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

6459

I N S E N A T E

February 10, 2012

Introduced by Sen. SMITH -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to establishing the New York state mortgage settlement fund

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

Section 1. The state finance law is amended by adding a new section 97-1111 to read as follows:

S 97-1111. NEW YORK STATE MORTGAGE SETTLEMENT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE NEW YORK STATE MORTGAGE SETTLEMENT FUND.

2. SUCH FUND SHALL CONSIST OF ALL MONIES OBTAINED BY THE STATE AS A RESULT OF ANY AND ALL SETTLEMENTS NEGOTIATED WITH, BY OR ON BEHALF OF NEW YORK STATE WITH THE MORTGAGE SERVICERS, ANY OTHER MONEYS RECEIVED IN LIEU OF SUCH AGREEMENT, AND ALL OTHER MONEYS APPROPRIATED, CREDITED OR TRANSFERRED THERETO PURSUANT TO LAW.

3. MONIES IN THE NEW YORK STATE MORTGAGE SETTLEMENT FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE CUSTODY OR CONTROL OF THE STATE COMPTROLLER.

4. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "MASTER SETTLEMENT AGREEMENT" SHALL MEAN THE SETTLEMENT AGREEMENT AND RELATED DOCUMENTS ENTERED INTO IN THE YEAR TWO THOUSAND TWELVE BY THE STATE AND PARTICIPATING MORTGAGE SERVICERS.

(B) "MORTGAGE SERVICER" SHALL HAVE THE SAME MEANING AS PARAGRAPH (H) OF SUBDIVISION ONE OF SECTION FIVE HUNDRED NINETY OF THE BANKING LAW.

(C) "PARTICIPATING MORTGAGE SERVICER" SHALL MEAN EACH MORTGAGE SERVICER THAT ENTERED INTO THE MASTER SETTLEMENT AGREEMENT WITH THE STATE, INCLUDING ALLY/GMAC, BANK OF AMERICA, CITI, JPMORGAN CHASE AND WELLS FARGO.

(D) "ELIGIBLE HOMEOWNER" SHALL MEAN ANY RESIDENT OF THIS STATE WHO CURRENTLY OWNS AND RESIDES OR DID OWN AND RESIDE IN QUALIFYING RESIDENTIAL REAL PROPERTY, WHO THE COMMISSIONER DETERMINES, PURSUANT TO THE

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

LBD14624-01-2

ELIGIBILITY RESTRICTIONS SET FORTH IN SUCH MASTER SETTLEMENT AGREEMENT, IS A HOMEOWNER CONTEMPLATED BY SUCH AGREEMENT.

(E) "QUALIFYING RESIDENTIAL REAL PROPERTY" MEANS PROPERTY LOCATED IN THIS STATE THAT IS OR WAS SUBJECT TO A HOME LOAN SERVICED BY A PARTICIPATING MORTGAGE SERVICER AND (I) IS CURRENTLY OWNED AND OCCUPIED AS A PRIMARY RESIDENCE BY AN ELIGIBLE HOMEOWNER; OR (II) WAS OWNED AND OCCUPIED AS A PRIMARY RESIDENCE BY AN ELIGIBLE HOMEOWNER BUT WAS FORECLOSED UPON BETWEEN JANUARY FIRST, TWO THOUSAND EIGHT AND DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN.

5. SUBJECT TO THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT, ALL MONIES IN THE FUND SHALL BE USED, WITHOUT APPROPRIATION THEREFOR, FOR THE SOLE PURPOSE OF DIRECTLY COMPENSATING ELIGIBLE HOMEOWNERS WHO HAVE BEEN INJURED BY FORECLOSURE ABUSES. AN ELIGIBLE HOMEOWNER MAY, SUBJECT TO FURTHER ELIGIBILITY REQUIREMENTS DESCRIBED IN THIS SUBDIVISION, ELECT TO RECEIVE COMPENSATION FOR INJURIES IN ONE OF THE FOLLOWING AMOUNTS:

(A) THE FULL AMOUNT OF THE DOWN PAYMENT PAID ON HIS OR HER QUALIFYING RESIDENTIAL REAL PROPERTY, IN ADDITION TO THE AMOUNT OF ALL MONTHLY MORTGAGE ASSOCIATED WITH SUCH PROPERTY, UP TO AND INCLUDING THE LATER OF THE DATE OF THE FORECLOSURE ACTION OR DISCOVERY OF THE WRONG;

(B) TWENTY PERCENT OF THE ORIGINAL APPRAISED VALUE OF THE QUALIFYING RESIDENTIAL REAL PROPERTY;

(C) IF THE ELIGIBLE HOMEOWNER HAS BEEN FORECLOSED UPON AND IS NO LONGER RESIDING IN THE QUALIFYING RESIDENTIAL REAL PROPERTY, THE FULL AMOUNT OF A DOWN PAYMENT ON NEW RESIDENTIAL REAL PROPERTY;

(D) IF THE ELIGIBLE HOMEOWNER HAS BEEN FORECLOSED UPON AND IS NO LONGER RESIDING IN THE QUALIFYING RESIDENTIAL REAL PROPERTY AND HAS NOT CHOSEN TO PURCHASE NEW RESIDENTIAL REAL PROPERTY, UP TO SIX MONTHS OF RENTAL PAYMENTS;

6. IN ADDITION TO THE COMPENSATION AUTHORIZED BY SUBDIVISION FIVE OF THIS SECTION, THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL DETERMINE, UPON REQUEST BY AN ELIGIBLE HOMEOWNER AND AFTER EVALUATING THE FACTS SURROUNDING A PARTICIPATING MORTGAGE SERVICER'S HANDLING OF THE MORTGAGE ON THE QUALIFYING RESIDENTIAL REAL PROPERTY OF THE REQUESTING HOMEOWNER, IF SUCH HOMEOWNER IS ALSO ENTITLED TO RECEIVE TREBLE DAMAGES IN AN AMOUNT NOT TO EXCEED THREE TIMES THE AMOUNT ELECTED BY SUCH HOMEOWNER PURSUANT TO SUBDIVISION FIVE OF THIS SECTION, AS A RESULT OF THE EGREGIOUS NATURE OF SUCH MORTGAGE SERVICER'S CONDUCT.

7. THE MONIES OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL OR BY AN OFFICER OR EMPLOYEE OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL DESIGNATED BY SUCH COMMISSIONER.

S 2. This act shall take effect immediately.