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

7459

I N S E N A T E

May 22, 2012

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, the state finance law and the public authorities law, in relation to water pollution control linked loans; and to repeal section 104-a of the executive law relating thereto

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

Section 1. Paragraph g of subdivision 1 and paragraph e of subdivision 2 of section 17-1909 of the environmental conservation law, paragraph g of subdivision 1 as amended and paragraph e of subdivision 2 as added by chapter 262 of the laws of 2007, are amended to read as follows:

g. "Intended use plan" means the plan prepared pursuant to subdivision two of this section, identifying the intended uses of the amounts available in the fund, including but not limited to: (i) a list of those projects for construction of publicly owned treatment works on the priority list developed pursuant to subdivision two of this section; (ii) a list of projects developed pursuant to subdivision two of this section anticipated to be financed by the fund through the water pollution control linked deposit program; (iii) a description of the short and long term goals and objectives of the fund; (iv) information on the activities to be supported, including a description of project categories, discharge requirements under the Federal Water Pollution Control Act, terms of financial assistance, and eligible borrowers pursuant to the water pollution control linked deposit program served; (v) the criteria and method established for the distribution of funds; and (vi) the amount of moneys from the fund, not to exceed [ten] FORTY million dollars [annually,] to be made available for linked loans under the water pollution control linked deposit program during the period covered by such intended use plan. IN ADDITION, A PORTION OF THOSE MONIES MAY BE USED TO PROVIDE GRANTS FOR RESIDENTIAL PROPERTIES THAT MEET THE DEFINITION OF "AFFORDABLE WORKFORCE HOUSING" IN SECTION SIX HUNDRED NINETY-NINE-A OF THE GENERAL MUNICIPAL LAW.

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

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e. For residential and small business on-site wastewater treatment system projects funded through the water pollution control linked deposit program, [in consultation with the department of state,] the extent to which the project will prevent an increase in nutrients in water bodies or the extent to which the project will enhance AND PROTECT GROUNDWATER, source water or watershed protection. PRIORITY SHALL BE GIVEN TO THOSE RESIDENTIAL AND SMALL BUSINESS ON-SITE WASTEWATER TREATMENT SYSTEM PROJECTS THAT MAY HAVE IMPAIRED OR CONTAMINATED OR ARE LIKELY TO IMPAIR OR CONTAMINATE A SOLE SOURCE AQUIFER PRIMARY GROUNDWATER RECHARGE AREA OR PRIMARY WATER SUPPLY AREA AS SUCH TERMS ARE DEFINED IN SECTION 15-0514 OF THIS CHAPTER WITH PREFERENCE BASED ON PROJECTS THAT WILL PROVIDE THE GREATEST IMPROVEMENT TO IMPAIRED WATER BODIES SUCH AS THOSE IDENTIFIED IN THE DEPARTMENT'S WATER QUALITY ASSESSMENT PROGRAM PURSUANT TO SECTION 303D OF THE FEDERAL CLEAN WATER ACT OR PROVIDE THE GREATEST AMOUNT OF PROTECTION FOR WATER BODIES IN DANGER OF IMPAIRMENT.

S 2. Subdivisions 2, 3, 10 and 11 of section 236 of the state finance law, as added by chapter 262 of the laws of 2007, are amended and three new subdivisions 2-a, 3-a and 10-a are added to read as follows:

2. ["Eligible] PRIOR TO JANUARY FIRST, TWO THOUSAND THIRTEEN, "ELIGIBLE borrower" means any recipient, including any entity receiving or eligible to receive an agricultural assessment pursuant to article twenty-five-AA of the agriculture and markets law and any individual or small business eligible to undertake an eligible project related to residential and small business on-site wastewater treatment systems.

2-A. EFFECTIVE JANUARY FIRST, TWO THOUSAND THIRTEEN, "ELIGIBLE BORROWER" MEANS ANY RECIPIENT, INDIVIDUAL OR SMALL BUSINESS ELIGIBLE TO UNDERTAKE AN ELIGIBLE PROJECT RELATED TO RESIDENTIAL AND SMALL BUSINESS ON-SITE WASTEWATER TREATMENT SYSTEMS.

3. ["Eligible] PRIOR TO JANUARY FIRST, TWO THOUSAND THIRTEEN, "ELIGIBLE project" shall mean a project for the implementation of a management program established under section 319 of the Federal Water Pollution Control Act related to agricultural operations, the upgrade or replacement of residential and small business on-site wastewater treatment systems with a system approved by the state or local department of health, or the abandonment of residential and small business on-site wastewater treatment systems [and] OR connection to a sewer, when a sewer becomes available.

3-A. EFFECTIVE JANUARY FIRST, TWO THOUSAND THIRTEEN, "ELIGIBLE PROJECT" SHALL MEAN A PROJECT FOR THE IMPLEMENTATION OF A MANAGEMENT PROGRAM ESTABLISHED UNDER SECTION 319 OF THE FEDERAL WATER POLLUTION CONTROL ACT RELATED TO THE UPGRADE OR REPLACEMENT OF RESIDENTIAL AND SMALL BUSINESS ON-SITE WASTEWATER TREATMENT SYSTEMS WITH A SYSTEM APPROVED BY THE STATE OR LOCAL DEPARTMENT OF HEALTH, OR THE ABANDONMENT OF RESIDENTIAL AND SMALL BUSINESS ON-SITE WASTEWATER TREATMENT SYSTEMS OR CONNECTION TO A SEWER, WHEN A SEWER BECOMES AVAILABLE.

