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

4215

2013-2014 Regular Sessions

I N S E N A T E

March 14, 2013

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

AN ACT to amend the public health law and the public authorities law, in relation to authorizing the commissioner of health to establish a program to provide loans, through the dormitory authority, to hospitals to finance health care reform projects

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

Section 1. Section 2801-a of the public health law is amended by adding a new subdivision 17 to read as follows:

17. (A) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH A PROGRAM TO ASSIST IN RESTRUCTURING HEALTH CARE DELIVERY SYSTEMS BY PROVIDING CREDIT ENHANCEMENT SOLELY TO HOSPITALS THAT LACK THE CREDIT RESOURCES NECESSARY TO FINANCE HEALTH REFORM PROJECTS FROM CONVENTIONAL LENDERS. THE PROGRAM SHALL APPLY TO REGIONS DESIGNATED BY THE COMMISSIONER AS MEDICALLY UNDERSERVED. SUCH PROGRAM SHALL APPLY TO HOSPITALS OPERATING PURSUANT TO THIS ARTICLE, BUT THE FINANCING MAY ALSO INCLUDE PROJECTS UNDERTAKEN BY NON-HOSPITAL AFFILIATES OF THE APPLICANT HOSPITAL. PROJECTS ELIGIBLE FOR CREDIT ENHANCEMENT INCLUDE RENOVATIONS AND REPURPOSING OF FACILITIES, MEDICAL HIGH TECHNOLOGY EQUIPMENT AND HEALTH INFORMATION TECHNOLOGY, WORKING CAPITAL, CARE MANAGEMENT INFRASTRUCTURE, AND "SOFT" COSTS NOT TYPICALLY ELIGIBLE FOR LOANS FROM COMMERCIAL LENDERS. ALL PROJECTS SHALL MEET DEFINED REGIONAL NEEDS TO ADVANCE THE STATE'S HEALTH REFORM AGENDA OF BETTER CARE, BETTER HEALTH FOR POPULATIONS, LOWER COSTS, AND SYSTEM RIGHT-SIZING, AS SET FORTH IN "A PLAN TO TRANSFORM THE EMPIRE STATE'S MEDICAID PROGRAM MULTI-YEAR ACTION PLAN", AS ADOPTED BY THE STATE'S MEDICAID REDESIGN TEAM. PREFERENCE WILL BE GIVEN TO APPLICANTS THAT INCLUDE COLLABORATIONS WITH OTHER HEALTH CARE PROVIDERS IN THE REGION.

(B) APPLICANTS MUST COMMIT THAT THE USES OF THE CREDIT-ENHANCED LOANS WILL PROMOTE AGREED UPON REGIONAL HEALTH REFORM OBJECTIVES. APPLICANTS

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

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SHALL SUBMIT A COMPREHENSIVE PROGRAM AND BUSINESS PLAN, AND SUCH PLAN MUST PROMOTE AGREED UPON REGIONAL HEALTH REFORM OBJECTIVES. LOAN DOCUMENTS SHALL CONTAIN HEALTH REFORM COVENANTS, MILESTONE DATES AND STATISTICAL TARGETS TO BE ATTAINED BY THE BORROWER. SUCH COVENANTS MAY INCLUDE, BUT ARE NOT LIMITED TO, ACUTE CARE DOWNSIZING, EXPANSION OF PRIMARY CARE, EXPANSION AND INTEGRATION OF MENTAL HEALTH OR OTHER SERVICE CAPACITY REQUIRED IN THE REGION, AND IMPLEMENTATION OF CARE DELIVERY AND CARE COORDINATION MODELS CONSISTENT WITH HEALTH REFORM GOALS. THE APPLICATION MUST ADDRESS HOW THE APPLICANT WILL UNDERTAKE THE IMPROVEMENTS IN FORMAL OR INFORMAL COOPERATION WITH OTHER HEALTH CARE PROVIDERS IN THE REGION. STEPS TO AVOID DUPLICATION OF SERVICES AND HIGH COST MEDICAL RESOURCES IN THE REGION SHALL BE A CONDITION OF APPROVAL. TO THE EXTENT REQUIRED TO PROVIDE LEGAL PROTECTION FOR SUCH COOPERATIVE ENDEAVORS, THE COMMISSIONER SHALL EXERCISE ALL NECESSARY POWERS PURSUANT TO ARTICLE TWENTY-NINE-F OF THIS CHAPTER AND ANY FEES ASSOCIATED WITH SUCH OVERSIGHT MAY BE INCLUDED IN THE PROJECT FINANCING COSTS.

