan program for low income seniors

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

1 Section 1. Legislative findings. The legislature finds and declares
2 that many senior citizens living in New York own their own homes and
3 want to continue to live at home for as long as possible. Nationally,
4 with over two trillion dollars tied up in home equity, reverse mortgages
5 have the potential to dramatically increase the ability of seniors to
6 pay for their long-term care and remain in their homes. Today, over
7 eighty percent of older Americans own their own homes, seventy-three
8 percent of which are owned free and clear of any mortgages. Unlocking
9 these resources can help "house-rich and cash-poor" seniors purchase the
10 long-term care services they feel best meet their needs. Private funds
11 from reverse mortgages also can strengthen community long-term care
12 systems and reduce the burden on state and local Medicaid budgets. The
13 purpose of this act is to establish a reverse mortgage loan program
14 within the state of New York mortgage agency to enable low income elder-
15 ly homeowners to stay at home and pay for their long-term care.

16 S 2. The public authorities law is amended by adding a new section
17 2405-f to read as follows:

18 S 2405-F. REVERSE MORTGAGE LOAN PROGRAM FOR LOW INCOME SENIORS. (1)
19 AUTHORIZATION. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE
20 AGENCY IS HEREBY AUTHORIZED AND DIRECTED TO ESTABLISH A REVERSE MORTGAGE
21 LOAN PROGRAM FOR THE PURPOSE OF ENABLING LOW INCOME SENIOR HOMEOWNERS TO
22 USE THE EQUITY IN THEIR HOMES TO PROVIDE FOR THEIR LONG-TERM CARE NEEDS.
23 THE BANKING BOARD IS HEREBY AUTHORIZED TO VARY ANY RULES AND REGULATIONS

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

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1 PERTAINING TO REVERSE MORTGAGE LOANS TO ACCOMMODATE THE NEEDS OF THE
2 PROGRAM.

3 (2) DEFINITIONS. FOR PURPOSES OF THIS SECTION THE FOLLOWING TERMS
4 SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE
5 ANOTHER OR DIFFERENT MEANING OR INTENT:

6 (A) "PROGRAM" SHALL MEAN THE REVERSE MORTGAGE LOAN PROGRAM FOR LOW
7 INCOME SENIORS,

8 (B) "APPLICANT" SHALL MEAN AN INDIVIDUAL WHO IS APPLYING TO PARTIC-
9 IPATE IN THE PROGRAM,

10 (C) "BORROWER" SHALL MEAN AN INDIVIDUAL WHO IS ELIGIBLE TO PARTICIPATE
11 IN THE PROGRAM PURSUANT TO SUBDIVISION FOUR OF THIS SECTION,

12 (D) "REVERSE MORTGAGE LOAN" SHALL MEAN A LOAN FOR A TERM OF YEARS TO
13 BE DETERMINED BY THE AGENCY, IN WHICH LOAN PROCEEDS ARE ADVANCED TO A
14 BORROWER IN EQUAL, MONTHLY INSTALLMENTS AND MAY INCLUDE AN INITIAL,
15 ONE-TIME LUMP SUM PAYMENT OF UP TO FIVE THOUSAND DOLLARS,

16 (E) "LOAN" SHALL MEAN A REVERSE MORTGAGE LOAN ISSUED PURSUANT TO THE
17 TERMS OF THIS SECTION,

18 (F) "LOW INCOME" SHALL MEAN INCOME THAT DOES NOT EXCEED THE INCOME
19 LIMITS ESTABLISHED BY THE AGENCY,

20 (G) "BANKING BOARD" SHALL MEAN THE BOARD ESTABLISHED PURSUANT TO
21 SECTION THIRTEEN OF THE BANKING LAW, AND

22 (H) "ASSESSMENT" SHALL MEAN THE CARE NEEDS ASSESSMENT DESCRIBED IN
23 SUBDIVISION FIVE OF THIS SECTION.