10. ["Recipient"] PRIOR TO JANUARY FIRST, TWO THOUSAND THIRTEEN, "RECIPIENT" means any person which is: (a) an individual or small business which is eligible to undertake an eligible project related to residential and small business on-site wastewater treatment systems; or (b) an entity receiving or eligible to receive an agricultural assessment pursuant to article twenty-five-AA of the agriculture and markets law which is eligible to undertake an eligible project; or (c) any two or more of the foregoing which are acting jointly in connection with an eligible project.

10-A. EFFECTIVE JANUARY FIRST, TWO THOUSAND THIRTEEN, "RECIPIENT" MEANS ANY PERSON WHICH IS: (A) AN INDIVIDUAL OR SMALL BUSINESS WHICH IS

ELIGIBLE TO UNDERTAKE AN ELIGIBLE PROJECT RELATED TO RESIDENTIAL AND SMALL BUSINESS ON-SITE WASTEWATER TREATMENT SYSTEMS; OR (B) ANY TWO OR MORE OF THE FOREGOING WHICH ARE ACTING JOINTLY IN CONNECTION WITH AN ELIGIBLE PROJECT.

11. "Residential and small business on-site wastewater treatment system" means a system serving a residence or small business that provides for the treatment and/or disposition of the combination of human and sanitary waste with water [not exceeding one thousand gallons per day].

S 3. Section 237 of the state finance law, as added by chapter 262 of the laws of 2007, is amended to read as follows:

S 237. Establishment and purpose; water pollution control linked deposit program authorization. The water pollution control linked deposit program is hereby created. The purpose of this program is to encourage and assist eligible borrowers within the state to undertake eligible projects that reduce, control or prevent water pollution. The corporation is hereby authorized to use funds in the water pollution control revolving fund established pursuant to section twelve hundred eighty-five-j of the public authorities law not to exceed [ten] FORTY million dollars [per fiscal year] for the water pollution control linked deposit program.

S 4. Section 238 of the state finance law, as added by chapter 262 of the laws of 2007, is amended to read as follows:

S 238. Linked loans. Linked loans shall be made by lenders pursuant to the program only to eligible borrowers in connection with eligible projects. No such loans shall be made after September thirtieth, two thousand [eleven] TWENTY. The credit decisions for making a linked loan shall be made solely by the lender.

S 5. Section 240 of the state finance law is amended by adding a new subdivision 3 to read as follows:

3. THE CORPORATION SHALL PROVIDE NOTICE OF THE LINKED DEPOSIT PROGRAM IN ITS WRITTEN MATERIAL AND ON ITS WEBSITE. THE CORPORATION SHALL FURTHER NOTIFY MUNICIPALITIES OF THE AVAILABILITY OF THE PROGRAM FOR ELIGIBLE BORROWERS.

S 6. Subdivision 2 of section 242 of the state finance law, as added by chapter 262 of the laws of 2007, is amended to read as follows:

2. On or before February first, two thousand ten, and annually thereafter, the corporation shall submit to the governor, the temporary president of the senate and the speaker of the assembly a report regarding the activities of the programs. Such report shall include, but shall not be limited to, the number and type of linked loans under each of the programs and the amount thereof INCLUDING THE NUMBER OF RESIDENTIAL AND SMALL BUSINESS ON-SITE WASTEWATER TREATMENT PROJECTS OR SEWER CONNECTIONS MADE BY COUNTY, AND THE AMOUNTS THEREOF; the number and type of lenders making linked loans and of borrowers receiving linked loans; the geographic distribution of such lenders and borrowers; as well as any information the corporation determines useful in evaluating the benefits of the programs.

S 7. Section 243 of the state finance law, as added by chapter 262 of the laws of 2007, is amended to read as follows:

S 243. Rules and regulations. The corporation [may] SHALL promulgate rules and regulations necessary and reasonable for the operation of the programs.

S 8. Section 104-a of the executive law is REPEALED.

S 9. The public authorities law is amended by adding a new section 1285-s to read as follows:

S 1285-S. WATER POLLUTION CONTROL LINKED LOANS. THE CORPORATION SHALL ESTABLISH METHODS TO FACILITATE LOANS TO ELIGIBLE BORROWERS AND TO DEVELOP EDUCATIONAL MATERIALS FOR ELIGIBLE BORROWERS ABOUT THE LOW-INTEREST LOANS AVAILABLE THROUGH THE WATER POLLUTION CONTROL LINKED DEPOSIT PROGRAM, ESTABLISHED BY ARTICLE SIXTEEN OF THE STATE FINANCE LAW, AND TO DEVELOP AN APPLICATION FORM TO BE PROVIDED TO LENDERS FOR LINKED DEPOSIT LOAN REQUESTS. FOR RESIDENTIAL AND SMALL BUSINESS ON-SITE WASTEWATER TREATMENT SYSTEMS PROJECTS, THE CORPORATION SHALL REQUIRE OWNERS OF SUCH SYSTEMS TO SUBMIT THE RESULTS OF INSPECTIONS OF SUCH SYSTEMS AT THE TIME OF AN APPLICATION FOR FINANCIAL ASSISTANCE PURSUANT TO ARTICLE SIXTEEN OF THE STATE FINANCE LAW. THE CORPORATION MAY PROMULGATE RULES AND REGULATIONS NECESSARY AND REASONABLE FOR THE OPERATION OF THE PROGRAM, INCLUDING BUT NOT LIMITED TO STANDARDS FOR THE INSPECTION OF RESIDENTIAL AND SMALL BUSINESS ON-SITE WASTEWATER TREATMENT SYSTEMS.

S 10. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.