

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:

- 1 Section 1. The state finance law is amended by adding a new section
2 97-1111 to read as follows:
3 S 97-1111. NEW YORK STATE MORTGAGE SETTLEMENT FUND. 1. THERE IS HEREBY
4 ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE
5 KNOWN AS THE NEW YORK STATE MORTGAGE SETTLEMENT FUND.
6 2. SUCH FUND SHALL CONSIST OF ALL MONIES OBTAINED BY THE STATE AS A
7 RESULT OF ANY AND ALL SETTLEMENTS NEGOTIATED WITH, BY OR ON BEHALF OF
8 NEW YORK STATE WITH THE MORTGAGE SERVICERS, ANY OTHER MONEYS RECEIVED IN
9 LIEU OF SUCH AGREEMENT, AND ALL OTHER MONEYS APPROPRIATED, CREDITED OR
10 TRANSFERRED THERETO PURSUANT TO LAW.
11 3. MONIES IN THE NEW YORK STATE MORTGAGE SETTLEMENT FUND SHALL BE KEPT
12 SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE CUSTODY OR CONTROL OF THE STATE COMPTROLLER.
13 4. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
14 FOLLOWING MEANINGS:
15 (A) "MASTER SETTLEMENT AGREEMENT" SHALL MEAN THE SETTLEMENT AGREEMENT
16 AND RELATED DOCUMENTS ENTERED INTO IN THE YEAR TWO THOUSAND TWELVE BY
17 THE STATE AND PARTICIPATING MORTGAGE SERVICERS.
18 (B) "MORTGAGE SERVICER" SHALL HAVE THE SAME MEANING AS PARAGRAPH (H)
19 OF SUBDIVISION ONE OF SECTION FIVE HUNDRED NINETY OF THE BANKING LAW.
20 (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.
21 (D) "ELIGIBLE HOMEOWNER" SHALL MEAN ANY RESIDENT OF THIS STATE WHO
22 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

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

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

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

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

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

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

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

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

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

44 S 2. This act shall take effect immediately.