24 (3) TERMS AND CONDITIONS OF THE LOAN. LOANS SHALL ONLY BE ISSUED TO
25 APPLICANTS WHO OWN AND OCCUPY A SINGLE FAMILY DWELLING OR A CONDOMINIUM.
26 IF A BORROWER VACATES HIS OR HER RESIDENCE, THE LOAN PAYMENTS SHALL
27 CEASE AND THE BALANCE OF THE LOAN SHALL BECOME DUE. A BORROWER SHALL
28 NOTIFY THE AGENCY UPON VACATING HIS OR HER RESIDENCE. LOANS ISSUED BY
29 THE PROGRAM SHALL OFFER A LOW, FIXED INTEREST RATE, TO BE DETERMINED BY
30 THE AGENCY. ANY LOAN ORIGINATION FEES, CLOSING COSTS OR FEES CHARGED BY
31 THE PROGRAM SHALL BE AT A REDUCED RATE, TO BE DETERMINED BY THE AGENCY.
32 THE AGENCY SHALL NOT IMPOSE PRE-PAYMENT PENALTIES ON ANY LOAN. THE LOAN
33 SHALL ALSO INCLUDE THE COST OF THE CARE NEEDS ASSESSMENT REQUIRED UNDER
34 SUBDIVISION FIVE OF THIS SECTION. LOANS SHALL NOT BE ISSUED TO BORROWERS
35 WHOSE INCOME EXCEEDS THE MAXIMUM INCOME LIMITS ESTABLISHED BY THE AGEN-
36 CY. LOANS SHALL NOT BE ISSUED FOR MORE THAN EIGHTY PERCENT OF THE VALUE
37 OF THE BORROWER'S HOME, WITH MINIMUM AND MAXIMUM LOAN AMOUNTS TO BE
38 DETERMINED BY THE AGENCY ON A CASE BY CASE BASIS.

39 IN ITS DETERMINATION OF MINIMUM AND MAXIMUM LOAN AMOUNTS, THE AGENCY
40 SHALL CONSIDER THE FOLLOWING CRITERIA:

41 (A) THE AMOUNT OF THE APPLICANT'S PERSONAL AND HOUSEHOLD INCOME,
42 ASSETS, AND OTHER FINANCIAL RESOURCES AVAILABLE TO MEET THE NEEDS OF THE
43 APPLICANT AND THE APPLICANT'S HOUSEHOLD;

44 (B) THE VALUE OF THE APPLICANT'S RESIDENCE AS DETERMINED BY THE AGEN-
45 CY; AND

46 (C) THE INFORMATION CONTAINED IN THE APPLICANT'S CARE NEEDS ASSESSMENT
47 PROVIDED BY AN AREA AGENCY ON AGING, INCLUDING THE SPECIAL NEEDS OF
48 PARTICULAR APPLICANTS BECAUSE OF PHYSICAL OR MENTAL DISABILITIES OR
49 IMPAIRMENTS.

50 (4) ELIGIBILITY OF APPLICANTS. IN ORDER TO BE ELIGIBLE FOR THE
51 PROGRAM, AN APPLICANT MUST BE AN INDIVIDUAL AGE SIXTY-FIVE YEARS OR
52 OLDER, BE THE OWNER AND OCCUPANT OF A SINGLE FAMILY DWELLING OR CONDO-
53 MINIUM, WHO HAS LOST SOME OR ALL OF THE CAPACITY TO FUNCTION ON HIS OR
54 HER OWN DUE TO A CHRONIC ILLNESS OR CONDITION, AND WHO, BASED ON AN
55 ASSESSMENT PERFORMED BY AN AREA AGENCY ON AGING PURSUANT TO SUBDIVISION
56 FIVE OF THIS SECTION, REQUIRES OR IS EXPECTED TO REQUIRE ONE OR MORE OF