(C) THE CREDIT ENHANCEMENT PROGRAM SHALL BE ADMINISTERED BY THE DORMITORY AUTHORITY, OR A NOT-FOR-PROFIT CORPORATION DESIGNATED BY THE DORMITORY AUTHORITY. THE COMMISSIONER SHALL CHAIR THE CREDIT ENHANCEMENT APPLICATION AND APPROVAL COMMITTEE. THE COMMISSIONER SHALL DESIGNATE THREE OR MORE MEMBERS OF THE MEDICAID REDESIGN TEAM AS ADDITIONAL MEMBERS OF THE CREDIT ENHANCEMENT APPLICATION AND APPROVAL COMMITTEE. THE CHAIR OF THE DORMITORY AUTHORITY SHALL ALSO SERVE AS A MEMBER OF THE COMMITTEE, AND SHALL DETERMINE ALL RULES FOR REVIEWING AND APPROVING APPLICATIONS, AND ADMINISTERING APPROVED CREDIT ENHANCEMENTS. NOTWITHSTANDING ANY OTHER LAW, NO PERSON SERVING AS A MEMBER OF THE CREDIT ENHANCEMENT APPLICATION AND APPROVAL COMMITTEE SHALL HAVE ANY PERSONAL LIABILITY, OR INCUR LIABILITY FOR THEIR EMPLOYER, BY VIRTUE OF THEIR ROLE OR VOTE IN THE CREDIT ENHANCEMENT APPLICATION AND APPROVAL PROCESS.

(D) THE PURPOSE OF THE CREDIT ENHANCEMENT PROGRAM SHALL BE TO PROVIDE ADDITIONAL RESOURCES SUFFICIENT TO ATTRACT CONVENTIONAL LENDERS TO INVEST IN HEALTH REFORM PROJECTS PURSUANT TO LOANS TO QUALIFYING HOSPITALS. A DEBT SERVICE RESERVE FUND MAY BE CREATED TO FACILITATE THE CREDIT ENHANCEMENT.

(E)(I) IN THE EVENT OF A DEFAULT BY A BORROWER TO A LENDER, THE AMOUNT OF THE DEFAULTED PAYMENT SHALL BE PAID BY THE COMMISSIONER TO THE LENDER. TO FINANCE THE COMMISSIONER'S REMITTANCE OF THOSE DEFAULTED PAYMENTS, THE COMMISSIONER SHALL FIRST DRAW UPON FUNDS ALLOCATED FOR SUCH POTENTIAL DEFAULTS, INCLUDING BUT NOT LIMITED TO FUNDS MADE AVAILABLE FOR THAT PURPOSE PURSUANT TO THE STATE'S AUGUST SIXTH, TWO THOUSAND TWELVE SECTION 1115 PARTNERSHIP PLAN WAIVER APPLICATION AND ADDITIONAL FEDERAL FUNDS MADE AVAILABLE THROUGH IMPLEMENTATION OF THE FEDERAL AFFORDABLE CARE ACT (HEALTH REFORM).

(II) ALL PAYMENTS OF DEFAULTED AMOUNTS SHALL BE MADE SOLELY FROM THE ALLOCATED FUNDS AND AS SUCH AMOUNTS ARE ACTUALLY COLLECTED AND MADE AVAILABLE TO THE COMMISSIONER FOR REMITTANCE TO LENDERS PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH. NEITHER THE STATE, THE COMMISSIONER, THE DEPARTMENT, THE DORMITORY AUTHORITY, NOR ANY OTHER INSTRUMENTALITY OF THE STATE, SHALL BE LEGALLY RESPONSIBLE FOR PAYMENT OF THE DEFAULTED AMOUNTS, OTHER THAN PURSUANT TO THE PROCESS AND FINANCIAL RESOURCES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH. NO ASSETS OR RESOURCES OF THE STATE SHALL BE PLEDGED, OR CONSIDERED TO BE PLEDGED OR OBLIGATED IN ANY FORM, TO PAYMENT OF THE DEFAULTS, OTHER THAN PURSUANT TO THE PROCESS AND FINANCIAL RESOURCES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, AS ACTUALLY COLLECTED AND MADE AVAILABLE TO THE COMMIS-

SIONER FOR THE PURPOSES OF PAYING DEFAULTED AMOUNTS PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH.

S 2. Paragraph (b) of subdivision 2 of section 1676 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

SUCH HOSPITALS AND AFFILIATES AS ARE APPROVED FOR THE CREDIT ENHANCEMENT PROGRAM PURSUANT TO SUBDIVISION SEVENTEEN OF SECTION TWENTY-EIGHT HUNDRED ONE-A OF THE PUBLIC HEALTH LAW.

S 3. Subdivision 1 of section 1680 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

SUCH HOSPITALS AND AFFILIATES AS ARE APPROVED FOR THE CREDIT ENHANCEMENT PROGRAM PURSUANT TO SUBDIVISION SEVENTEEN OF SECTION TWENTY-EIGHT HUNDRED ONE-A OF THE PUBLIC HEALTH LAW.

S 4. This act shall take effect immediately.