1 THE FOLLOWING ITEMS OR SERVICES FOR AN EXTENDED PERIOD OF TIME OF SIX
2 CONSECUTIVE MONTHS OR MORE: HOME CARE, INCLUDING NURSING AND PERSONAL
3 CARE SERVICES, HOMEMAKER AND CHORE SERVICES, INCLUDING CHORE SERVICES
4 RELATED TO HOME MAINTENANCE OR REPAIR, NUTRITION SERVICES, TRANSPORTA-
5 TION, COUNSELING, PHYSICAL THERAPY AND OTHER MEDICAL OR NON-MEDICAL
6 SUPPORT SERVICES, RESPITE, ADULT DAY CARE, DURABLE MEDICAL EQUIPMENT,
7 MEDICALLY INDICATED HOME ALTERATIONS, AND UNINSURED CATASTROPHIC OR
8 RECURRING MEDICAL EXPENSES INCLUDING PRESCRIPTION DRUGS. AN APPLICANT'S
9 PERSONAL AND HOUSEHOLD INCOME MAY NOT EXCEED THE MAXIMUM INCOME LIMITS
10 ESTABLISHED BY THE AGENCY.

11 (5) CARE NEEDS ASSESSMENT. AS PART OF THE LOAN APPROVAL PROCESS, AN
12 AREA AGENCY ON AGING SHALL CONDUCT AN ASSESSMENT OF EACH APPLICANT IN
13 ORDER TO IDENTIFY THE APPLICANT'S CARE NEEDS, INCLUDING INFORMATION
14 NECESSARY TO DETERMINE WHETHER THE APPLICANT REQUIRES OR IS EXPECTED TO
15 REQUIRE ONE OR MORE OF THE ITEMS OR SERVICES SPECIFIED IN SUBDIVISION
16 FOUR OF THIS SECTION, AND IF SO, WHICH ITEMS OR SERVICES ARE REQUIRED OR
17 EXPECTED TO BE REQUIRED, THE DURATION FOR WHICH THE ITEMS OR SERVICES
18 ARE EXPECTED TO BE REQUIRED, AND THE ESTIMATED COST OF THE ITEMS OR
19 SERVICES. THE ASSESSMENT SHALL BE CONDUCTED FACE-TO-FACE WITH THE APPLI-
20 CANT, AND, IF REQUESTED BY THE APPLICANT, HIS OR HER AUTHORIZED REPRE-
21 SENTATIVE AND INFORMAL CAREGIVERS, USING THE STANDARDIZED PROCESS AND
22 INSTRUMENT PRESCRIBED BY THE OFFICE FOR THE AGING FOR EXPANDED IN-HOME
23 SERVICES FOR THE ELDERLY PROGRAM (EISEP) CLIENTS, UNLESS THE AREA AGENCY
24 HAS RECEIVED APPROVAL FROM SAID OFFICE TO USE A DIFFERENT INSTRUMENT.
25 ALL INFORMATION DERIVED FROM THE ASSESSMENT OF THE APPLICANT SHALL BE
26 CONFIDENTIAL AND SHARED ONLY WITH OTHERS INVOLVED IN THE ARRANGEMENT OR
27 PROVISION OF SERVICES TO THE APPLICANT PURSUANT TO WRITTEN CONSENT FROM
28 THE APPLICANT OR HIS OR HER AUTHORIZED REPRESENTATIVE. IF, BASED ON THE
29 ASSESSMENT, THE APPLICANT IS DETERMINED TO HAVE A NEED FOR OR IS
30 EXPECTED TO NEED ANY OF THE ITEMS OR SERVICES CONTAINED IN SUBDIVISION
31 FOUR OF THIS SECTION, SUCH APPLICANT SHALL BE DEEMED FUNCTIONALLY ELIGI-
32 BLE FOR THE PROGRAM.

33 (6) COUNSELING AND ASSISTANCE. THE AREA AGENCIES ON AGING SHALL
34 PROVIDE COUNSELING AND ASSISTANCE TO APPLICANTS WHO WISH TO OBTAIN A
35 REVERSE MORTGAGE LOAN FROM THE PROGRAM. COUNSELING AND ASSISTANCE SHALL
36 INCLUDE THE FOLLOWING:

37 (A) REVIEWING WITH THE APPLICANT THE TERMS AND RESTRICTIONS OF THE
38 LOAN, INCLUDING ASSISTING THE APPLICANT WITH DETERMINING WHETHER THE
39 LOAN WOULD JEOPARDIZE THE APPLICANT'S ELIGIBILITY FOR MEDICAID AND OTHER
40 MEANS-TESTED PROGRAMS;

41 (B) IDENTIFYING COMMUNITY BASED LONG-TERM CARE SERVICES, IN ACCORDANCE
42 WITH THE APPLICANT'S NEEDS AS DEMONSTRATED IN THE CARE NEEDS ASSESSMENT,
43 INCLUDING MEDICAL AND NON-MEDICAL IN-HOME SUPPORT PROGRAMS, AND PROVID-
44 ING INFORMATION ON HOW TO ACCESS THESE SERVICES, INCLUDING PROVIDER
45 DIRECTORIES, AND CASE MANAGEMENT SERVICES;

46 (C) EXPLORING WITH THE APPLICANT THE POSSIBILITY OF THE APPLICANT
47 BECOMING UNABLE TO MANAGE HIS OR HER FINANCES, AND IN THIS EVENT, HAVING
48 THE APPLICANT CONSIDER WHO HE OR SHE WOULD WANT TO MANAGE HIS OR HER
49 FINANCES, AND ADVISING THE APPLICANT OF THE NEED TO OBTAIN ESTATE PLAN-
50 NING COUNSELING AND PROPER LEGAL DOCUMENTATION IN ORDER TO EFFECTUATE
51 HIS OR HER WISHES UNDER THESE CIRCUMSTANCES; AND

52 (D) DISCUSSING WITH THE APPLICANT HIS OR HER WISHES REGARDING HOW
53 TITLE OF THE RESIDENCE SHOULD BE TRANSFERRED UPON THE DEATH OF THE
54 APPLICANT, AND ADVISING THE APPLICANT OF THE NEED TO OBTAIN ESTATE PLAN-
55 NING COUNSELING AND PROPER LEGAL DOCUMENTATION IN ORDER TO ENSURE THAT
56 HIS OR HER WISHES ARE CARRIED OUT.

1 (7) OUTREACH BY THE PROGRAM. THE AGENCY SHALL ADVERTISE THE PROGRAM IN
2 A BROCHURE WHICH IT SHALL CREATE AND DISTRIBUTE TO EACH AREA OFFICE FOR
3 THE AGING. THE AGENCY SHALL PROVIDE THE BROCHURE TO EACH LOCAL SOCIAL
4 SERVICES DISTRICT TO DISTRIBUTE TO INDIVIDUALS WHO ARE APPLYING FOR
5 MEDICAID NURSING HOME OR HOME CARE SERVICES.

6 (8) REPORT. THE AGENCY SHALL ISSUE AN ANNUAL REPORT TO THE GOVERNOR,
7 THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY.
8 SUCH REPORT SHALL CONTAIN, AT A MINIMUM, THE FOLLOWING INFORMATION: THE
9 NUMBER OF LOAN APPLICATIONS SUBMITTED TO THE PROGRAM, THE NUMBER OF LOAN
10 APPLICATIONS APPROVED AND THE NUMBER DENIED, THE REASONS FOR DENIAL, THE
11 NUMBER OF LOANS ISSUED BY THE PROGRAM, THE INCOMES AND AGES OF THE
12 BORROWERS, THE PURPOSE FOR WHICH A LOAN WAS ISSUED, ANY SUGGESTIONS FOR
13 IMPROVING OR EXPANDING THE PROGRAM, AND A DESCRIPTION OF THE PROGRAM'S
14 FUNDING SOURCES AND WHETHER THEY ARE ADEQUATE.

15 (9) RULEMAKING AUTHORITY. THE AGENCY SHALL ADOPT ALL PROCEDURAL AND
16 SUBSTANTIVE RULES AND REGULATIONS NECESSARY TO IMPLEMENT AND ADMINISTER
17 THE PROVISIONS OF THIS SECTION.

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